

Federal Agency Positions on Access to Sex Separated Facilities

“A covered entity shall provide individuals equal access to its health programs or activities without discrimination on the basis of sex; and a covered entity shall treat individuals consistent with their gender identity, except that a covered entity may not deny or limit health services that are ordinarily or exclusively available to individuals of one sex, to a transgender individual based on the fact that the individual's sex assigned at birth, gender identity, or gender otherwise recorded is different from the one to which such health services are ordinarily or exclusively available.”

—**Department of Health and Human Services, Nondiscrimination in Health Programs and Activities, 45 C.F.R. § 92.206 (2016)**

“[U]nlawful sex-based discriminatory practices include, but are not limited to, the following: “(13) Denying transgender employees access to the restrooms, changing rooms, showers, or similar facilities designated for use by the gender with which they identify[.]”

—**Department of Labor, Office of Federal Contract Compliance Programs, Discrimination on the Basis of Sex, 42 C.F.R. § 60-20.2 (2016)**

“When a school provides sex-segregated activities and facilities, transgender students must be allowed to participate in such activities and access such facilities consistent with their gender identity....

“A school may not require transgender students to use facilities inconsistent with their gender identity or to use individual-user facilities when other students are not required to do so. A school may, however, make individual-user options available to all students who voluntarily seek additional privacy....

“Title IX allows a school to provide separate housing on the basis of sex. But a school must allow transgender students to access housing consistent with their gender identity and may not require transgender students to stay in single-occupancy accommodations or to disclose personal information when not required of other students.”

—**Departments of Justice & Education, Dear Colleague Letter: Transgender Students (2016)**

“[W]here, as here, a transgender female has notified her employer that she has begun living and working full-time as a woman, the agency must allow her access to the women's restrooms.”

—**Lusardi v. McHugh, EEOC Appeal No. 0120133395 (2015)**

“For a transitioning employee, this means that, once he or she has begun working in the gender that reflects his or her gender identity, agencies should allow access to restrooms and (if provided to other employees) locker room facilities consistent with his or her gender identity.”

—**Office of Personnel Management, Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace (updated 2015)**