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A.G. Schneiderman And State Education Commissioner Elia Issue Reminder That New York State Protects Transgender Students

NEW YORK – Attorney General Eric T. Schneiderman and New York State Education Department Commissioner MaryEllen Elia today vehemently objected to the decision yesterday by President Trump and the federal Departments of Education and Justice to rescind guidance that clarified federal legal protections for transgender students. The Attorney General and Commissioner reminded school districts across New York State that – irrespective of the federal government’s decision – they have independent duties under state and local law to protect transgender students from discrimination and harassment in their schools and at all school functions.

“The Trump Administration’s decision to rescind this guidance sends a dangerous and divisive message and threatens some of our most vulnerable young people,” **Attorney General Schneiderman** said. “But in New York State, the law remains the law -- and school districts have independent duties to protect transgender students from discrimination and harassment when they go to school. My office will use all the existing tools of federal, state, and local law to ensure that transgender kids are safe in their schools and are provided equal access to all programming and facilities consistent with their gender identity.”

“Our most sacred duty as parents, educators and leaders of state agencies is to protect all of the children in our care,” said **State Education Commissioner MaryEllen Elia**. “Transgender youth are valued members of our schools and communities across New York State, yet statistics show that more than half of them will attempt suicide at least once by their 20th birthday. So we must do everything in our power to create learning environments that are safe and welcoming for all. The guidance we have developed with Attorney General Schneiderman and our partners underscores the value we place on respecting all students and indeed all people.”

The Attorney General and Commissioner remind school districts that the federal government’s decision to rescind federal guidance does not eliminate the significant body of law – including cases involving provisions of the federal Title IX - that holds that denying a student access to facilities or programming consistent with that

student's gender identity could amount to sex discrimination under federal law.

Separate and apart from existing federal law, New York State's Dignity for All Students Act expressly requires all school districts in New York to prohibit discrimination and harassment, on school property or at a school function, on the basis of a student's gender identity or expression. Based on this, SED issued guidance to all New York State school districts in July 2015, entitled "Guidance to School Districts for Creating a Safe and Supportive School Environment For Transgender and Gender Nonconforming Students," that covers much of the same subject matter of the federal guidance that was rescinded yesterday.

(That guidance can be found by clicking [HERE](#).)

SED's guidance encourages districts to take proactive steps to ensure that transgender and gender nonconforming students experience a safe and welcoming learning environment free of discrimination and harassment. With respect to transgender students, the guidance specifically covers how school districts should address the use of names and pronouns; sex-segregated programming and school facilities; and student privacy and confidentiality.

Regarding the bullying and harassment of transgender students – and other students protected by DASA – the Attorney General and Commissioner also released guidance to school districts in August 2016 on how to ensure compliance with DASA's requirements. That guidance set forth detailed procedures for the timing and execution of school district investigations into complaints of bullying and harassment on school property or at school functions.

(That guidance can be found by clicking [HERE \(link is external\)](#).)

Following the rescinding of federal guidance by the Trump Administration, the Attorney General and Commissioner strongly encourage districts and their school attorneys to review SED's guidance on protecting transgender students, as well as our agencies' joint guidance on how to ensure districts comply with their duties under DASA as to all students.

The Attorney General's Office is committed to ensuring access to equal educational opportunity. To file a complaint, contact the Civil Rights Bureau at (212) 416-8250, civil.rights@ag.ny.gov ([link sends e-mail](#)) or visit www.ag.ny.gov ([link is external](#)).