

# FACILITY DESIGN WITH TRANSGENDER CONSIDERATION

PRESENTED BY: MARK BROOKS PRSBA



PASBO 62<sup>ND</sup> ANNUAL CONFERENCE AND EXHIBITS, PITTSBURGH

March 2017

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## FEDERAL REGULATIONS

- On February 22, 2017, the U.S. Departments of Justice and Education jointly issued the attached *“Dear Colleague”* letter, which formally withdrew previously issued guidance interpreting Title IX of the Education Amendments of 1972 (“Title IX”), and its implementing regulations, as requiring transgender students to be given access to sex-segregated facilities within schools (like locker rooms and bathrooms) based upon their chosen gender identity.

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## FEDERAL REGULATIONS

- The new “*Dear Colleague*” letter states the prior guidance is being rescinded “in order to further and more completely consider the legal issues involved.” The letter further explains that these federal agencies will no longer rely upon the views expressed in the prior Obama administration guidance on this topic when interpreting or enforcing Title IX.

## FEDERAL REGULATIONS

- Notably, although the Trump Administration rescinded the Obama Administration’s policy guidance, the Trump Administration has not replaced it with a new policy position regarding transgender students under Title IX. Instead, the Trump Administration has stated that the issue should be left for state and local governments to decide. However, because Title IX is a federal statute, it is the federal courts that will have the final say on this issue.

## FEDERAL REGULATIONS

- A federal judge in Pennsylvania ruled in favor of transgender students' rights to use school bathrooms consistent with their gender identity. This ruling was based on the U.S. Constitution, not Title IX.
- The bottom line is that due to these events, we will not likely receive any answers from the Supreme Court on transgender students this summer. For now, Clarence C. Kegel, recommends that districts continue your current practices.

## U.S. SUPREME COURT

- On March 6, 2017, the Supreme Court of the United States announced that it will NOT go forward with oral argument, which had been scheduled for March 28, 2017, in the *G.G.* case concerning a transgender student's access to school bathroom facilities.

## U.S. SUPREME COURT

- The Supreme Court had been poised to hear an appeal of the Fourth Circuit Court of Appeals' decision in *G.G.* The Fourth Circuit ruled that a transgender student has the right under Title IX to use school bathrooms consistent with the student's gender identity. The Fourth Circuit's ruling had relied upon the Obama Administration's policy guidance that Title IX requires public schools to allow transgender students to use bathroom facilities that align with the student's gender identity.

## U.S. SUPREME COURT

- Because the Trump Administration rescinded the former policy guidance of the Obama Administration on February 22, 2017, the Supreme Court has now remanded the case back to the Fourth Circuit. The Fourth Circuit will be reconsidering *G.G.* in light of rescission of the Obama Administration's policy guidance it had relied upon in making its initial decision.

## RESTROOM DESIGN OPTIONS

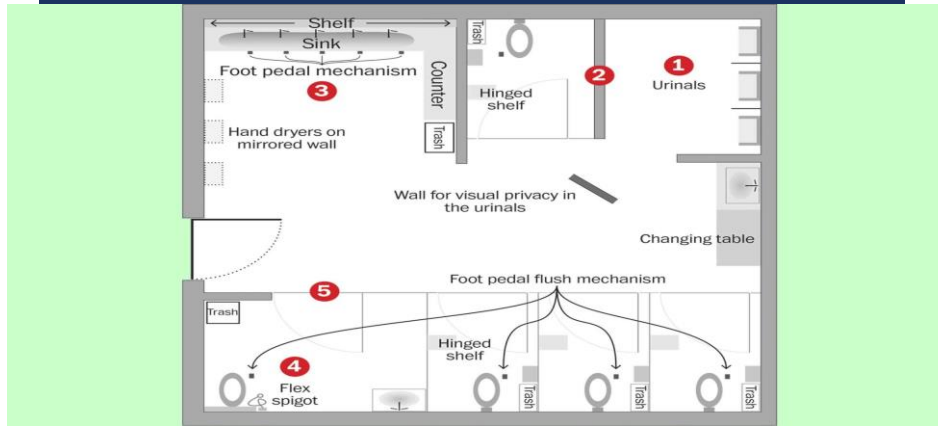


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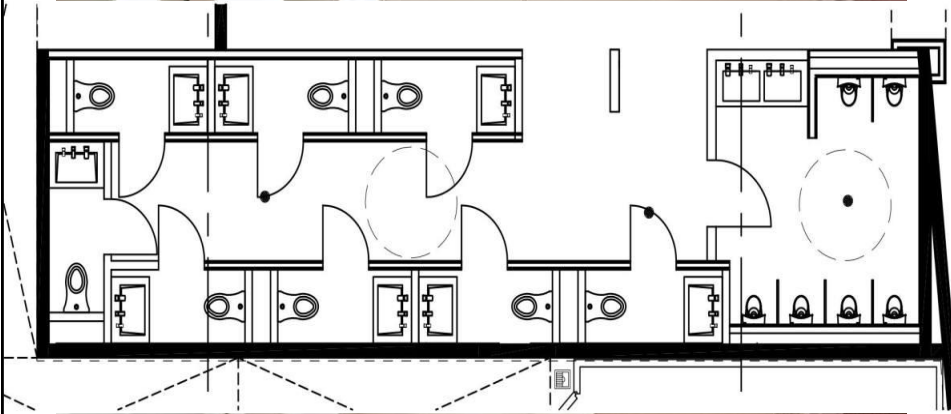


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## RESTROOM DESIGN OPTIONS



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## SHOWER ROOM DESIGN OPTIONS



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## SHOWER ROOM DESIGN OPTIONS



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## QUESTIONS



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## REFERENCES

- “Transgender Legal Update” information available on the PSBA website at <https://www.psba.org/2017/02/transgender-legal-update>.
- [https://www.washingtonpost.com/opinions/better-design-could-solve-the-debate-about-gendered-bathrooms/2016/05/13/4b54b9ee-1853-11e6-aa55-670cabef46e0\\_story.html?utm\\_term=.e4e0851e7f56](https://www.washingtonpost.com/opinions/better-design-could-solve-the-debate-about-gendered-bathrooms/2016/05/13/4b54b9ee-1853-11e6-aa55-670cabef46e0_story.html?utm_term=.e4e0851e7f56)