

## Transgender Bathroom Case Sent Back To Lower Courts By Supreme Court

March 8, 2017 | [Employment Discrimination, Currents - Employment Law](#)

On March 6, 2017, the Supreme Court canceled scheduled arguments in a case involving the bathroom rights of transgender students in public schools. The Court sent the case back to the 4th Circuit to reconsider the issue in light of the Department of Justice and Department of Education rescinding Obama-era guidance clarifying protections for transgender students. The case, *Gloucester County School Board v. G.G.*, involved a transgender high school student seeking to use the boys' restrooms at his high school. The plaintiff – G.G., began to use the boys' restroom with the approval of the school administration, but the local school board then passed a policy banning him from the boys' restroom. G.G. sued his school board, alleging that the school's bathroom policy discriminated against him in violation of the 14th Amendment and Title XI of the U.S. Education Amendments of 1972, a federal law prohibiting sex discrimination in schools. The district court dismissed G.G.'s claim, but that decision was overturned by the 4th Circuit in 2016. In so reversing, the 4th Circuit relied heavily on Obama-era guidance contained in a 2015 opinion letter from the Department of Education, which interpreted Title XI as requiring schools to "treat transgender students consistent with their gender identity." But on February 22, 2017, the Trump administration revoked that guidance. The new administration hasn't put forward its own guidance on what the law requires. However, given the Supreme Court's recent remand on this issue, the Trump administration may put forth its own approach that would clarify the outcome of the case, and inform the rights of transgender students.

### RELATED PRACTICE AREAS

Arbitration and Grievances  
EEO Compliance  
Labor and Employment  
Workplace Culture 2.0

### RELATED TOPICS

Discrimination  
Supreme Court  
Transgender