

Supreme Court may decide transgender bathroom issue once and for all

May 30, 2016 | BPR Wire (<http://www.bizpacreview.com/author/bpr-wire>) |

By Casey Harper



The nationwide debate over transgender bathrooms may ultimately be decided by the Supreme Court.

Texas led the way by filing a lawsuit Wednesday over the Obama administration's directive that transgender students in public schools be allowed to use the bathroom of their choice. Several states and school districts have gotten onboard with the suit, setting the stage for a legal battle that could have huge implications for transgender legal issues.

Experts say the issue could ultimately be decided by the Supreme Court, Reuters reports. Texas filed the suit in a court district that is likely to earn easy victories from conservative justices. Those rulings will almost certainly be appealed, and then it will be up to the Supreme Court to decide if it chooses to take up the issue.

University of Richmond Law Professor Carl Tobias told The New York Times that because there are multiple transgender cases in different federal districts (North Carolina and Texas), they could have conflicting rulings. That would make the Supreme Court more likely to take up the case.

“The Fifth Circuit has been pretty amenable to lots of arguments by Texas,” he said. “It could set up that kind of situation where the Supreme Court may want to take it.”

Alabama, Georgia, Louisiana, Oklahoma, Tennessee, Texas, Utah, West Virginia and Wisconsin are included in the suit, along with some school districts and conservative officials. In some cases, officials are not representing their entire state – like Republican Mississippi Gov. Phil Bryant, who joined the suit as an individual.

The transgender bathroom issue grabbed national attention when the Department of Justice sent a letter to North Carolina officials telling them their newly passed LGBT law violated the Civil Rights Act and put hundreds of millions of dollars in federal funding in jeopardy. The North Carolina law requires people use the restroom that corresponds with the sex on their birth certificate and bans local governments from making LGBT ordinances. The law has been the source of national debate and multiple boycotts.

The Department of Justice said the law violates Title IX and Title VII of the Civil Rights Act. Title IX bans educational discrimination on the basis of sex, and Title VII bans employer discrimination. If the state refuses to comply, it could lose hundreds of millions of dollars in federal funds.

From the letter:

Access to sex-segregated restrooms and other workplace facilities consistent with gender identity is a term, condition or privilege of employment. Denying such access to transgender individuals, whose gender identity is different from the gender assigned at birth, while affording it to similarly situated non-transgender employees, violates Title VII ...

We further inform you that today the department sent letters addressed to the NC Department of Public Safety and the University of NC similarly notifying them of our conclusion that they have engaged in violations of Title VII as well as violations of Title IX.

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