



Florida House of Representatives

Representative Janet H. Adkins

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May 15, 2016

The Honorable Pam Bondi
Attorney General of Florida
Department of Legal Affairs
The Capitol PL01
Tallahassee, Florida 32399-1050

Dear Attorney General Bondi,

The letter from the United States Department of Justice and the Department of Education dated May 13, 2016 that issued “significant guidance” to the individual school districts throughout Florida has created an expectation that K12 Public Schools will be required to comply with the “guidance” that is being offered or could face the threat of a lawsuit or loss of federal funding for failure to comply.

In my capacity as Chair of the House K12 Education Subcommittee I would like to ask for your opinion on the following questions regarding the directives contained in the May 13, 2016 letter from Ms. Catherine Lhamon from the US Department of Education and from Vanita Gupta from the US Department of Justice. The questions are as follows:

1. Does the letter sent to the individual school districts and the threat of lawsuits and withholding federal funds for noncompliance rise to the threshold of creating “unadopted federal rules” with the net effect of imposing new federal regulations on local school districts in Florida? Does the “guidance” letter amount to new federal law or regulations?
2. Is the letter and its “guidance” an encroachment on the sovereignty of the State of Florida and does it violate the 10th amendment?

Committees and Subcommittees:

K – 12 Subcommittee (Chair) · Education Committee · Choice and Innovation Subcommittee · Appropriations Committee · Education Appropriations Subcommittee · Rules, Calendar and Ethics Committee



3. Does the letter and its “guidance” overstep the role of the Florida Legislature and the constitutional authority of the local school boards in any manner?
4. Has there been any opinions issued by your office regarding the application of Title IX or discrimination involving persons identified as transgender? If you have issued any opinions on this subject, please send them to my office for review.
5. Has there been any case law from Florida Courts regarding allegations of discrimination against persons identified as transgender in our K12 Education system? If you have case law in either state or federal courts from Florida, would you share this information with my office?
6. If a Florida School District refused to comply with the “guidance” in the directive, would the Office of the Attorney General provide legal assistance in defending its right to local control?
7. Has the Office of the Attorney General developed a response to the “guidance” letter issued by the US Department of Education and the US Department of Justice? If a response has been prepared, could you please send me a copy?

While we do not seek to discriminate against anyone in Florida, it should be clear that the role of the federal government is limited and it is up to the individual states and local school boards to decide whether to adopt laws or rules related to the use of locker rooms and bathrooms by individuals who identify themselves as transgender.

It is necessary that local school districts have the needed authority to ensure the safe and orderly operation of the public schools. Part of this involves ensuring that the needs of all students are met, including those that may raise objections based on religious beliefs. I am concerned that the “guidance” letter may create discrimination against those students with religious beliefs that conflict with the thrust of the “guidance” letter and may result in other students being discriminated against based on their religious views.

It is clear that schools should have the opportunity to handle individual student needs on a case-by-case basis and should not be forced to adopt rules and policy that create blanket rights for students who simply express a gender identification absent any surgical or other medical procedures that would be associated with such transgender expression.

It seems illogical that a parent or legal guardian would have the power to change the gender identity of a minor student from the gender identified at birth. The issues surrounding transgender conduct could reasonably allow students to alter their gender identification multiple times through the course of the year or to simply announce that they identify with both genders and hence should be given access to both male and female locker rooms and restrooms.



The larger public need is to ensure that schools have a framework that allows for the orderly management of the schools, classrooms and athletic facilities. There is a broad public interest in settling the questions set forth in this letter to help establish the path for Florida School Districts moving forward and to ensure that the 10th amendment and right of Florida to control its laws and schools within its borders is respected by the federal agencies.

I believe the efforts of the federal agencies to thrust what are in my view “unadopted federal rules” upon the local school districts violates the United States Constitution; and it is reasonable for Florida to ask that the federal bureaucrats reconsider their position and the use of threats to advance their policies.

For many Floridians the directive from the federal agencies is intrusive and encroaches upon the state rights outlined in the 10th amendment. As Chair of the K12 Education Subcommittee in the Florida House of Representatives, I take great objection to the notion that federal agencies would attempt to regulate local public schools in Florida without the consent of the Florida Legislature.

I look forward to your review and written reply to my questions.

Sincerely,

A handwritten signature in blue ink that reads "Janet H. Adkins".

Janet H. Adkins
State Representative, District 11