

A critical analysis of Craig Wethington's Toolkit defense

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[Note: All bold print and underlining indicate added emphasis.]

On May 15, 2017 Craig Wethington sent an email defending the *Toolkit to Ensure Safe and Supportive Schools to Transgender and Gender Nonconforming Students*. In defense of the Toolkit he replied:

“The toolkit is a collection of resources and best practices for school districts and charter schools on a topic that has generated questions from schools across the state. **The toolkit does not serve as guidance, direction, state or rule; it is intended to provide additional information** for districts to consider as they make their own locally-determined policies.”

Mr. Wethington's answer is evasive and dishonest. The intent to send out guidance and direction to Minnesota school districts is obvious from the content and wording in the Toolkit itself. While the Toolkit makes only *one* mention of President Trump's mandate to rescind the Obama's Title IX Guidance (page five), 15 times it refers to Obama's 2016 guidance (the only ruling mentioned in the Select Federal Resources on page 24). On page five, the toolkit boldly states the objective of the MDE:

“In 2016, in the Dear Colleague Letter on Transgender Student, the U.S. Department of Education and Justice issued guidance specifically as it related to Title IX's requirements and transgender students. While the current presidential administration rescinded this guidance that provided protections to transgender students, **Minnesota Governor Mark Dayton and Education Commissioner Brenda Cassellius strongly urge school Boards and school district to adhere to the prior administration's guidance** focused on ensuring safe and supportive environments and equal treatment of transgender students.”

The wording “strongly urge” is a vastly different message from saying the toolkit was intended to “provide additional information.”

Strong language is once again used when directing schools what to do about “Names, Pronouns, Student Records and Privacy.” On page seven it says:

“Some students determine that the name and gender contained in their school record does not reflect their gender identity....**School staff should use the name and gender asserted by the student** or the student's parents or guardians, according to the 2016 Dear Colleague Letter on Transgender Students.”

On page eight it says: “The 2016 Title IX guidance indicates a student's newly-adopted name **should be used** in all cases where the name will be visible to peers....”

On page nine it states: “The 2016 Title IX guidance says that **schools should support** transgender and gender nonconforming students in using the facilities that align with their gender identity.”

On page ten it notes: “The 2016 Title IX guidance and the Minnesota Human Rights Act **require that schools** provide transgender students with the opportunity to participate in school activities, including athletics, in a manner consistent with their gender identity.”

The same page states: “Under the Minnesota Human Rights Act and the 2016 Dear Colleague Letter and Title IX guidance, **a school should not** exclude transgender and gender nonconforming students...” On page 11 the toolkit *again* mentions the 2016 Dear Colleague letter—in the section where it refers to the threat of losing Federal Funds for non-compliance.

On the bottom of the page it says: “The 2016 Dear Colleague Letter on Transgender Students clarifies the issue and cautions schools against discrimination.”

Leading into page 12 it begins again: “The **student cannot be required** to provide medical or other documentation that is not required of all students in order to participate, according to 2016 Title IX guidance.”

In the middle of the same page it states: “**Students cannot be required to stay in separate, single occupancy accommodations because they are transgender** or gender nonconforming, according to the 2016 Title IX guidance. The guidance also says that **schools must give** transgender or gender nonconforming student’s access to housing consistent with their gender identity.”

In “Student Dress Codes” (page 12) they still cling to Obama’s guidance with no additional information that would contradict their narrative.

“Dress codes that apply the same requirements regardless of gender are the most inclusive for all students and avoid unnecessarily reinforcing sex stereotypes,” according to the 2016 Title IX guidance.”

In almost all categories of “additional information”, the Obama 2016 Title IX guidance is referred to and held up to be the example to follow—while ignoring the Trump countermand. When all else fails, the toolkit resorts to the over-used term “best practices”—with no supporting evidence.

In conclusion: Obama’s 2016 Title IX guidance is null and void; the Trump administration rescinded it and teachers do not need to follow it. That is the “additional information” that MDE should have given to teachers immediately. Instead teachers and administrators are being deceived by the false information in this toolkit and by those who are defending it. These actions by the MDE and the SSTAC are irresponsible and must be stopped.