



### **Title IX Response to the Office of Civil Rights January 8, 2020 Memorandum**

On Friday, January 8, 2021, the Department of Education Office of Civil Rights (OCR) released a memorandum clarifying the implications of the *Bostock* decision on Title IX. *Bostock v. Clayton County* is a civil rights case that was recently heard by the United States Supreme Court. The Court held that Title VII of the Civil Rights Act protected employees against discrimination because of their sexual orientation or gender identity. Title VII is the federal employment non-discrimination law. Most of us are more familiar with Title IX, which is the federal law that prohibits discrimination on the basis of sex under any education program or activity receiving federal financial aid.

OCR was asked a series of questions related to Title IX given the *Bostock* decision and as a result, the memorandum was published. The Department of Education remains firm on their position that Title IX's application should only extend to biological sex, therefore not adopting the *Bostock* decision. This memo also contradicts recent federal appeals court decisions on the matter.

The State of New Mexico has added protections, including but not limited to, laws prohibiting bullying on the bases of sexual orientation and gender identity and the prohibition of bullying on the basis of association with someone with a listed characteristic. Additionally, the OCR memorandum is just that – a memo with an opinion. This does not change the law, nor will it change the ways in which UNM addresses discrimination against LGBTQIA+ individuals. President-Elect Biden has previously announced that he will reverse many of the Title IX changes made by the current administration; therefore, we may also see this memorandum rescinded or another opinion published in the near future.

I recognize OCR's memo, at the very least, is a terrifying reminder of the reality our LGBTQIA+ family encounter on a consistent basis. Hate has no place at UNM and I remain committed to ensuring our University protections remain. If you have any questions, concerns, or would like to discuss this further you can contact me at [acatena@unm.edu](mailto:acatena@unm.edu).