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LEGAL UPDATE

June 25, 2020

To: Superintendents, Member School Districts (K-12)
From: Loren W. Soukup, Senior Associate General Counsel LS
Subject: United States Supreme Court Rules that Civil Rights Law Protects LGBT Employees
Memo No. 38-2020

The Supreme Court of the United States ruled on June 15, 2020 that “sex discrimination” under Title VII of the Civil Rights Act of 1964 applies to discrimination based on sexual orientation and gender identity in the workplace. (*Bostock v. Clayton County, Georgia* 590 U.S. ___, (2020 WL 3146686) (2020)). Because more than half of the 50 states do not prohibit employment discrimination based on transgender or sexual orientation, this ruling is a major victory for LGBT employees.

Under Title VII of the Civil Rights Act of 1964, an employer is prohibited from discriminating “because of sex.” The United States Supreme Court, by a 6-3 vote, held that an employer violates Title VII when it discriminates against an employee based, at least in part, on sex, and discrimination based on sexual orientation or gender identity requires the employer to intentionally treat employees differently because of their sex. While the Supreme Court acknowledged that the intent of Congress may not have been to include sexual orientation or gender identity within the definition of “sex” when it enacted the Civil Rights Act of 1964, it gave no weight to the legislative history because the language of the statute clearly prohibits the discriminatory practice.

Discrimination based on sexual orientation and gender identity in the workplace is already prohibited under California law so this decision will not have a significant impact for California employees. However, this decision will likely have significance when interpreting the definition of “sex” under Title IX, as it applies to students.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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