



CLIENT ALERT
June 16, 2020

**U.S. Supreme Court Rules that Civil Rights Law Protects Gay
and Transgender Employees**

On Monday, June 15, 2020 the U.S. Supreme Court issued a landmark decision confirming that Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination, applies to discrimination based on sexual orientation and gender identity. By a vote of 6-3, the Court upheld rulings from lower Circuit courts finding that sexual orientation discrimination is a form of sex discrimination. Its opinion, authored by President Trump's first Supreme Court appointee, Neil Gorsuch, stated that "in Title VII, Congress adopted broad language making it illegal for an employer to rely on an employee's sex when deciding to fire that employee....[and] [a]n employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex." As a result, "sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids."

The decision is considered by many to be somewhat of a surprise given the conservative majority of Justices of the Supreme Court, and is being hailed by the LGTBQ community as a stunning, watershed victory. Prior to the issuance of the decision, the majority of states in the U.S. did not prohibit job discrimination based on sexual orientation or gender identity. Several cases in Pennsylvania have previously demonstrated support for the interpretation that has now been rendered by the U.S. Supreme Court, which will have widespread consequences for the many laws that likewise provide protection against discrimination "because of [an individual's] sex," including a number of laws in the field of education addressing employees and students. Many School Districts have policies and/or practices in place that already recognize protection of individuals on the basis of sexual orientation and/or gender identity. The Supreme Court's decision effectively settles the matter as it pertains to any remaining question on whether federal anti-discrimination statutes truly provide this protection.

The court's decision came in three cases— *Bostock v. Clayton County, Georgia*, and *Altitude Express v. Zarda* which addressed the protection of sexual orientation under Title VII. *R.G. and G.R. Harris Funeral Homes v. Equal Employment Opportunity Commission and Stephens*, which centered on gender identity and represents the first major case in which the U.S. Supreme Court addressed transgender rights.

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