

# NONDISCRIMINATION PROTECTIONS AND INCLUSION OF LGBTQ+ STUDENTS IN K-12 LEARNING COMMUNITIES:

## RECOMMENDATIONS FOR STATE EDUCATION AGENCIES

It is estimated that over 2 million youth in the United States are LGBTQ+,<sup>1</sup> and also estimated that nearly 200,000 youth are transgender.<sup>2</sup> LGBTQ+ students, have the same innate potential to thrive as all other youth, but many are not meeting this potential due to discrimination and hostile climates. These disparities are particularly stark for LGBTQ+ students who are transgender and nonbinary, Black, brown, Latinx, Indigenous, and/or people with disabilities.<sup>3</sup> Schools are responsible not only for intervening in peer bullying, harassment, and violence, but for ensuring their own policies and practices do not discriminate, and taking proactive steps to address these educational inequities.

### *Unequal School Policies and Practices Harm LGBTQ+ Students' Well-Being and Success*

In the 2017 National School Climate Survey (NSCS), a majority of LGBTQ+ students (62%) reported experiencing LGBTQ+ related discriminatory policies or practices at school. Students reported being disciplined for public displays of affection when straight and cisgender students were not (31%), forbidden from wearing clothes deemed “inappropriate” based on their gender assigned at birth (23%), and prohibited from addressing LGBTQ+-related topics in school assignments (18%) and extracurricular activities (18%).<sup>4</sup> Another nationally representative survey found that LGBTQ+ students were more likely to face school discipline than their non-LGBTQ+ peers.<sup>5</sup>

Transgender and nonbinary students often face additional forms of unequal treatment at school. In the 2017 NSCS, transgender students reported being prevented from using their chosen name and using pronouns consistent with their gender identity (42%), and being required to use restrooms (47%) or locker rooms (44%) inconsistent with their gender identity.<sup>6</sup>

1 Green, A.E., Price-Feeney, M. & Dorison, S.H. (2019). National Estimate of LGBTQ Youth Seriously Considering Suicide. New York, New York: The Trevor Project.

2 Herman, J.L., Flores, A.R., Brown, T.N.T., Wilson, B.D.M., & Conron, K.J. (2017). Age of Individuals Who Identify as Transgender in the United States. Los Angeles, CA: The Williams Institute.

3 Kosciw, J. G., Greytak, E. A., Zongrone, A. D., Clark, C. M., & Truong, N. L. (2018). The 2017 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation’s schools, 85-109. New York: GLSEN [hereinafter *The 2017 National School Climate Survey*]

4 Ibid., 38-39.

5 Greytak, E.A., Kosciw, J.G., Villenas, C. & Giga, N.M. (2016). From Teasing to Torment: School Climate Revisited, A Survey of U.S. Secondary School Students and Teachers. New York: GLSEN.

6 Kosciw, J. G. et al., *The 2017 National School Climate Survey*, 38-39.

Unequal treatment at school takes a harmful toll on students' well-being and academic success. The 2017 NSCS found that LGBTQ+ students who had experienced discrimination at school were nearly three times more likely than their peers to have missed school in the past three months (45% vs. 16%), nearly twice as likely to have been disciplined at school (44% vs. 27%), and had lower GPAs, self-esteem, sense of belonging at school, and higher levels of depression. Unequal treatment also contributes to school dropout, with more than one in three LGBTQ+ students who have considered dropping out reporting they did so because of the hostile climate created by unequal school policies and practices.<sup>7</sup>

### *Inclusive School Policies and Practices Help Students Thrive and Succeed*

Fortunately, we know what works. Experience in states and communities across the country demonstrates that inclusive and equitable policies and practices help LGBTQ+ students thrive and succeed in schools. For example, transgender students in schools with clear guidelines on supporting them are less likely to report facing the kinds of discriminatory treatment described above. They were also less likely to report victimization by peers, less likely to miss school because of feeling unsafe, and reported feeling greater belonging at school.<sup>8</sup> Recent studies also show that transgender youth who are affirmed in their community—including through respecting their chosen name and correct pronouns—are measurably healthier and more successful, virtually erasing disparities with their peers.<sup>9</sup>

Inclusive school policies and practices make a difference for all LGBTQ+ students. Students in schools with explicitly LGBTQ+ inclusive bullying and harassment policies are less likely to hear slurs or other anti-LGBTQ+ remarks, more likely to report that teachers intervene in harassment and hostile language, and less likely to be victimized by peers. LGBTQ+ student in schools with LGBTQ+ inclusive curriculum also report less hostile language and victimization, are less likely to miss school due to feeling unsafe, feel greater belonging at school, perform better academically, and are more likely to plan for higher education.<sup>10</sup> Other studies also find that inclusive school policies are associated with less truancy and more positive experiences of school climate for LGBTQ+ students.<sup>11</sup> Having a recognized, LGBTQ+ affirming student group is also associated with better safety, well-being, and academic outcomes for LGBTQ+ students.<sup>12</sup>

7 *Ibid.*, 44-51.

8 *Ibid.*, 79-81.

9 *See, e.g.*, Pollitt AM, Ioverno S, Russell ST, Li G, Grossman AH, Predictors and Mental Health Benefits of Chosen Name Use Among Transgender Youth. *Youth & Society* (2019); Stephen T. Russel et al., Chosen Name Use Is Linked to Reduced Depressive Symptoms, Suicidal Ideation, and Suicidal Behaviors Among Transgender Youth, 64 *J. ADOLESCENT HEALTH* 503 (2018); Lily Durwood, Katie A. McLaughlin, & Kristina R. Olson, Mental Health and Self-Worth in Socially Transitioned Transgender Youth, 56 *J. AM. ACAD. CHILD ADOLESC. PSYCHIATRY* 116 (2017); Kristina R. Olson et al., Mental Health of Transgender Children Who Are Supported in Their Identities, 137 *PEDIATRICS* (2016). *See also* Scheim, Ayden I et al., Gender-concordant identity documents and mental health among transgender adults in the USA: a cross-sectional study, *The Lancet Public Health*, Volume 5, Issue 4, e196 – e203 (2020).

Kosciw, J. G. et al., *The 2017 National School Climate Survey*, 68-79.

11 *See, e.g.*, Day JK, Ioverno S, Russell ST, Safe and supportive schools for LGBT youth: Addressing educational inequities through inclusive policies and practices, *J. School Psychology* 74:29-43 (2019).

12 Kosciw, J. G. et al., *The 2017 National School Climate Survey*, 66-68;

This report outlines the policies and practice that work, and what state education agencies (SEAs), often named Departments of Education, can do to ensure equity and support local education agencies (LEAs), often named school districts, with implementation.

## Federal and state laws on Equal Educational Opportunity and student privacy

### Title IX and the U.S. Constitution Prohibit Discrimination against LGBTQ+ Students

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in federally-assisted schools and education programs. In June 2020, the U.S. Supreme Court ruled in *Bostock v. Clayton County, Georgia* that discrimination on the basis of sex “inherently” includes discrimination on the basis of sexual orientation, transgender status, or gender identity. The Equal Protection Clause of the U.S. and most state constitutions also generally prohibit such discrimination in public schools. In addition, some courts have held that the First Amendment protects a student’s expression of gender identity, including through dressing in a manner that otherwise complies with school rules.

Title IX violations can include:

- Failing to take steps to prevent harassment or bullying of LGBTQ+ students, whether in online or in-person learning,
- Failing to investigate complaints of harassment or discrimination, or to provide accommodations to students who report discrimination to stop ongoing harms.
- Disproportionate discipline of LGBTQ+ students, whether in online or in-person learning.
- Application of sex-based rules or practices that are not substantially related to an important educational interest.
- Intentional, persistent use of a name or pronouns inconsistent with a student’s gender identity (including a chosen but non-legal name in contexts where use of the legal name is not required by any law).
- Excluding transgender students from facilities or activities consistent with their gender identity.

### The Family Education Rights and Privacy Act (FERPA) and the U.S. Constitution Protect LGBTQ+ Students’ Privacy

FERPA protects information contained in student records from disclosure without a student or parent or guardian’s consent in most circumstances. This includes information about a student’s sexual orientation, transgender status, gender identity, gender transition, gender assigned at birth, related medical history, or current or former legal name. Parents or eligible students may request to receive, or correct, any information in school records—though schools are not required to disclose personal information not contained in official school records to parents.

FERPA violations may include:

- Disclosing whether a student is transgender or a student’s gender assigned at birth to other students, parents, or media without the parent/guardian’s consent (or, if 18 or older, the student’s consent).
- Using a student’s legal name in school directories, yearbooks, or other publications where a parent or eligible student has requested otherwise.

Students have the right to choose to discuss or disclose protected information in any way they wish.

In addition, the U.S. and many state constitutions prohibit schools from disclosing sensitive information such as a student’s sexual orientation or gender identity to anyone—including parents—without a compelling interest in doing so (such as where the circumstances make it necessary in order to discuss an immediate threat to the student’s health or safety), or the student’s consent.

#### *Some Transgender Students May Have Additional Rights under Federal Disability Laws*

Some, though not all, transgender students may have additional rights under Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act, based on a diagnosis of gender dysphoria or related conditions such as anxiety or depressive disorders. These students may be entitled to Individualized Education Plans (IEPs) that address their gender-related needs.

#### *The Equal Access Act requires treating student organizations equally*

As explained in guidance from the U.S. Department of Education, the Equal Access Act “requires public secondary schools to treat all student-initiated groups equally, regardless of the religious, political, philosophical, or other subject matters discussed at their meetings. Its protections apply to groups that address issues relating to LGBT students and matters involving sexual orientation and gender identity, just as they apply to religious and other student groups.”<sup>13</sup> Under the Act, schools must treat student groups equally, and may not single out a group such as GSAs (Gay Straight Alliances or Gender and Sexuality Alliances) for limitations not imposed on other student groups.

#### *State Laws May Provide Additional Protections*

While federal laws broadly prohibit discrimination and protect students’ privacy, some [state laws](#) provide more specific protections. For example, Nevada, New Jersey, Virginia, and Washington State have all passed legislation requiring the establishment of statewide regulations, guidelines, or model policies with specific protections for transgender students, which LEAs must follow. California and New Jersey also have specific legislation outlining students’ right to use school facilities consistent with their gender identity.<sup>14</sup>

<sup>13</sup> Dear Colleague Letter from Secretary of Education Arne Duncan on LGBT student groups (Jun. 14, 2011).

<sup>14</sup> Cal. Education Code § 221.5; Nevada Rev. Stat. 388.133; N.J. Stat. 18A:36-41; Va. Code § 22.1-23.3; RCW 28A.642.080.

### Plumbing and Building Codes Increasingly Permit or Require All-Gender Facilities

Making restrooms available for all students, without regard to gender, benefits everyone by increasing convenience and decreasing waiting, while also eliminating a potential source of fear, anxiety, and harassment for transgender students. Most states and localities follow established international plumbing and building codes established by the International Code Council. As of the 2021 edition, the International Plumbing Code *requires* restrooms be designated for all persons if they are single-user, and *permits* multi-user restrooms to be designated as all-gender.<sup>15</sup>

## **State guidelines for supporting LGBTQ+ students and ensuring equal opportunities**

### Why and how SEAs should issue statewide guidelines

One of the most important steps State Education Agencies (SEAs), often named Departments of Education, can take to support students in this area is to publish statewide guidelines for LEAs on supporting LGBTQ+ students and ensuring equal opportunities. These guidelines should outline key legal protections as well as best practices, address common situations and questions, and point to additional resources for local policy, curriculum, professional development for educators, supporting students, and engaging K-12 learning communities.

Generally, SEAs have authority to issue guidelines for LEAs that both clarify relevant state and federal laws and their application to common situations, and help to identify recommended best practices and additional resource. In some cases, SEAs may also adopt binding regulations in accordance with applicable state laws, or may publish model LEA policies and procedures. In some states, SEAs have coordinated with other state agencies, such as the state human rights agency or state attorney general, to publish appropriate guidance or regulations, which may be tailored specifically to schools or may cover the application of general state laws (such as state public accommodations laws) to schools and other entities. A growing number of states have passed legislation directing SEAs to develop statewide guidelines or regulations, and requiring LEAs to follow them.

### Key elements of statewide guidelines

We recommend that, at minimum, SEAs issue statewide guidelines that outline key legal requirements under Title IX, FERPA, and relevant state and local laws, as well as recommended best practices and resources. We recommend that statewide LGBTQ+ student guidelines include at least the elements described below.

In addition to the topics outlined here, SEAs should publish statewide guidelines and model policies on bullying and harassment, based on the detailed recommendations and model language in GLSEN's [Model State Anti-Bullying & Harassment Legislation](#) and [State Education Agency Implementation Resources](#).

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15 International Code Council, *2021 International Plumbing Code*, Section 403.2 Separate facilities (2020).

These resources outline key elements of effective bullying and harassment policies, including key definitions, specifically enumerating protected characteristics (including actual or perceived race, color, ethnicity, national origin, disability, sex, sexual orientation, gender identity or expression, and religion), addressing cyberbullying, requiring effective complaint processes and data collection, and addressing specific harassment concerns for transgender students such as intentional misgendering and protection of private information.

### Student Privacy and Records

Students may choose whether, how, and to whom to disclose personal information such as their gender identity, transgender status, enrolled gender or gender assigned at birth (if different from their gender asserted at school), any former name, any medical history related to gender transition, or their sexual orientation. As discussed above, this information is protected by various laws, including federal and state constitutional privacy rights. To the extent such information is contained in student records, this information is also protected by FERPA and applicable state public records and student privacy laws.

Private information regarding a student should be disclosed only to those staff who need to know, to parents based on an important educational need or a proper records request, or when specifically required by law. While schools may discuss their policies and efforts to meet the needs of all students with the school community or with press, this kind of personal information should not be disclosed publicly.

If a student's current or former legal name is different from the name the student currently uses, unnecessary disclosure of this information may effectively disclose the student's transgender status and may violate privacy and nondiscrimination laws. The same is true for the student's enrolled gender, if it differs from the student's gender asserted at school. Refusal to permit records updates for transgender students may in some circumstances also violate privacy and nondiscrimination laws.<sup>16</sup>

As discussed above, some students may not yet feel comfortable or safe coming out to everyone in their lives. Some students may be out as transgender with their friends, within their GSA, and come out to certain staff, but not yet ready to do so in the classroom. Other students will be completely out at school but request staff to use a different name or pronouns in certain contexts, such as at a parent-teacher conference or graduation ceremony. Staff should work with students to help protect their right to privacy.

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<sup>16</sup> See, e.g., *Complainant v. Dep't of Veterans Affairs*, Equal Employment Opportunity Commission Appeal No. 0120133123, 2014 WL 1653484 (Apr. 16, 2014) (an allegation involving the failure to revise agency records pursuant to gender transition stated a valid sex discrimination claim).

**State Guidelines should direct LEAs to:**

- Treat as confidential and protected by law information regarding a student’s gender identity, transgender status, enrolled gender or gender assigned at birth (if different from their gender asserted at school), any former name, any medical history related to gender transition, or their sexual orientation.
- Follow the requirements of FERPA and any applicable state public records laws with respect to such information in student records. Such information should not be disclosed absent a valid exemption under these laws, such as to prevent harm to the student or to comply with a parent’s request for student records.
- Where a student has requested to use a new name that aligns with their gender identity, but has not currently obtained a legal name change order:
  - Make the new name the primary name for all student records.
  - Record the legal name in a separate field or record.
  - Use the legal name only when required by law for reporting or other purposes.
  - Use the chosen name exclusively for all other purposes, including for class rosters, transcripts, school directories, yearbooks, other publications.
  - Upon request, issue or re-issue a student transcript or diploma using the student’s chosen name.
- Collect and use information about a student’s gender only where needed. For example:
  - Confidentially recording gender in enrollment records may be required by federal or state laws.
  - Confidential, voluntary gender questions in student surveys may be important to measure school climate. Surveys should ask separately about gender identity and gender assigned at birth.
  - Listing gender on other forms or documents, such as routine permission forms or student ID cards, may be unnecessary.
- Update the gender listed in any student record upon request to male, female, or undesignated.
- Take additional steps to prevent accidental disclosure of a student’s current or former legal name and enrolled gender—if different from the student’s gender identity and chosen name—in electronic and physical files (such as limited administrative permissions for electronic files, or a separate file and locked filing cabinet for physical files).

States should also provide schools with clear technical guidance on how to enter information related to current and legal name (if different), and gender identity and enrolled gender (if different), in student information systems and for purposes of federal and state reporting.



## Names and Pronouns

Respecting and supporting transgender students begins with basic issues that come up throughout every school day. As noted above, a growing body of research finds that using the name and pronouns consistent with a student's gender identity has a measurable, positive impact on their health and well-being. While mistakes can happen, especially when a gender transition or name change is recent, intentionally and persistently misgendering a student through the use of a former name or incorrect pronouns can amount of discriminatory harassment.<sup>17</sup>

As discussed further below, students have the right to decide when, how, and with whom to come out as transgender or to disclose their gender identity or gender assigned at birth, which may mean letting certain staff know to use a different name and pronouns in certain contexts.

### State Guidelines should direct schools to:

- Ensure staff model use of a student's chosen name and pronouns consistent with their gender identity (including gender-neutral pronouns such as "they" and "their") in the classroom, on class rosters, and in all other places. The only exception should be use of a different legal name where this is explicitly required by law, or when a student has requested use of a different name or context in specific contexts or with specific people.
- Ensure staff address intentional misgendering as a form of harassment.

## Restrooms and Changing Rooms

Using restrooms and changing rooms is another routine part of school life where no student should be singled out. Every student should have access to convenient, private, and sanitary facilities. If restrooms or changing rooms are divided by gender, students should be able to use facilities consistent with their gender identity.

Following recent amendments to the International Plumbing Code, schools should also consider universal-design approaches for new or remodeled facilities that provide enhanced privacy and can open to all students. For example, schools may consider an approach recognized by the American Institute of Architects' 2018 Innovation Award, involving an open restroom plan with fully enclosed stalls.<sup>18</sup>

<sup>17</sup> See, e.g., *Jameson v. U.S. Postal Service*, Equal Employment Opportunity Commission Appeal No. 0120130992, 2013 WL 2368729 (May 21, 2013) (intentional misuse of the employee's new name and pronoun may cause harm to the employee, and may constitute sex based discrimination).

<sup>18</sup> See Sanders, J. *Stalled!: Transforming Public Restrooms*. *Footprint*, Autumn/Winter 2017, 109-118. See also <https://www.stalled.online>.



**State Guidelines should direct LEAs to:**

- Ensure all students can use facilities consistent with their gender identity, without limitation.
- Enable students whose gender identity is not male or female to designate whether existing girls' or boys' facilities are most appropriate for them.
- Designate existing single-user facilities as available to all students.
- Provide more private restroom or changing options to students upon request.
- Consider low-cost retrofits such as curtains or partitions to increase privacy in changing rooms.
- For new construction or remodeling, consider universal-design approaches for all-gender facilities with enhanced privacy.

**School Activities**

Title IX, the U.S. constitution, and most state laws and constitutions limit the separation of students by gender in the classroom and for extracurricular activities. Generally, any gender-separated activity must be substantially related to an important educational purpose, which must be periodically evaluated, and must provide equal opportunities to all students.<sup>19</sup> Many instances of gender separation—such as dividing up boys and girls for classroom activities as a matter of convenience, or based on gender stereotypes about learning styles—will not meet this standard.

In any activity for which students are separated by gender, students should be able to participate in accordance with their gender identity. Thus, if a school maintains separate intramural sports teams, or separate overnight trip accommodations, a transgender boy should be able to participate in the same manner as other boys, and a nonbinary student should be able to determine which option is the best fit for them.

**State Guidelines should direct LEAs to:**

- Make classroom activities gender-neutral and avoid dividing students by gender, absent an important, evidence-based educational purpose.
- Conduct an evaluation of all gender-separated activities at least every two years to ensure it complies with Title IX and other state and federal laws.
- Ensure all students can fully participate in all school activities consistent in a manner consistent with their gender identity—including physical education, intramural sports, and overnight trip accommodations.
- Where school activities or accommodations are gender-separated, enable students whose gender identity is not male or female to designate whether participating with boys or girls is most appropriate for them.

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<sup>19</sup> For an overview, see U.S. Dept. of Education, Office for Civil Rights, *Questions and Answers on Title IX and Single-Sex Elementary and Secondary Classes and Extracurricular Activities* (Dec. 1, 2014).

## Interscholastic Athletics

Title IX and other laws and constitutional standards permit gender-separated sports in some instances, but prohibit excluding or otherwise discriminating against transgender students in the opportunity to play sports.

Guidelines for interscholastic sports are often set by state interscholastic athletics associations, rather than directly by state education agencies. In this case, state education agencies should engage with athletic associations to encourage them to adopt policies that enable all students to participate, in a manner consistent with their gender identity. Additional reference on the benefits of inclusive athletics association guidance are included in [Gender Affirming and Inclusive Athletics Participation](#).

### State Guidelines should direct LEAs to:

- Consult and follow applicable state interscholastic athletic association policies.
- Notify their state interscholastic athletic association and state education agencies of any barriers for their students under current policies.

## Dress and Appearance Rules

Schools may set basic standards for appropriate dress and appearance, but these rules should be written and enforced in a manner that does not discriminate on the basis of race, color, national origin, disability, or sex, including on the basis of sexual orientation, transgender status, or gender identity.

To ensure clarity, equal application, and equal educational opportunities, the best approach is to ensure any dress or appearance rules are gender-neutral.

### State Guidelines should direct LEAs to:

- Ensure dress and appearance rules for students are gender-neutral and evenly enforced, including any rules for graduation gowns or other special occasions.

## Supporting Student Organizations

As discussed above, the federal Equal Access Act requires that all student organizations be treated equally. This means that a GSA (Gay Straight Alliance or Gender and Sexuality Alliance) must be recognized and provided access to the same resources as other student groups.

### State guidelines should direct LEAs to:

- Ensure all non-curricular student groups are treated equally (including groups focusing on issues of gender, sexual orientation, or supporting LGBTQ+ students) and that no student group is singled out for any limitation based on subject matter or viewpoint.
- Promote and support the formation and activities of student groups that provide support to LGBTQ+ students, including during distance learning.

## Informing and Engaging Students, Parents, and Families

All students and their families should be aware of students' rights and of the LEA's policies and commitment to a supportive school climate for all students, including LGBTQ+ students. School should not wait for questions or issues to arise, but should proactively inform students and families and foster an inclusive school community.

### State Guidelines should direct LEAs to:

- Ensure students, parents/guardians, and families are notified at least annually of nondiscrimination, bullying, and harassment policies, including each student's right to be treated in accordance with their gender identity.
- Include this information in student handbooks, back-to-school messages, and other appropriate materials.
- Publish their comprehensive enumerated nondiscrimination policies on their websites.

## Staff Training and Development

All school staff, as well as any parent or community volunteers, should be informed of student rights and staff responsibilities for protecting equal opportunity and student privacy and wellbeing. This includes ensuring all staff have access to high-quality, culturally affirming, accessible professional development opportunities

Wherever possible, SEAs should support LEAs by providing professional development opportunities directly to schools on supporting LGBTQ+ students, and by publishing and disseminating professional development materials and resources. SEAs and LEAs may also consider utilizing GLSEN's Chapter-based professional development program, which provides educator training workshops, tools, and resources on supporting safety, well-being, and achievement for LGBTQ+ students.

**State guidelines should direct LEAs to:**

- Ensure all school staff (including teachers, coaches, health and counseling staff, bus drivers, cafeteria workers, custodians, administrators, and support staff) and parent and community volunteers have access to high-quality, culturally affirming, accessible professional development opportunities, covering the following topics:
  - Understanding student diversity with respect to sexual orientation, gender identity, and gender expression.
  - Understanding LGBTQ+ students' experiences in school and their impacts on student safety, wellbeing, and academic success.
  - Understanding students' rights and applicable policies regarding nondiscrimination, harassment and bullying, privacy and records, and curriculum.
  - Understanding and using students' chosen names and pronouns consistent with their gender identity.
  - Avoiding unnecessary gender-specific language or gender separation in classes and extracurricular activities.
  - Recognizing and responding to bullying, and harassment, and other forms of victimization.
  - Ways to support LGBTQ+ students and to improve the learning environment.
  - Engaging with parents and families and supporting family acceptance.
  - LGBTQ+ employees' right to be free from workplace bias and discrimination.

**Data collection and reporting standards**Enrollment data

Students' enrollment data should be maintained in a manner that respects and affirms student's gender identity and privacy, using their chosen name and self-identified gender where requested except to the extent required for specific reporting purposes.

With regard to reporting student name, some reporting requirements do not include student names, and those that do rarely provide specific guidance regarding chosen or legal names. When reporting student names is required and no explicit guidance is given from the relevant law or agency, SEAs and LEAs may choose to err on the side of reporting the student's current legal name for this specific purpose.

With regard to reporting gender data, the U.S. Department of Education requires that a student's gender be reported for its Civil Rights Data Collection (CRDC) and *EDFacts* data system as "male" or "female." The National Center for Education Statistics changed the definition of "sex" as a category in the *EDFacts* system to mean "an indication that students are either female or male."<sup>20</sup> In contrast, the Department has proposed to define sex for the upcoming CRDC (now delayed to 2020-21) as "the biological traits that distinguish the males

20 U.S. Department of Education, *EDFacts* Submission System; FS052 - Membership; File Specifications: SY 2019-20 v. 16.1, at 5 (Dec. 2019), <https://www2.ed.gov/about/inits/ed/edfacts/eden/non-xml/fs052-16-1.docx>

and females of a species.”<sup>21</sup> The U.S. Department of Education does not define those traits or whether they include gender identity. Since SEAs and LEAs are not in a position to assess biological traits—which may or may not correspond to current or original enrollment records or vital records—SEAs and LEAs should simply report the current gender data in school records.

The federal Every Student Succeeds Act requires SEAs and LEAs to ensure that statistical data on certain topics (such as academic achievement and bullying and harassment) can be disaggregated “by gender,”<sup>22</sup> which is not defined by the law or by the U.S. Department of Education’s State Plan template. Here, too, we recommend that SEAs and LEAs simply report the current gender data in school records.

State reporting requirements vary; SEAs should review their own state laws, rules, and procedures.

SEAs should ensure any statewide student information systems:

- Include separate data fields for a student’s chosen name (to be used for all routine school purposes) and legal name (to be used where explicitly required for reporting or other purposes).
- Permit a student’s gender to be updated to male, female, or undesignated.

As noted above, SEAs should provide schools with clear technical guidance on how to enter information related to current and legal name (if different), and gender identity and enrolled gender (if different), in student information systems and for purposes of federal and state reporting.

#### Civil rights data

LEAs and schools are also required to participate in the U.S. Department of Education’s biennial Civil Rights Data Collection, including data on student complaints of bullying, harassment, and other forms of discrimination, contents of LEA policies on these topics, and information regarding each SEA and LEA’s Title IX coordinator. The CRDC was deferred for the 2019-2020 school year and is currently expected to be collected during the 2020-2021 school year.

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21 US Department of Education, Paperwork Reduction Act Supporting Statement, Attachment A-3: Data Categories for Civil Rights Data Collection for School Year 2019–20 (2020).

22 20 U.S.C. § 6311(b)(2)(B)(xi)(V) and (g)(2)(N).

SEAs should support robust collection of data on bullying and harassment incidents, local policies, and other civil rights topics, including by:

- Reminding and encouraging LEAs and schools to complete the CRDC survey during CRDC collection years.
- Reminding and encouraging LEAs and schools to report any additional data required by state law and regulations.
- Disseminating guidance to LEAs on collecting and reporting data on student demographics, bullying and harassment incidents, characteristics of local policies, Title IX coordinators, and other civil rights topics, including by providing information about tools such as online reporting portals and sample reporting forms.
- Collecting, analyzing, and reporting statewide data, including bullying and harassment data disaggregated by race, sexual orientation, gender identity, disability, and other demographics.

### School climate surveys

We recommend that state and local education agencies also conduct school climate surveys to assess the safety and overall environment of their local schools or communities using surveys of students. This local school climate data—especially when disaggregated by student demographics—can help educators to develop evidence based best practices to strengthen programs and services to make schools safer for all students, regardless of sexual orientation, gender identity, or gender expression.

We recommend that SEAs encourage schools to conduct periodic local school climate surveys using GLSEN’s [Local School Climate Survey](#) tool. SEAs interested in adapting this tool for a statewide survey should contact the GLSEN Research Institute at [research@glsen.org](mailto:research@glsen.org).

## State LGBTQ+ youth task forces and community engagement

Ensuring equitable educational opportunities for all students requires proactive planning that considers every aspect of education. States education agencies should engage a broad range of communities to inform COVID-19 and other K-12 planning efforts, including through a statewide task force or commission on supporting marginalized students and youth, including LGBTQ+ youth and particularly those who are also transgender and nonbinary, Black, brown, Latinx, Indigenous, and/or people with disabilities. A state task force may be convened by the SEA, or by the Governor or another state agency in collaboration with the SEA. For example, the Oregon Department of Education established an advisory group that produced an *LGBTQ2SIA+ Student Success Plan* in June 2020.<sup>23</sup> The Massachusetts Commission on LGBTQ Youth is a standing, independent state agency that regularly meets with state agencies and community stakeholders, produces annual recommendations, and administers the state's Safe Schools Program in collaboration with the Department of Elementary and Secondary Education.<sup>24</sup> SEAs, in coordination with other state agencies and governors, should assess the best approach for their state.

We recommend that SEAs prioritize conducting such task force-based assessments during the COVID-19 pandemic and recovery, with an initial focus on marginalized students' needs during this time.

Task force members should include students and educators. They should represent diverse communities, students, stakeholders, and relevant expertise, and should be empowered to meet with or survey key informants such as LGBTQ+ and other marginalized students, their families, educators and health staff, community-based service providers, state and local officials, and researchers. Task forces should provide input and recommendations addressing all aspects of education and support for students. To be most effective, the task force should be standing body that meets with and provides recommendations to the Chief State School Officer (and other agencies, as appropriate) on a regular basis.

## LGBTQ+ inclusion in equity planning

In addition to any statewide plans and guidelines focused on LGBTQ+ students, this population should be proactively addressed in other equity-related plans—including plans for distance learning and school reopening in light of the COVID-19 pandemic. Wherever state plans set goals, priorities, and requirements to ensure equity (including in plans required by state or federal laws, such as the Every Student Succeeds Act), the needs of LGBTQ+ students should be addressed along with other marginalized student populations.

23 Oregon Department of Education, *LGBTQ2SIA+ Student Success Plan* (2020). Available at: <https://www.oregon.gov/ode/students-and-family/equity/Documents/LGBTQ2SIA+%20Student%20Success%20Plan.pdf>.

24 Massachusetts Commission on LGBTQ Youth, Homepage (accessed Aug. 28, 2020). Available at: <https://www.mass.gov/orgs/massachusetts-commission-on-lgbtq-youth>.



### COVID-19 distance-learning and school-reopening plans

States and school communities have faced unprecedented challenges during the COVID-19 pandemic in seeking to prevent widespread transmission among students, families, staff, and communities, while continuing to provide students with learning and support services. Many SEAs and LEAs have made extraordinary efforts in the face of inadequate funding, guidance, and supports for schools in navigating this ongoing crisis. Unfortunately, students who were already marginalized due to poverty, race, ethnicity, language, disability, immigration status, LGBTQ+ identity, homelessness, or foster or juvenile justice system involvement have often faced the greatest hardships.

State and local plans for distance learning and in-person learning during this pandemic should include consideration of marginalized student populations and proactive efforts to address barriers they face with respect to learning, health, wellness, and safety.

SEAs and LEAs should consider dedicating portions of their Elementary and Secondary School Emergency Relief funds, and any emergency funds, to specifically address marginalized student populations, including LGBTQ+ students. State education agencies should consider using emergency funds to:

- Provide equitable access to technology (directly or through LEAs, including devices and high-speed internet), with a primary focus on students from low-income and rural communities.
- Provide high-quality, culturally affirming, and accessible professional development opportunities, materials, and resources for educators and mental health providers to address heightened traumas that students, including LGBTQ+ and other marginalized students, may be facing because of the pandemic, and barriers they may face in distance learning and returning to school buildings. This should include how educators can ensure positive, culturally affirming experiences for young people; how educators can identify signs of abuse, cyberbullying, and mental health needs of students; how to identify currently available resources to support students; and how to connect students to resource providers during distance learning.
- Coordinate the sharing of high-quality resources and practices across LEAs, especially those practices and resources related to social, emotional, and academic development of students, addressing cyberbullying, and maintaining connectivity to students.

State education agencies should also ensure that their policies on nondiscrimination, bullying, harassment, suicide prevention, school health and counseling services, supporting students experiencing homelessness, and other key topics, are updated to:

- Address situations that may arise during the pandemic, such as Zoom bombing and other forms of cyberbullying, and ensuring adequate follow-up and supports for students who have been bullied, harassed, or who may be isolated from social support or at risk of harm.
- Encourage LEAs to do update their own policies and to incorporate this information into updates and training for students, parents, and staff.

States should encourage LEAs to use emergency funds to:

- Ensure focused outreach and follow-up to address the unique needs of LGBTQ+ students who are also low-income, students with disabilities, English language learners, experience homelessness, or who have been placed in foster care.
- Conduct adequate follow-up to ensure marginalized students have and can use technology for distance learning and afterschool programs.
- Retain, hire, and contract as needed with additional school counselors and psychologists to address the heightened level of mental and behavioral health needs of students.
- Provide high-quality, culturally affirming, and accessible professional development for educators and mental health providers to address heightened traumas that students, including LGBTQ+ and other marginalized students, may be facing because of the pandemic, and barriers they may face in distance learning and returning to school buildings.
- Support and encourage the virtual continuation of afterschool programs, including GSAs (Gay Straight Alliances or Gender and Sexuality Alliances), during distance learning.

LGBTQ+ inclusion in other state and local plans and equity efforts

This LGBTQ+ inclusive approach should also be applied to state plans, guidelines, and initiatives in other key areas, including:

- Supporting students experiencing homelessness
- Supporting students in foster care
- Supporting neglected, delinquent, and at-risk students
- Supporting low-achieving students and preventing school dropout
- Dating violence prevention and response
- Sexual harassment and violence
- Suicide prevention and response
- Improving school climate and safety
- Promoting gender equity
- Promoting inclusive and supportive school discipline<sup>25</sup>
- Safe, Healthy, and Inclusive School Climates (2020), Promoting student health and wellness
- Promoting physical fitness and sports participation

Gathering more data about LGBTQ+ students, engaging stakeholders, and gathering recommendations through a statewide LGBTQ+ youth task force, as discussed above, will all help SEAs and LEAs develop and implement these plans most effectively.

### Inclusive state curricular standards

GLSEN’s research indicates that LGBTQ+ inclusive curriculum has profound positive impacts for LGBTQ+ students. The 2017 National School Climate Survey found that, compared to students in school without LGBTQ+-inclusive curriculum, LGBTQ+ students in schools with inclusive curriculum were less likely to hear “gay” used in a negative way or to hear negative remarks about gender expression, performed better academically in school, and were more likely to plan for post-secondary education.<sup>26</sup> These findings parallel researching finding that inclusive curriculum is linked to improved outcomes for students of color.<sup>27</sup>

A growing number of states’ curricular standards include addressing LGBTQ+ populations in one or more key areas. LGBTQ+ inclusion in curricular standards may be addressed specifically in legislation, or by SEAs in publishing detailed standards. In at least five states to date, LGBTQ+ inclusion in curricular standards is required by state law. An additional five states still have so-called “No Promo Homo” laws that prohibit

25 See Leadership Conference on Civil and Human Rights et al., *Civil Rights Principles for Safe, Healthy, and Inclusive School Climates (2020)*, <http://civilrightsdocs.info/pdf/education/School-Climate-Principles.pdf>.

26 Kosciw, Joseph G. et al. (2018). “2017 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation’s Schools” (New York: GLSEN). Available at <https://www.glsen.org/research/school-climate-survey>.

27 See, e.g. Dee, T. S., & Penner, E. K. (2017). The Causal Effects of Cultural Relevance: Evidence from an Ethnic Studies Curriculum. *American Educational Research Journal*, 54(1), 127–166.

positive and affirming representation of LGBTQ+ identities in K-12 schools. (Similar laws in several other states have been repealed or overturned by courts.) In most other states, state education agencies have the authority to adopt LGBTQ+ inclusive curricular standards. Some states, such as Illinois, include additional curriculum recommendations in their statewide guidelines for supporting LGBTQ+ students.

Inclusive curricular standards should ensure that curriculum addresses the following areas:

- **History, geography, economics, and civics:** Address the histories, contributions, and perspectives of diverse communities, including LGBTQ+ people.
- **Science and health:** Address human development, sexual health and wellness; personal boundaries and safe and healthy relationships; and gender identity and sexual orientation in an inclusive and scientifically accurate manner.

In addition, states should encourage LEAs to consider diversity and inclusion throughout all lesson plans, including in the choice of topics, problems, events, and primary source materials.

### Supporting GSAs and fostering inclusive learning communities

SEAs can take additional steps to foster an inclusive school community, including:

- Offering training, technical assistance, and reference materials for LEAs, educators, and GSAs on activities and best practices to foster an inclusive school climate and community.
- Establishing a dedicated office or staff position to provide such training and technical assistance, such as the Massachusetts Safe Schools Program for LGBTQ Students.
- Supporting and encouraging the virtual continuation of afterschool programs, including GSAs and during distance learning.
- Supporting and encouraging school libraries in identifying and acquiring appropriate LGBTQ+ inclusive materials focusing on LGBTQ+ related topics.
- Working with LEAs and community groups to establish state and/or regional GSA Councils, such as the Massachusetts GSA Leadership Council.

## Appendix:

### Sample excerpts from state guidelines for supporting LGBTQ+ students

#### Establishing a Student's Gender Identity

##### [Connecticut State Department of Education](#)

**Do transgender students need to provide documentation of their gender identity? No.** Students are not required to produce documents that reflect their gender identity in order to have the right to be treated consistent with their gender identity. Under the relevant laws, schools are expected to treat students consistent with the student's stated gender identity even if the education records or identification documents indicate a different sex. Similarly, the school's obligation to treat a student consistent with the student's gender identity or expression does not require notice from the parent or guardian.

##### [District of Columbia Public Schools](#)

Since students are likely to be more comfortable in some areas of school than others, their transition, particularly in the early phases, may be "site-specific," meaning they choose to go by one name or have one pronoun used in one place and another name or pronoun used in another. For example, a student may feel more comfortable expressing their gender identity in a student club or small group, but not to the larger school community or at home. Whatever the student prefers should be acknowledged and respected. Be aware of the preference of the student and always use their preferred reference when you are speaking to the student and about the student to another person. Being sensitive about where the student is open about their identity is crucial to being an effective ally.

#### Names and Pronouns

##### [Maine Human Rights Commission](#)

If a student so chooses, the educational institution's employees should be required to address the student by the student's chosen name and use pronouns consistent with the student's gender identity. The educational institution should also, at the request of any student, instruct its students to address the student by the student's chosen name and use pronouns consistent with the student's gender identity. Inadvertent slips and honest mistakes will not be considered a violation of the Act, but a pattern of refusal to acknowledge a student's gender identity by using their chosen name and pronouns may be considered to constitute such a violation.

[Hawaii Department of Education](#)

Teachers and other school staff should be informed of the student’s preferred name on student rosters and of the preferred pronouns to use when addressing the student. When the DOE’s student information system (e.g., SIS) accommodates a “preferred name,” the student’s preferred name should be noted. Teachers and other school staff should take care to ensure that a transgender student’s legal name, if different from the student’s preferred name, is kept confidential.

**Restrooms and Changing Rooms**[New York State Division of Human Rights](#)Example 4

Jordan is a high school student who is non-binary. Jordan would feel safest using the single sex bathroom assigned to girls. The school administration tells Jordan to use single-occupancy restrooms only. The school must allow Jordan to access the facilities consistent with Jordan’s gender identity or expression. No one can be limited to using single-occupancy

[New Jersey Department of Education](#)

All students are entitled to have access to restrooms, locker rooms and changing facilities in accordance with their gender identity to allow for involvement in various school programs and activities.

In all cases, the school principal must work with the student and staff so all parties are aware of facility policies and understand that the student may access the restroom, locker room, and changing facility that corresponds to the student's gender identity. While some transgender students will want that arrangement, others may be uncomfortable with it. Transgender students who are uncomfortable using a sex-segregated restroom should be provided with a safe and adequate alternative, such as a single "unisex" restroom or the nurse's restroom. Similarly, some transgender students may be uncomfortable using the changing facilities that correspond to the student's gender identity. Non-transgender students should also be afforded the option to use a private facility, such as a unisex facility or the nurse’s restroom, should they feel uncomfortable.

- LEAs shall allow a transgender student to use a restroom or locker room based on the student’s gender identity.
- Reasonable alternative arrangements shall be made if needed to ensure a student’s safety and comfort. This direction for accommodations should come from the student.

## School Activities

### [Maryland State Department of Education](#)

When developing transgender policy or procedure, school systems and administrators may want to consider the following:

- Eliminate gender based sorting of students
  - **Old Practice:** boys line up over here.
  - **New Practice:** birthdays between January and June; everybody who is wearing something green, etc.

### [Massachusetts Department of Elementary and Secondary Education](#)

As a general matter, schools should evaluate all gender-based policies, rules, and practices and maintain only those that have a clear and sound pedagogical purpose. Gender-based policies, rules, and practices can have the effect of marginalizing, stigmatizing, and excluding students, whether they are gender nonconforming or not. In some circumstances, these policies, rules, and practices may violate federal and state law. For these reasons, schools should consider alternatives to them.

Whenever students are separated by gender in school activities or are subject to an otherwise lawful gender-specific rule, policy, or practice, students must be permitted to participate in such activities or conform to such rule, policy, or practice consistent with their gender identity.

### [Minnesota Department of Education](#)

Under the Minnesota Human Rights Law, schools must allow transgender and gender-nonconforming students to participate fully in all school activities, including traditions that incorporate gender roles categorized as “male” and “female.” For example, one tradition of many schools is to have a male homecoming king and a female homecoming queen. In these situations, the school should allow a student to participate according to their gender identity. In an effort for inclusivity, schools may wish to consider revisiting existing traditions or establishing new traditions.

For example, instead of electing a homecoming king and homecoming queen, some schools have chosen to nominate “prom ambassadors,” “homecoming court” or “homecoming royalty.” At the University of Minnesota, for example, the titles of homecoming king and queen have been replaced with the title “Homecoming Royalty” and students selected as royalty will now be called “royals.”



## Dress and Appearance Rules

### [Michigan State Board of Education](#)

Students should have the right to express their gender at school, within the parameters of the school's dress code, without discrimination or harassment. The school's dress code should be gender-neutral. In the event that the dress code has differing expectations or practices based on gender, students should be permitted to dress in accordance with their gender identity.

### [Hawaii Department of Education](#)

All students should be permitted to wear the clothing of their choice, regardless of whether it conforms to traditional gender stereotypes, provided that such clothing does not violate the school's dress code. Dress codes should be gender neutral. Students may dress in accordance with their gender identity and gender expression. School personnel should not enforce a school's dress code more strictly against transgender and gender nonconforming students. This applies to dress at school as well as at a school's co- and extra-curricular activities.

## School Records

### [California Department of Education](#)

A school district is required to maintain a mandatory permanent student record which includes the legal name of the student and the student's gender. If and when a school district receives documentation that such legal name or gender has been changed, the district must update the student's official record accordingly.

If the school district has not received documentation supporting a legal name or gender change, the school should nonetheless update all unofficial school records (e.g. attendance sheets, school IDs, report cards) to reflect the student's name and gender marker that is consistent with the student's gender identity. This is critical in order to avoid unintentionally revealing the student's transgender status to others in violation of the student's privacy rights....

To prevent accidental disclosure of a student's transgender status, it is strongly recommended that schools keep records that reflect a transgender student's birth name and assigned sex (e.g., copy of the birth certificate) apart from the student's school records. Schools should consider placing physical documents in a locked file cabinet in the principal's or nurse's office. Alternatively, schools could indicate in the student's records that the necessary identity documents have been reviewed and accepted without retaining the documents themselves. Furthermore, schools should implement similar safeguards to protect against disclosure of information contained in electronic records.

### [Kentucky Department of Education](#)

#### Protected Identity Information

Legal Last Name, Legal First Name, Legal Middle Name, Legal Suffix, and Legal Gender:

These fields are not available when using the Student Locator tool; but can be accessed on the Identities tab (Census > People > Identities) with proper tool rights. These fields should only be entered in the rare case where it is necessary to track a name or gender that is not the same as what is listed on their birth certificate or other legal document. Do not enter nicknames here or in the required name fields. These fields should be used if the student's health or safety would be in jeopardy if their legal name were visible in Infinite Campus. These fields should be used for transgender students who want to be identified with a name and gender that has not yet been officially changed on their birth certificate or other legal document. The student's preferred name and gender should be entered in the required name and gender fields and the name and gender from the birth certificate or other legal document entered in the legal name and gender fields.

### [Massachusetts Department of Education](#)

Schools are advised to collect or maintain information about students' gender only when necessary.

*One school reviewed the documentation requests it sent out to families and noticed that field trip permission forms included a line to fill in indicating the student's gender. Upon consideration, the school determined that the requested information was irrelevant to the field trip activities and deleted the line with the gender marker request.*

In addition, transgender students who transition after having completed high school, may ask their previous schools to amend school records or a diploma or transcript that include the student's birth name and gender. When requested, and when satisfied with the gender identity information provided, schools should amend the student's record, including reissuing a high school diploma or transcript, to reflect the student's current name and gender.

### [Washington Office of the Superintendent of Public Instruction](#)

School districts may change a student's gender designation upon parent/student request, by using a process similar to the one they use to change a student's ethnicity. The change should be recorded in the district's Student Information System and sent as the new value in the next CEDARS submission. The new value will replace the value previously sent for the student.

Beginning in the 2018-2019 school year CEDARS will begin collecting non-binary gender. CEDARS District Student File (B), Element B12 – Gender is a required data element and may be submitted with the valid values of M – male, F – female, or X – gender not exclusively male or female.

## Student Privacy

### [New York State Division of Human Rights](#)

#### Example 10

Ben is a college student who identifies as a transgender man. He has not legally changed the name on his birth certificate but uses the name Ben as well as the pronouns he/him/his.

The college produces a student directory with photographs and contact information. In the student directory Ben's picture appears with the name given to him at birth, which appears on all formal records.

A covered entity may not deliberately disclose a person's transgender, gender non-conforming or intersex status without consent. Although Ben has not legally changed his name and student records still contain his former name, Ben has a right to be called by the name and pronoun he uses. The college has also improperly disclosed Ben's transgender status by using the name assigned to him at birth.

### [Louisiana Department of Education \(Model Policy for Suicide Prevention\)](#)

School staff should not make assumptions about a student's sexual orientation or gender identity and affirm students who do decide to disclose this information. Information about a student's sexual orientation or gender identity should be treated as confidential and not disclosed to parents, guardians, or third parties without the student's permission. Additionally, when referring students to out-of-school resources, it is important to connect LGBTQ students with LGBTQ-affirming local health and mental health service providers.

## Curricular Standards

### [California Education Code Section 51204.5](#)

Instruction in social sciences shall include the early history of California and a study of the role and contributions of both men and women, Native Americans, African Americans, Mexican Americans, Asian Americans, Pacific Islanders, European Americans, lesbian, gay, bisexual, and transgender Americans, persons with disabilities, and members of other ethnic and cultural groups, to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the role of these groups in contemporary society.

*Illinois State Board of Education*

Adopting a gender- and LGBTQ+-inclusive curriculum is essential to fostering a safe and supportive learning environment. An inclusive curriculum benefits all students by promoting diversity, acceptance, and respect. Districts should promote inclusive curriculum and instruction across subject areas.

...

Regularly review curriculum to ensure inclusivity. Using a gender-affirming approach in the classroom requires examination of the existing curriculum and teaching to identify where gendered practices show up and where there is room to be more gender inclusive. Inclusive curriculum should be incorporated into lessons such as scenarios, word problems, and classroom examples. Historical figures and events that recognize different identities should be highlighted. GLSEN, Gender Spectrum, Welcoming Schools, and Teaching Tolerance have examples of curriculum and lesson plans that address gender diversity. Schools should also have procedures in place to address challenges to books or curricula.

Never teach “appropriate” gender behavior. Classes and behavior lessons should never teach or promote gender-specific rules or behavior. When staff do need to comment and model appropriate classroom behavior, they should use gender-neutral phrases. For example, “Hitting isn’t safe, it can really hurt people, instead of “boys don’t hit girls.”

Have a robust health education program. The district’s health and sex education curriculum shall be inclusive of diverse gender identities, gender expressions, and sexual orientations. Healthy romantic relationships should be taught no matter the gender identity or sexual orientation of students.

[2020 New Jersey Student Learning Standards - Comprehensive Health and Physical Education](#)

2.1 Personal and Mental Health by the End of Grade 5

Core Idea:

All individuals should feel welcome and included regardless of their gender, gender expression, or sexual orientation.

Performance Expectations:

- 2.1.5.SSH.1: Describe gender-role stereotypes and their potential impact on self and others.
- 2.1.5.SSH.2: Differentiate between sexual orientation and gender identity.
- 2.1.5.SSH.3: Demonstrate ways to promote dignity and respect for all people (e.g. sexual orientation, gender identity and expression, race, ethnicity, socio-economic status, differing ability, immigration status, family configuration).

2.1 Personal and Mental Health by the End of Grade 8

Core Idea:

Inclusive schools and communities are accepting of all people and make them feel welcome and included.

Performance Expectations:

- 2.1.8.SSH.1: Differentiate between gender identity, gender expression and sexual orientation.
- 2.1.8.SSH.2: Develop a plan for the school to promote dignity and respect for people of all genders, gender

2.1 Personal and Mental Health by the End of Grade 12

Core Idea:

How individuals feel about themselves, their identity, and sexual orientation can be positively or negatively impacted by a wide variety of factors.

Performance Expectations:

- 2.1.12.SSH.1: Analyze the influences of peers, family, media, social norms and culture on the expression of gender, sexual orientation, and identity.
- 2.1.12.SSH.2: Advocate for school and community policies and programs that promote dignity and respect for people of all genders, gender expressions, gender identities, and sexual orientations.
- 2.1.12.SSH.3: Analyze current social issues affecting perceptions of sexuality, culture, ethnicity, disability status and make recommendations to address those issues.

[Rhode Island Department of Education](#)

In order to further a safe and supportive school environment for all students, schools should incorporate education and training about transgender and gender non-conforming students into their anti-bullying curriculum, health education curriculum, student leadership trainings, and staff professional development.

## Supporting Student Organizations

### [Michigan State Board of Education](#)

In accordance with the Equal Access Act, support the formation of extracurricular student-led clubs, such as Gay-Straight Alliances or Gender and Sexuality Alliances (GSAs) in middle and high schools. The GSA should be afforded the same rights and privileges as other student-led extracurricular clubs in all areas, such as appointment of advisors, publicity for events, and inclusion on school websites. These groups have been shown to improve school climate for all students, regardless of sexual orientation, gender identity, or gender expression, and are protective for all students, both members and non-members. They can serve different functions, including supporting potentially isolated and at-risk LGBTQ students and their allies, educating the larger school community, and advocating for a more inclusive school climate.

### [New Jersey Department of Education](#)

School districts shall:

- Permit and support the formation of student clubs or programs regarding issues related to lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ) youth; and
- Offer support in the creation of peer led educational groups.

## Informing Students and the School Community

### [Hawaii Department of Education](#)

Starting with the 2016-17 school year, schools should do the following:

1. Send out an annual notice to all students, including their parents/guardians, informing them of the rights of transgender students to request supports. The notice should also include language directing any student with privacy concerns to contact the school. This annual notice will serve as notice to (a) transgender students and their families of their rights and how to initiate such supports; and (b) nontransgender students and their families that such supports will be in place for transgender students. The annual notice should be sent at the beginning of each school year. Waiting to send out the notice only when a transgender student initiates a request for support will have the effect of inadvertently identifying such student, resulting in possible privacy violations for the transgender student. See Attachment B for sample language for the annual notice.
2. Include the following statement in their handbooks to inform the school community: Transgender students should talk with their counselor if they have questions or concerns about supports for their own gender identity, including name, pronouns, gender expression, use of facilities, or participation in sex-segregated activities.

As schools begin to develop and employ supports for transgender students, there will be a period of adjustment for faculty, staff, students, and parents. Schools should make counselors and administrators available to discuss any concerns that a student may have and should work as a school community toward education and raising awareness of the reasons for these guidelines while protecting the privacy and confidentiality of each individual transgender student.

### [Washington Office of the Superintendent of Public Instruction](#)

**Provide Annual Notification of Gender-Inclusive Schools Policy and Procedure.** School districts must share this policy and procedure with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by OSPI. To do so, OSPI recommends school districts use the same method used to provide annual notice of the district's discrimination complaint procedure, as outlined in WAC 392-190-060(2).



## Engaging Parents and Families

### *California Department of Education*

The first and best option is always to engage in an open dialogue with the student and the student's parent or parents if applicable. ... A transgender or gender nonconforming student may not express their gender identity openly in all contexts, including at home. Revealing a student's gender identity or expression to others may compromise the student's safety. Thus, preserving a student's privacy is of the utmost importance. The right of transgender students to keep their transgender status private is grounded in California's antidiscrimination laws as well as federal and state laws. Disclosing that a student is transgender without the student's permission may violate California's antidiscrimination law by increasing the student's vulnerability to harassment and may violate the student's right to privacy.

...

Pursuant to [FERPA and California's antidiscrimination and privacy laws], schools must consult with a transgender student to determine who can or will be informed of the student's transgender status, if anyone, including the student's family. With rare exceptions [such as to protect a student from harm, or in disclosing official school records requested by parents], schools are required to respect the limitations that a student places on the disclosure of their transgender status, including not sharing that information with the student's parents. In those very rare circumstances where a school believes there is a specific and compelling "need to know," the school should inform the student that the school intends to disclose the student's transgender status, giving the student the opportunity to make that disclosure her or himself. Additionally, schools must take measures to ensure that any disclosure is made in a way that reduces or eliminates the risk of re-disclosure and protects the transgender student from harassment and discrimination. Those measures could include providing counseling to the student and the student's family to facilitate the family's acceptance and support of the student's transgender status. Schools are not permitted to disclose private student information to other students or the parents of those students.

### *Michigan State Board of Education*

Provide appropriate and meaningful family engagement and support. Parental and family support are key determinants of LGBTQ student health; therefore, student support teams, staff, and community partners should provide resources to help families and students locate information, affirming counseling, and support services. School mental health professionals (school counselors, school social workers, and school psychologists) play an important role in helping students evaluate their academic and family situations, support systems, and resources, and have the necessary training to conduct mental health and substance use assessments, as needed. Schools should provide a welcoming environment for diverse families, including those that are headed by LGBTQ parents, and are encouraged to educate all families in their community about

this SBE Statement and Guidance.

## **Professional Development and Training for Educators**

### [Massachusetts Department of Elementary and Secondary Education](#)

In order to further a safe and supportive school environment for all students, schools should incorporate education and training about transgender and gender nonconforming students into their anti-bullying curriculum, student leadership trainings, and staff professional development.

As with other efforts to promote a positive school culture, it is important that student leaders and school personnel, particularly school administrators, become familiar with the gender identity law, regulations, guidance, and related resources, and that they communicate and model respect for the gender identity of all students.

Professional development for school staff could include topics on gender identity and gender nonconformity such as: the *Massachusetts Student Anti-discrimination Law and Regulations*; the DESE Guidance on *Notifying Parents When a Student Has Been Bullied Based on Sexual Orientation or Gender Identity/Expression*; key terms related to gender identity and expression; the development of gender identity; the experiences of transgender and other gender nonconforming students; risk and resilience data regarding transgender and gender nonconforming students; ways to support transgender students and to improve the school climate for gender nonconforming students; gender-neutral language and practices; and this guidance.

### [Michigan State Board of Education](#)

Provide professional development opportunities on issues affecting LGBTQ students to district staff and board members. These opportunities should extend beyond teachers, administrators, and school mental health staff, to include anyone who interacts with students (e.g., coaches, bus drivers, cafeteria workers, custodians, and administrative support staff). The MDE conducts introductory and advanced workshops to help educators and other school personnel understand, assess, and improve school safety and climate for all students, including those who are LGBTQ. Districts should encourage and support staff attendance at these and other role-appropriate professional development opportunities.