



July 2, 2021

Submitted via <https://www.regulations.gov/>

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The Office of Management and Budget  
725 17th Street, NW  
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**Re: Methods and Leading Practices for Advancing Equity and Support for Underserved Communities Through Government (86 FR 24029; Docket No. OMB-2021-0005)**

Dear Shalanda Young,

I write to you on behalf of GLSEN, the nation's leading organization on lesbian, gay, bisexual, transgender, queer, non-binary, gender non-conforming, and intersex (LGBTQ+) issues in K-12 education, regarding the Office of Management and Budget's Request for Information (RFI) on Methods and Leading Practices for Advancing Equity and Support for Underserved Communities Through Government.<sup>1</sup>

At a time when LGBTQ+ young people face extraordinary challenges from the COVID-19 pandemic, structural racism, and state legislation that strikes at their fundamental rights, we are grateful for President Biden's commitment to ensuring educational equity for all. President Biden's recent Executive Orders—including those on racial equity and underserved communities, implementing the landmark *Bostock* ruling, and advancing gender equity and equality—collectively call for an “ambitious whole-of-government equity agenda,” including through enforcing Title IX's protections for all students “to the fullest extent permissible under law.”<sup>2</sup>

GLSEN's research over two decades has found that LGBTQ+ students face unique challenges in K-12 education due to hostile school climates, discriminatory practices, and a notable absence of supports in the form of school policies and standard practices. LGBTQ+ youth experience higher rates of bullying

1 Office of Management and Budget. (May 5, 2021). Methods and Leading Practices for Advancing Equity and Support for Underserved Communities Through Government. 86 Fed. Reg. §85. <https://www.govinfo.gov/content/pkg/FR-2021-05-05/pdf/2021-09109.pdf>.

2 Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government). 86 Fed. Reg. §14 (January 25, 2021). <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf>.

Executive Order 13988 of January 20, 2021 (Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation). 86 Fed. Reg. §14 (January 25, 2021). <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01761.pdf>.  
Executive Order 14021 of March 8, 2021 (Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity). 86 Fed. Reg. §46 (March 11, 2021). <https://www.govinfo.gov/content/pkg/FR-2021-03-11/pdf/2021-05200.pdf>.

and harassment than their non-LGBTQ+ peers.<sup>3</sup> In a 2019 national survey of LGBTQ+ students, an overwhelming majority (81.0%) were verbally harassed because of their sexual orientation, gender expression, or gender identity, and over a third (35.1%) reported that they were verbally harassed often or frequently.<sup>4</sup> More than one in three (34.2%) LGBTQ+ students were physically harassed (*e.g.*, shoved or pushed) because of their sexual orientation, gender expression, or gender.<sup>5</sup> One in seven (14.8%) LGBTQ+ students were physically assaulted (*e.g.*, punched or kicked) because of their sexual orientation, gender expression, or gender.<sup>6</sup>

Recent studies suggest that the harm of bias-motivated harassment and bullying is especially severe in its effects on student well-being and success.<sup>7</sup> GLSEN's National School Climate Surveys have consistently found that victimization of LGBTQ+ students is associated with a range of adverse educational outcomes, including increased absences, lowered GPAs, and a decreased likelihood of pursuing post-secondary education.<sup>8</sup> Anti-LGBTQ+ harassment, assault, and discrimination are also associated with lower self-esteem and higher levels of depression.<sup>9</sup> The impact of victimization on mental health is especially alarming. The Trevor Project's recent survey found that 42% of LGBTQ+ youth seriously considered attempting suicide in the past year, including more than half of transgender and non-binary youth.<sup>10</sup>

Students who hold multiple marginalized identities experience starker and often unique disparities. LGBTQ+ youth of color who experience both racist and anti-LGBTQ+ victimization were most likely to skip school due to feeling unsafe, report the lowest levels of school belonging, and experience the highest levels of depression, compared to those who experience one or neither form of victimization.<sup>11</sup>

3 Johns, M. M., Lowry, R., Haderxhanaj, L. T., Rasberry, C. N., Robin, L., Scales, L., Stone, D., & Suarez, N. A. (2020). Trends in Violence Victimization and Suicide Risk by Sexual Identity Among High School Students - Youth Risk Behavior Survey, United States, 2015-2019. *MMWR supplements*, 69(1), 19-27. <https://doi.org/10.15585/mmwr.su6901a3>.

Earnshaw, V. A., Reisner, S. L., Juvonen, J., Hatzenbuehler, M. L., Perrotti, J., & Schuster, M. A. (2017). LGBTQ Bullying: Translating Research to Action in Pediatrics. *Pediatrics*, 140(4).

4 Kosciw, J. G., Clark, C. M., Truong, N. L., & Zongrone, A. D. (2020). The 2019 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools, p. 28. New York: GLSEN. <https://www.glsen.org/research/2019-national-school-climate-survey>.

5 Kosciw et al. (2020). The 2019 National School Climate Survey, p. 28.

6 Kosciw et al. (2020). The 2019 National School Climate Survey, p. 28.

7 Russell, S.T., Sinclair, K.O., Poteat, V.P., & Koenig, B.W. (2012). Adolescent health and harassment based on discriminatory bias. *American Journal of Public Health*, 102(3): 493-495.

8 Kosciw et al. (2020). The 2019 National School Climate Survey, p. xviii-xix.

9 Kosciw et al. (2020). The 2019 National School Climate Survey, p. xviii-xix.

10 The Trevor Project. (2021). 2021 National Survey on LGBTQ Youth Mental Health. West Hollywood, California: The Trevor Project. <https://www.thetrevorproject.org/survey-2021/>.

11 Truong, N. L., Zongrone, A. D., & Kosciw, J. G. (2020). Erasure and resilience: The experiences of LGBTQ students of color, Asian American and Pacific Islander LGBTQ youth in U.S. Schools. New York: GLSEN. <https://www.glsen.org/sites/default/files/2020-06/Erasure-and-Resilience-AAPI-2020.pdf>.

Truong, N. L., Zongrone, A. D., & Kosciw, J. G. (2020). Erasure and resilience: The experiences of LGBTQ students of color, Black LGBTQ youth in U.S. Schools. New York: GLSEN. <https://www.glsen.org/sites/default/files/2020-06/Erasure-and-ResilienceBlack-2020.pdf>.

Zongrone, A. D., Truong, N. L., & Kosciw, J. G. (2020). Erasure and resilience: The experiences of LGBTQ students of color, Latinx LGBTQ youth in U.S. Schools. New York: GLSEN. <https://www.glsen.org/sites/default/files/2020-06/Erasure-and-ResilienceLatinx-2020.pdf>.

Zongrone, A. D., Truong, N. L., & Kosciw, J. G. (2020). Erasure and resilience: The experiences of LGBTQ students of color, Native and Indigenous LGBTQ youth in U.S. Schools. New York: GLSEN. <https://www.glsen.org/sites/default/files/2020-06/Erasure-andResilience-Native-2020.pdf>.

Currently, many schools fail to respond effectively to the victimization of LGBTQ+ students. GLSEN’s 2019 National School Climate Survey found that one in five LGBTQ+ students (20.8%) who reported harassment or assault were told to change their behavior by, for example, changing the way they dressed, and 7.3% were disciplined after reporting their victimization to school staff.<sup>12</sup> LGBTQ+ youth of color and LGBTQ+ youth with disabilities may be more likely to be disciplined for reporting victimization given racial and other disparities in disciplinary action. LGBTQ+ youth who are Black, Indigenous, and people of color (BIPOC) report experiencing more school discipline than white LGBTQ+ youth and are far more likely to report being disciplined by removal from school.<sup>13</sup> LGBTQ+ students who are also people with disabilities are more likely to have experienced school discipline than their LGBTQ+ peers and are also more likely to have been involved in the justice system as a result of school discipline.<sup>14</sup>

LGBTQ+ students, particularly those who are transgender and nonbinary, frequently face discriminatory policies and practices. More than three in four transgender students (77.3%) reported experiencing discriminatory policies or practices.<sup>15</sup> LGBTQ+ students are also subjected to unfair discipline simply for being who they are. More than one in four LGBTQ+ students (28%) reported being disciplined for public displays of affection that are not disciplined when involving non-LGBTQ+ students.<sup>16</sup>

Given these findings, GLSEN appreciates the Office of Management and Budget RFI regarding Executive Order 13985. This comment speaks to Areas 1, 2, 4, and 5 of the RFI.<sup>17</sup>

## **1 Equity Assessments and Strategies: Approaches and methods for holistic and program- or policy-specific assessments of equity for public sector entities, including but not limited to the development of public policy strategies that advance equity and the use of data to inform equitable public policy strategies.**

### ***1(a) Establish an interagency Task Force on LGBTQ+ Student Equity***

The equity challenges facing LGBTQ+ students involve multiple drivers and demand complex solutions that will require both a “whole of government” and “whole of school” approach.<sup>18</sup> Such approaches must address barriers arising at numerous levels inside and outside of school: from school culture and climate to administrative practices to disproportionate rates of mental health concerns, homelessness, abuse and

12 Kosciw et al. (2020). The 2019 National School Climate Survey, p. 35.

13 Kosciw et al. (2020). The 2019 National School Climate Survey, p. 112.

Black and Indigenous LGBTQ+ students are close to twice as likely to report out-of-school discipline compared to white LGBTQ+ students: 8.8% of Black LGBTQ+ students and 9.0% of Indigenous LGBTQ+ students report out-of-school discipline, compared to 4.6% of white LGBTQ+ students.

14 Palmer, N. A., Greytak, E. A., Kosciw, J. G. (2016). Educational exclusion: Drop out, push out, and school-to-prison pipeline among LGBTQ youth, p. 30. New York: GLSEN. [https://www.glsen.org/sites/default/files/2019-11/Educational\\_Exclusion\\_2013.pdf](https://www.glsen.org/sites/default/files/2019-11/Educational_Exclusion_2013.pdf).

15 Kosciw et al. (2020). The 2019 National School Climate Survey, pp. 95-96.

16 Kosciw et al. (2020). The 2019 National School Climate Survey, p. 41.

17 Office of Management and Budget. (May 5, 2021). Methods and Leading Practices for Advancing Equity and Support for Underserved Communities Through Government. 86 Fed. Reg. §85. <https://www.govinfo.gov/content/pkg/FR-2021-05-05/pdf/2021-09109.pdf>.

18 Brömdal, A., Zavros-Orr, A. Hunter, L., Hand, K., Hart, B. (2020). Towards a whole-school approach for sexuality education in supporting and upholding the rights and health of students with intersex variations, Sex Education, DOI: 10.1080/14681811.2020.1864726.

Clare Bartholomaeus & Damien W. Riggs (2017) Whole-of-school approaches to supporting transgender students, staff, and parents, International Journal of Transgenderism, 18:4, 361-366.

neglect, and justice and child welfare involvement.<sup>19</sup> The intersecting but often unique needs and challenges facing LGBTQ+ students must be integrated into broader equity efforts, but—like other underserved populations—also require focused attention.

Critically, these efforts must include the foundational issue of interpreting and enforcing Title IX protections—pursuant to Executive Orders 13988<sup>20</sup> and 14021<sup>21</sup>—but also look beyond Title IX to address how the full range of equity barriers and needs facing LGBTQ+ students can be addressed pursuant to a wide range of federal laws, programs, and activities.

The federal government should learn from the several state and local educational agencies that have established interdisciplinary task forces or programs to identify, promote, and implement best practices for ensuring equity for LGBTQ+ students, including communicating relevant laws and policies in simple terms accessible to the public and in languages other than English. State and local agencies have charged these bodies with developing comprehensive action plans, and in some cases with overseeing their implementation and making ongoing recommendations.<sup>22</sup> Some jurisdictions have built on these efforts by establishing permanent programs charged in whole or in part with advancing equity for LGBTQ+ students.<sup>23</sup>

These state and local task forces have produced robust plans and numerous concrete actions, including improvements in programming, curriculum, research, professional development, and student services. Moreover, LGBTQ+ equity task forces have provided key opportunities to promote youth and educator leadership and engaging families and community-based organizations.

19 Kosciw et al. (2020). The 2019 National School Climate Survey.

GLSEN. (March 2021). Civil Rights Principles For Safe, Healthy, & Inclusive School Climates.

<https://www.glsen.org/activity/civil-rights-school-climate-principles>.

Johns, M. M., Lowry, R., Haderxhanaj, L. T., Rasberry, C. N., Robin, L., Scales, L., Stone, D., & Suarez, N. A. (2020). Trends in Violence Victimization and Suicide Risk by Sexual Identity Among High School Students - Youth Risk Behavior Survey, United States, 2015-2019. *MMWR supplements*, 69(1), 19–27. <https://doi.org/10.15585/mmwr.su6901a3>.

Earnshaw, V. A., Reisner, S. L., Juvonen, J., Hatzenbuehler, M. L., Perrotti, J., & Schuster, M. A. (2017). LGBTQ Bullying: Translating Research to Action in Pediatrics. *Pediatrics*, 140(4).

Birkett, M., Newcomb, M.E., & Mustanski, B. (2015). Does it get better? A longitudinal analysis of psychological distress and victimization in lesbian, gay, bisexual, transgender, and questioning youth. *Journal of Adolescent Health*, 56(3):280–285.

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20 Executive Order 13988 of January 20, 2021. 86 Fed. Reg. §14.

21 Executive Order 14021 of March 8, 2021. 86 Fed. Reg. §46.

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

Illinois Affirming and Inclusive Schools Task Force. (January 2020). Strengthening Inclusion in Illinois Schools.

[https://www.aclu-il.org/sites/default/files/field\\_documents/affirming\\_and\\_inclusive\\_schools\\_task\\_force\\_report.pdf](https://www.aclu-il.org/sites/default/files/field_documents/affirming_and_inclusive_schools_task_force_report.pdf).

New Jersey Transgender Equality Task Force. (November 20, 2019). Addressing Discrimination Against Transgender New Jerseyans (pp. 16-18)

[https://d31hzhk6di2h5.cloudfront.net/20191120/f4/7e/90/c9/00459d579894f77ec23529f1/Transgender\\_Equality\\_Task\\_Force\\_Report.pdf](https://d31hzhk6di2h5.cloudfront.net/20191120/f4/7e/90/c9/00459d579894f77ec23529f1/Transgender_Equality_Task_Force_Report.pdf).

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<https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20LGBTQ%20plan%20final%20August%202011.pdf>.

23 Massachusetts Commission on LGBTQ Youth & Massachusetts Department of Elementary and Secondary Education, Safe Schools Program for LGBTQ Students. <https://www.mass.gov/info-details/safe-schools-program-for-lgbtq-students>. Accessed June 24, 2021.

District of Columbia Public Schools. LGBTQ and Sexual Health Program. <https://www.dcleadingwithpride.com/>. Accessed June 24, 2021).

***I(a)(i) Recommendation:*** The White House Domestic Policy Council, Gender Policy Council, and the Department of Education should establish and lead an interagency Task Force on LGBTQ+ Student Equity that, at minimum, also includes the Departments of Health and Human Services, Justice, and Housing and Urban Development. The Task Force should be charged with examining and identifying solutions to topics such as:

- Barriers and supports for social and emotional learning.
- Student privacy, confidentiality, records, and information practices.
- Data collection, reporting, and research needs and practices.
- Barriers and needs for transgender, intersex, people with disabilities, people experiencing homelessness, BIPOC, and other LGBTQ+ students at the intersection of two or more marginalized identities.

***I(a)(ii) Recommendation:*** Build on the value of stakeholder engagement enshrined in the Every Student Succeeds Act, the Task Force on LGBTQ+ Student Equity by engaging a diverse array of knowledgeable stakeholders, including people with lived expertise, through a variety of methods.

Essential stakeholders include LGBTQ+ students (current and former), educators, school health professionals, families, researchers, and organizations that serve or advocate for LGBTQ+ youth. The Task Force should make special efforts to ensure the stakeholders consulted include members of the transgender, intersex, BIPOC, immigrant, disability, and homeless or formerly homeless communities.

Multiple forms of engagement should be used, including soliciting input and conversation through a variety of social media platforms and via online events (including social-media based events) and in-person events across the country. This engagement should leverage national associations, conferences, and chapter networks, such as [GLSEN chapters](#) and [PFLAG chapters](#); student associations and networks such as GLSEN's [National Student Council](#); education and child health professional associations, including GLSEN's [Educator Network](#) and the [NEA LGBTQ+ Caucus](#); and community service providers, such as [CenterLink: The Community of LGBT Centers](#) and their members.<sup>24</sup>

Stakeholders should be invited both to identify barriers at every institutional and governmental level and to identify best practices and policies to advance equity for LGBTQ+ students, including those who are at the intersection of two or more marginalized identities.

***I(a)(iii) Recommendation:*** Informed by the aforementioned stakeholder input, the Task Force on LGBTQ+ Student Equity should conduct a thorough review of all areas of federal education law, regulations, programs, and funding streams across the Task Force's member agencies to identify ways to eliminate the barriers and implement the most promising and evidence-based best practices for supporting LGBTQ+ youth.

<sup>24</sup> Find Your Chapters. GLSEN. [https://www.glsen.org/find\\_chapter](https://www.glsen.org/find_chapter).

Find A Chapter Near You. PFLAG. <https://pflag.org/find-a-chapter>.

National Student Council. GLSEN. <https://www.glsen.org/nsc>.

Educator Network. GLSEN. <https://www.glsen.org/educator-resources>.

National Education Association LGBTQ+ Caucus. <https://www.nea-lgbtqc.org/>.

CenterLink: The Community of LGBT Centers. <https://www.lgbtcenters.org/>.

For example, the Task Force should review whether regulations, guidance, policies, forms, manuals, funding notices, technical assistance resources, or educational materials appropriately:

- Enumerate protections from discrimination, harassment, and bullying based on sexual orientation, gender identity, or sex characteristics (including intersex traits).<sup>25</sup>
- Identify lesbian, gay, bisexual, transgender, queer, non-binary, intersex, and gender non-conforming (LGBTQ+) students as underserved or marginalized populations.
- Clarify for funding recipients and individuals how gender and other demographics should be identified for the purposes of federal reporting.
- Collect, analyze, and report statistical data on the demographics and experiences of LGBTQ+ youth, educators, and other populations.
- Acknowledge the existence of normal, healthy human diversity with respect to sexual orientation, gender identity, and sex characteristics (including intersex traits) by, for example, providing and appropriately framing relevant population statistics.
- Acknowledge and address issues of family acceptance and rejection experienced by LGBTQ+ youth and their families and work to promote family acceptance and youth safety.
- Acknowledge and address harms youth may have faced or may be facing from anti-LGBTQ+ victimization and abuse; conversion therapy; and unwanted genitourinary procedures or other medical traumas related to intersex traits.
- Incorporate LGBTQ+ equity considerations in all equity assessments and strategies and program evaluations, including through stakeholder engagement and/or data collection that is inclusive of LGBTQ+ people.

***I(a)(iv) Recommendation:*** The Task Force should—on an ongoing, biennial basis—publish an LGBTQ+ Student Equity Strategic Plan that reports on progress in agency actions and outcomes, planned agency actions, and recommendations to the President and Congress. Agency actions and recommendations should address areas including:

- Regulation and agency policy.
- Funding and grant-making.
- Training and technical assistance.
- Data collection, research, and information policy.
- Program administration and evaluation.
- Outreach and engagement.
- Recommendations for Presidential and legislative action.

25 GLSEN, Enumeration of Statewide Anti-Bullying Laws and Local Policies. <https://www.glsen.org/activity/enumeration>. Hall, W. (2017). The effectiveness of policy interventions for school bullying: A systematic review. *Journal of the Society for Social Work and Research*, 8(1), 45-69.

Hatzenbuehler, M. L. and Keyes, K. M. (2013). Inclusive Anti-bullying Policies and Reduced Risk of Suicide Attempts in Lesbian and Gay Youth, *Journal of Adolescent Health*, 53:1, Supplement, pp. S21-S26, <https://www.sciencedirect.com/science/article/pii/S1054139X12003540>.

Kull, R. M., Greytak, E. A., Kosciw, J. G., & Villenas, C. (2016). Effectiveness of school district anti-bullying policies in improving LGBT youths' school climate. *Psychology of Sexual Orientation and Gender Diversity*, 3(4), 407-415.

Phoenix, T. L., Hall, W. J., Weiss, M. M., Kemp, J. M., Wells, R. E., & Chan, A. W. (2006). Homophobic language and verbal harassment in North Carolina high schools. Chapel Hill, NC: Safe Schools NC.



***1(b) OMB should establish data collection standards on sexual orientation, gender identity, and variations of sex characteristics (intersex status).***

Another essential foundation for this work—for both civil rights enforcement and implementing a comprehensive equity agenda—is collecting robust statistical data on the demographics and experiences of LGBTQ+ students, as well as LGBTQ+ educators and school staff. A recent consensus study by the National Academies of Sciences, Engineering, and Mathematics (NASEM) recommends that federal data collection efforts should include collecting data on LGBTQ+ youth and adults and their experiences. The NASEM consensus report concludes:

Entities throughout the federal statistical system [and] other federal agencies ... should consider adding measures of sexual orientation, gender identity, and intersex status to all data collection efforts and instruments, such as population-based surveys, administrative records, clinical records, and forms used to collect demographic data.<sup>26</sup>

***1(b)(i) Recommendation:*** OMB should adopt “government-wide standards for the collection of data on sexual orientation, gender identity, and intersex status,” as recommended by NASEM.<sup>27</sup> Another current NASEM consensus study recommending measures and guiding principles for LGBTQ+ data collection will undoubtedly be of great value in these efforts, although it is expected to review existing measures and research rather than developing or testing new measures.<sup>28</sup> Given the long lead time that is likely required, OMB should initiate work now to adopt new federal standards.

***1(c) Strengthen existing federal school and youth surveys to advance LGBTQ+ equity.***

The Education Department (ED) and the Center for Disease Control and Prevention (CDC) are currently collecting data on the educational outcomes and experiences of youth. Most of these collections are not fully LGBTQ+ inclusive.

***1(c)(i) Recommendation:*** The Education Department (ED) should strengthen its statistical data collection programs to collect key data on the demographics and experiences of LGBTQ+ students, educators, and staff. In consultation with other agencies, researchers, and other stakeholders, ED should:

- ***Civil Rights Data Collection (CRDC).*** ED’s Civil Rights Data Collection (CRDC) has major gaps when it comes to the experiences of LGBTQ+ youth. Currently, it contains no demographic questions related to sexual orientation, gender identity, or variations in sex characteristics (intersex status); no questions about bullying or harassment based on gender identity or variations in sex characteristics (intersex status); and uses definitions of “sex” and “sex discrimination” that are confusing and inaccurate.<sup>29</sup> ED should strengthen the CRDC to address LGBTQ+ equity by

26 National Academies of Sciences, Engineering, and Medicine. (2020). Understanding the Well-Being of LGBTQI+ Populations, 401. Washington, DC: The National Academies Press.

27 National Academies of Sciences, Engineering, and Medicine. (2020). Understanding the Well-Being of LGBTQI+ Populations, 401. Washington, DC: The National Academies Press.

28 Measuring Sex, Gender Identity, and Sexual Orientation for the National Institutes of Health, <https://www.nationalacademies.org/our-work/measuring-sex-gender-identity-and-sexual-orientation-for-the-national-institutes-of-health>.

29 GLSEN. (August 6, 2020). Comment on FR Doc # 2020-14486, Mandatory Civil Rights Data Collection. <https://www.regulations.gov/comment/ED-2019-ICCD-0119-0936>.

including by adding or expanding LGBTQ+ enumerated measures on demographics, incidents of bullying and harassment, local bullying and harassment policies, and overall school climate, as well as other existing measures that include enumerated characteristics.<sup>30</sup>

- ***ED School Climate Surveys (EDSCLS)***. Although ED has repeatedly recognized the value of asking about LGBTQ+ students' experiences of school climate and safety, the current EDSCLS instruments also include no demographic questions related to sexual orientation, gender identity, or intersex status, and no questions about bullying or harassment based on gender identity or variations in sex characteristics (intersex status). NCES should update EDSCLS instruments and resources to include demographic questions related to sexual orientation, gender identity, or intersex status; questions about bullying or harassment based on sexual orientation, gender identity, intersex status; and questions about the availability of a local bullying policy and of LGBTQ+ affirming student groups (such as GSAs, Gender-Sexuality Alliances or Gay-Straight Alliances).<sup>31</sup>
- ***National Teacher and Principals Survey (NTPS) and other National Center for Education Statistics (NCES) surveys***. Similarly, other NCES surveys such as the NTPS currently include no measures that can provide insight into the demographics of LGBTQ+ educators or staff, or about educator or staff perceptions of climate or opportunities for specific student groups, including LGBTQ+ students.<sup>32</sup> ED should strengthen the NTPS and other surveys by adding these types of measures.

***1(c)(ii) Recommendation:*** The CDC should strengthen their statistical data collection programs to collect key data on the experiences of LGBTQ+ students and the operations of schools and districts as they relate to health. In consultation with other agencies, researchers, and other stakeholders, the CDC should include:

- ***Youth Risk Behavior Surveillance System (YRBSS)***. CDC's YRBSS has provided critical data through a standard national question on sexual identity and an optional module question on gender identity.<sup>33</sup> CDC should strengthen the YRBSS by adding additional measures on the experiences of LGBTQ+ students, such as demographic measures on gender identity and variations in sex characteristics (intersex status) to the standard YRBSS questionnaire.
- ***School Health Surveillance***. CDC's School Health Profiles (last conducted in 2020) and School Health Policies and Practices Study (last conducted in 2016) have included valuable measures on certain LGBTQ+ equity policies and practices.<sup>34</sup> CDC should continue these surveys with additional and expanded measures on topics such as gender-affirming policies and practices.

30 See GLSEN. (August 6, 2020). Comment on FR Doc # 2020-14486, Mandatory Civil Rights Data Collection. <https://www.regulations.gov/comment/ED-2019-ICCD-0119-0936>.

31 National Center on Safe Supportive Learning Environments. ED School Climate Surveys (EDSCLS). <https://safesupportivelearning.ed.gov/edscls>.

32 2020-21 NTPS Questionnaires, <https://nces.ed.gov/surveys/ntps/question2021.asp>.

33 CDC. Summary of Surveillance Activities. <https://www.cdc.gov/healthyouth/data/summary-of-surveillance-activities.htm>. Accessed July 2, 2021.

34 CDC. (2019). School Health Profiles 2018: Characteristics of Health Programs Among Secondary Schools. Atlanta: Centers for Disease Control and Prevention.

CDC. (2017). Results from the School Health Policies and Practices Study 2016. Atlanta: Centers for Disease Control and Prevention.



***1(d) ED should work with other key agencies to adopt, fund, and promote a national research agenda for LGBTQ+ student equity, including research on improved and additional measures.***

Researchers have identified key emerging evidence and research priorities for supporting LGBTQ+ students,<sup>35</sup> including needs for additional methodological research to support research to continue improving the evidence base.<sup>36</sup> The National Institutes of Health (NIH) has adopted a strategic plan for research on sexual and gender minority health, although it is primarily focused on biomedical and clinical research across the life span and not on youth or education.<sup>37</sup>

***1(d)(i) Recommendation:*** ED’s Institute of Education Sciences (IES), in coordination with other key agencies such as the CDC’s Division of Adolescent and School Health (DASH) and NIH, should build on and complement the above detailed work by adopting, funding, and promoting a national research agenda for advancing LGBTQ+ student equity.

The NASEM consensus report urges agencies to fund and conduct research to develop improved measures “that capture the full range of sexual and gender diversity in the population—including but not limited to intersex status and emerging sexual and gender identities, sexual behaviors, and intersecting identities—as well as determinants of well-being for sexual and gender diverse populations.”<sup>38</sup> The NASEM report helpfully uses education as an example of “what this kind of investment might look like in one policy sphere,” recommending that:

[T]he National Center for Education Statistics and other federal and state agencies would be able to assess their funded surveys and data collection instruments for inclusion of measures that permit analysis of the experiences of [sexual and gender minority] students and education personnel in educational settings. Measures that evaluate the implementation of policies and practices known to be associated with positive educational environments for [sexual and gender diverse (SGD)] students and staff could also be included in this work. By funding research on priority areas of need based on these assessments, federal agencies would be better able to implement policies that have the potential to improve education environments for SGD students.<sup>39</sup>

***1(d)(ii) Recommendation:*** IES, particularly the National Center for Education Statistics (NCES), should coordinate with key agencies such as the CDC’s Division of Adolescent and School Health (DASH) and NIH to conduct methodological and evaluation research focused on youth and student populations, and should coordinate closely with other statistical agencies to share resources and best practices.

35 Johns, Michelle M et al. “Strengthening Our Schools to Promote Resilience and Health Among LGBTQ Youth: Emerging Evidence and Research Priorities from The State of LGBTQ Youth Health and Wellbeing Symposium.” *LGBT health* vol. 6,4 (2019): 146-155.

Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys. “Measurements of Sexual Orientation and Gender Identity in Federal Surveys.” <https://nces.ed.gov/FCSM/pdf/buda5.pdf>. Accessed June 29, 2021.

The Federal Committee on Statistical Methodology. Measuring Sexual Orientation and Gender Identity Research Group. <https://nces.ed.gov/FCSM/SOGL.asp>. Accessed June 29, 2021.

36 National Academies of Sciences, Engineering, and Medicine (NASEM). (2020). *Understanding the Well-Being of LGBTQI+ Populations*, pp. 402-03. Washington, DC: The National Academies Press.

37 National Institutes of Health, Strategic Plan to Advance Research on the Health and Well-being of Sexual & Gender Minorities, Fiscal Years 2021-2025 (2020), [https://dpcpsi.nih.gov/sites/default/files/SGMStrategicPlan\\_2021\\_2025.pdf](https://dpcpsi.nih.gov/sites/default/files/SGMStrategicPlan_2021_2025.pdf).

38 NASEM. (2020). *Understanding the Well-Being of LGBTQI+ Populations*, p. 402.

39 NASEM. (2020). *Understanding the Well-Being of LGBTQI+ Populations*, p. 403.

***1(d)(iii) Recommendation:*** ED and the CDC, in collaboration with other federal agencies, should also leverage federal funding and expertise to support research and data efforts at the state and local levels that support a national research agenda for LGBTQ+ student equity.

The NASEM consensus report specifically urges federal agencies to “provid[e] support to state and local entities in the collection of population data specific to their local contexts. For example, the National Center for Education Statistics could assist education researchers in collecting data that capture sexual orientation, gender identity, and intersex status in studies of students and school personnel.”<sup>40</sup> All four IES centers, as well as CDC DASH and other key agencies should work to promote, fund, and provide technical assistance for research and data collection for LGBTQ+ equity, as well as other intersecting equity concerns.

ED should provide guidance to state education agencies (SEAs) on adopting school climate as an indicator of School Quality and Student Success under the Elementary and Secondary Education Act of 1965 (ESEA § 1111(c)(B)(v)(i)) and utilizing a valid, reliable LGBTQ+ inclusive school climate survey to measure this indicator. Doing so would promote accountability for the educational outcomes and experiences of LGBTQ+ students while supporting state and local participation in a national research agenda for LGBTQ+ student equity.

***1(e) ED, other agencies, and funding recipients should consider a variety of equity metrics for LGBTQ+ equity, including structure, process, and outcome metrics.***

While GLSEN’s and other research shows that key supports such as visibly supportive educators, comprehensive policies, inclusive curriculum, and affirming student-led clubs are associated with better outcomes for LGBTQ+ students,<sup>41</sup> implementing these supports and tracking progress requires a variety of equity metrics. Federal, state, district and school leaders and others should use these metrics to identify where, how, and how effectively key supports are being implemented, where outcomes are improving, and where targeted efforts are most needed.<sup>42</sup> Based on GLSEN’s and other research, we suggest some examples of equity metrics in the Figure 1 below.

***1(e)(i) Recommendation:*** ED and other federal agencies should consider equity metrics for LGBTQ+ (see Figure 1) student populations at the national, state, district, and school levels, including structure, process, and outcome measures. These metrics should be used when evaluating proposed data collection, including revisions to approved data collection; resources for state and local entities, including the EDSCS; federal program priorities related to students and school, such as ED’s proposed priorities for American History and Civics Education programs and Effective Educator programs;<sup>43</sup> new federal programs; and accountability systems, such as those established pursuant to ESEA § 1111(c)(B).

40 NASEM. (2020). Understanding the Well-Being of LGBTQI+ Populations, p. 402.

41 Kosciw et al. (2020). The 2019 National School Climate Survey.

42 See, e.g., Hanson, T., Zhang, G., Cerna, R., Stern, A., & Austin, G. (2019). Understanding the experiences of LGBTQ students in California. San Francisco, CA: WestEd.

43 Proposed Priorities-American History and Civics Education. 86 Fed. Reg. §73 (April 19, 2021).

<https://www.govinfo.gov/content/pkg/FR-2021-04-19/pdf/2021-08068.pdf>.

Proposed Priorities- Effective Educator Development Division Programs. 86 Fed. Reg. §74 (April 20, 2021).

<https://www.federalregister.gov/documents/2021/04/20/2021-08193/proposed-priorities-effective-educator-development-division-programs>.

***I(e)(ii) Recommendation:*** ED and other federal agencies should promote use of equity metrics for LGBTQ+ (see Figure 1) by state and local entities through guidance, technical assistance, and dissemination of best practices.

**Figure 1: LGBTQ+ Equity Metrics**

<p><b>Structural metrics</b> can include:</p> <ul style="list-style-type: none"> <li>• Laws or policies that undermine LGBTQ+ equity.</li> <li>• Enumerated, LGBTQ+ inclusive nondiscrimination laws, regulations, or policies.</li> <li>• Enumerated, LGBTQ+ inclusive bullying and harassment policies.</li> <li>• Comprehensive, affirming school policies for transgender, non-binary, and intersex students.</li> <li>• Inclusive policies on discipline, dress and appearance rules, and athletic participation.</li> <li>• Inclusive student record and reporting systems.</li> <li>• Comprehensive, LGBTQ+ inclusive suicide prevention and education policies.</li> <li>• LGBTQ+ inclusive curriculum.</li> <li>• Scope and staffing of school health and counseling services.</li> </ul>	<p><b>Process metrics</b> can include:</p> <ul style="list-style-type: none"> <li>• Training and professional development on key topics for educators and other staff.</li> <li>• Presence of LGBTQ+ affirming student-led clubs, such as GSAs.</li> <li>• School assemblies, observances, campaigns, or programs that promote LGBTQ+ inclusion.</li> <li>• LGBTQ+ inclusive and affirming library materials, displays, or programming.</li> <li>• LGBTQ+ affirming family engagement and acceptance efforts.</li> <li>• Partnerships with LGBTQ+ affirming health or social service providers or community groups.</li> <li>• Offices, programs, committees, or convenings dedicated to LGBTQ+ equity.</li> </ul>
<p><b>Proximal outcome metrics</b> for schools and LGBTQ+ students, including key subgroups, can include:</p> <ul style="list-style-type: none"> <li>• Student, educator, and staff (including LGBTQ+ educators and staff) perceptions of school climate, overall and for LGBTQ+ students.</li> <li>• Students’ willingness and confidence in reporting bullying, harassment, or discrimination.</li> <li>• Students’ experiences of support in school, including peer and social support; feeling that adults care for them and have high expectations; and feeling able to participate in school activities.</li> <li>• Educator and staff readiness and confidence in supporting LGBTQ+ students and acting on their concerns or reports of mistreatment.</li> <li>• Students’ attitudes toward, and participation or engagement with the following: <ul style="list-style-type: none"> <li>◦ School health and student support services.</li> <li>◦ Mentoring and academic counseling.</li> <li>◦ Afterschool and other enrichment programs.</li> <li>◦ Student clubs or organizations.</li> <li>◦ Sports and other extracurricular activities.</li> </ul> </li> </ul>	<p><b>Distal outcome metrics</b> for LGBTQ+ students, including key subgroups, can include:</p> <ul style="list-style-type: none"> <li>• School connectedness.</li> <li>• Academic motivation.</li> <li>• Feelings of safety at school.</li> <li>• Fear of victimization or abuse at school.</li> <li>• Bullying, harassment, discrimination, and abuse as self-reported students.</li> <li>• Bullying, harassment, or violence based on sexual orientation, gender identity, or sex characteristics as reported by schools.</li> <li>• Psychological distress, mental health, and suicidality.</li> <li>• Use of exclusionary discipline.</li> <li>• Attendance, academic performance, and graduation rates.</li> <li>• College or career planning.</li> </ul>

## **2 Barrier and Burden Reduction. Approaches and methods for assessing and remedying barriers, burden, and inequities in public service delivery and access.**

As noted above and elaborated in detail in [GLSEN’s 2019 National School Climate Survey](#),<sup>44</sup> LGBTQ+ students face discrimination both through institutional policies and practices and through inadequate responses to harassment and abuse by federal funding recipients, including state and local education agencies.

### ***2(a) Address compounding barriers in education programs and activities experienced by LGBTQ+ students experience due to institutional policies and practices of federal funding recipients.***

Barriers caused by funding recipients’ institutional policies and practices include:

- Gender-based student dress- or conduct-codes.
- Arbitrarily dividing students by gender in classroom or other activities.
- Denigrating or failing to acknowledge the natural diversity in sexual orientations, gender identity, and sex characteristics (including intersex traits) in the school curriculum or classroom discussions.
- Prohibiting students from, or disciplining them for, dressing or engaging in self-expression of their LGBTQ+ identity or displays of affection that are permitted for non-LGBTQ+ students.
- Denying students equal access to school facilities or activities consistent with their gender identity.
- Student record systems that cannot accommodate name or gender changes, impose burdensome requirements, or provide only two gender designations.
- Identifying a student by a name, title, or pronouns inconsistent with their gender identity in the classroom, school events, directories, publications, correspondence, etc.
- Failure to respond to harassment against LGBTQ+ students, including persistent and intentional misgendering and unwanted disclosure of personal information.

GLSEN’s and other research show clear harms to student achievement, health, and well-being from efforts to prohibit discussion of LGBTQ+ people or identities in the classroom;<sup>45</sup> to require invasive sex testing procedures;<sup>46</sup> and actions that otherwise exclude transgender, non-binary, gender non-conforming, and intersex students from school facilities or activities.<sup>47</sup>

44 Kosciw et al. (2020). The 2019 National School Climate Survey.

45 GLSEN. (2018). Laws Prohibiting “Promotion of Homosexuality” in Schools: Impacts and Implications (Research Brief). New York: GLSEN.

46 Brief of Amici Curiae American Academy of Pediatrics et al., *Hecox v. Little*, Nos. 20-35813, 20-35815 (9th Cir. Dec. 21, 2020) (summarizing research).

Brief for Amici Curiae National Women's Law Center et al., *Hecox v. Little*, Nos. 20-35813, 20-35815 (9th Cir. Dec. 21, 2020) (collecting testimonials on traumatizing effects of sex testing procedures).

47 Kosciw et al. (2020). The 2019 National School Climate Survey.

Brief of Amici Curiae Medical, Public Health, and Mental Health Organizations, *Grimm v. Gloucester County School Board*, No. 19-1952 (4th Cir. Nov. 25, 2019) (summarizing research).

Movement Advancement Project and GLSEN. “Separation and Stigma: Transgender Youth & School Facilities.” April 2017. <https://www.glsen.org/research/separation-and-stigma-transgender-youth-and-school-facilities>.

**2(a)(i) Recommendation:** ED should reissue detailed guidance on supporting transgender students.

ED recently clarified that “the Department interprets Title IX’s prohibition on discrimination ‘on the basis of sex’ to encompass discrimination on the basis of sexual orientation and gender identity” and that it “has long recognized that Title IX protects all students, including students who are lesbian, gay, bisexual, and transgender, from harassment and other forms of sex discrimination.”<sup>48</sup>

In 2016, ED issued detailed guidance on supporting transgender students,<sup>49</sup> however this guidance is currently marked “Archived.” ED should reissue guidance on supporting transgender students.

**2(a)(ii) Recommendation:** ED and DOJ should ensure Title IX guidance and educational materials for the public make clear that the law applies equally to LGBTQ+ educators and staff as well as students.

**2(b) Address barriers faced by LGBTQ+ educators and other school staff due to institutional policies and practices and inadequate responses to harassment and abuse.**

LGBTQ+ teachers, administrators, and other staff face both institutionalized discrimination through employment policies and through inadequate responses to harassment and abuse by federal funding recipients, including state and local education agencies. These barriers impede recruitment and retention of a diverse and effective workforce and contribute to burnout and low morale. GLSEN’s research has shown that creating a supportive workplace for LGBTQ+ educators and staff is an essential foundation for a supportive educational environment for LGBTQ+ students.

Barriers caused by funding recipients’ employment policies and practices include:

- Gender-based employee dress- or conduct-codes.
- Prohibiting or discouraging LGBTQ+ staff from coming out or transitioning in the workplace.<sup>50</sup>
- Inequities in employee health benefits, such as transgender-specific exclusions, or fertility coverage limitations that effectively exclude many LGBTQ+ families.
- Personnel record systems that cannot accommodate name or gender changes, impose burdensome requirements, or provide only two gender designations.
- Failure to respond to workplace harassment against LGBTQ+ employees, including persistent and intentional misgendering and unwanted disclosure of personal information.

While these discriminatory practices can happen anywhere, job bias in education settings is often justified by misplaced concerns about avoiding controversy or “sensitive” topics in the educational setting and requires particular attention.

48 U.S. Department of Education. (June 22, 2021). Notice of Interpretation: Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*. <https://www.govinfo.gov/content/pkg/FR-2021-06-22/pdf/2021-13058.pdf>. Accessed June 22, 2021.

49 U.S. Department of Education. (May 2016). Office of Elementary and Secondary Education, Office of Safe and Healthy Students, Examples of Policies and Emerging Practices for Supporting Transgender Students (“Archived”). <https://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf>.

50 GLSEN. (2020). Supporting LGBTQ Students by Protecting LGBTQ Teachers (Research Brief). New York: GLSEN. <https://www.glsen.org/research/lgbtq-supportive-teaching>.

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. <https://www.glsen.org/research/teasing-torment-school-climate-revisited-survey-us-seconda>.

**2(b)(i) Recommendation:** ED, DOJ, and EEOC should provide tailored information for educational institutions and the education workforce regarding the workplace rights of LGBTQ+ educators and staff. ED, DOJ, and EEOC should also consider making discrimination against LGBTQ+ individuals in the education workforce an enforcement priority.

**2(c) ED and other agencies should revise their procedures and guidance on data collection by recipients of federal funds to address barriers faced by LGBTQ+ students and educators.**

LGBTQ+ students and educators also face barriers because federal agencies themselves fail to provide clear and inclusive procedures and guidance regarding federal forms and data reporting requirements related to gender.

In recent years, ED has provided confusing, conflicting, and often inaccurate instructions to state and local education agencies regarding reporting students' gender. The Civil Rights Data Collection (CRDC), EDFacts Initiative, and Integrated Postsecondary Education Data System (IPEDS) have in recent years defined "sex" as "the biological traits that distinguish the males and females of a species"—without defining what those "biological traits" are, whether they include gender identity, or how schools should ascertain them.<sup>51</sup> This has led some education agencies to wrongly assume that they must maintain and report gender data to ED based on students' gender as assigned at birth (usually assumed from initial enrollment data or a birth certificate, and often misleadingly called "legal sex").<sup>52</sup> More recently, EDFacts has adopted a less troubling but still confusing and unduly narrow definition of "sex" as "An indication that students are either female or male."<sup>53</sup> ED and other agencies should make clear that self-identification is the preferred method of identifying gender, and include options for those who self-identify as non-binary.

**2(c)(i) Recommendation:** ED should clarify gender reporting for CRDC, EDFacts, IPEDS, and other data collection to make clear that self-identification is the preferred method of identifying the gender of students and employees for all reporting requirements that involve student and employee records.

GLSEN appreciates that ED is in the process of removing the selective service question from the Free Application for Federal Student Aid (FAFSA), with plans for complete removal by the 2023-2024 academic year. GLSEN commends ED for its interim policy of making failure to register with the selective service have no impact on eligibility for federal student aid.<sup>54</sup> However, the continued presence of the

51 U.S. Department of Education. (2019). EDFacts Submission System; FS052 – Membership; File Specifications: SY 2017-18 v. 16.1.

U.S. Department of Education. (2017). Paperwork Reduction Act Supporting Statement, Attachment A-3: Data Categories for Civil Rights Data Collection for School Year 2017–18.

U.S. Department of Education. Common Education Data Standards: Sex.

<https://ceds.ed.gov/CEDSElementDetails.aspx?TermId=17255>. Accessed May 31, 2021.

52 See, e.g., Oregon Higher Education Coordinating Commission. (2016). Senate Bill 473 Report: Collecting and Reporting Sexual Orientation Information at Oregon's Public Universities. <https://www.oregon.gov/HigherEd/Documents/HECC/Reports-and-Presentations/LegReports/SB473-Final-Report-Jun-16.pdf> (advising that schools that "t students and employees should be asked to provide their legal sex designation because the federal reporting requirements (IPEDS) are currently limited to male or female").

53 U.S. Department of Education. (2021). EDFacts Submission System; FS052 – Membership; File Specifications: SY 2020-21 v. 17-2.

54 U.S. Department of Education. (June 11, 2021). Early Implementation of the FAFSA Simplification Act's Removal of Selective Service and Drug Conviction Requirements for Title IV Eligibility. <https://fsapartners.ed.gov/knowledge->



question on the FAFSA nonetheless presents a barrier for transgender, non-binary, and intersex individuals.

**2(c)(ii) Recommendation:** ED should ensure that states, districts, relevant community-based organizations, educators, school staff, and parents are aware of ED’s interim policy. GLSEN recommends dedicated outreach and informational resources in simple, accessible language and in languages other than English that clearly communicate that non-response to the question about selective service is a valid option as ED works to implement complete removal of the question.

**2(d) ED should provide guidance under the Every Student Succeeds Act (ESSA) and other education funding laws on goals, strategies, and authorized uses of funds to advance equity for LGBTQ+ students and educators.**

State and local entities, particularly State and Local Education Agencies (SEAs and LEAs, respectively) face barriers to implementing best practices to advance equity inclusive of LGBTQ+ equity due to a lack of guidance and specific examples.

**2(d)(i) Recommendation:** ED should issue updated ESSA guidance and resources for SEAs and LEAs to comprehensively promote intersectional, LGBTQ+ inclusive equity efforts. ED could do this by issuing a resource focused on promoting LGBTQ+ equity under ESSA. Regardless, ED should add examples and language throughout its ESSA guidance and publications, including a revised ESSAT State Plan template, to advance equity inclusive of LGBTQ+ students.

ED should highlight the wide range of ESSA funding lines and types of activities that can be used to promote equity for LGBTQ+ and other marginalized students and provide specific examples whenever possible. GLSEN’s Policy, Curriculum, and Educator Resources can help inform this work, including GLSEN’s model policies, curriculum guide, issue briefs on topics such as curriculum standards and inclusive teaching practices, policy and implementation recommendations for SEAs, and GLSEN’s forthcoming report on using ESSA and LGBTQ+ equity, which will be available at <https://www.glsen.org/policy-resources>.<sup>55</sup>

ED guidance under ESSA and other funding streams should address LGBTQ+ equity efforts in these areas:

- **Policy review and development.** SEAs and LEAs can use ESSA Title I-A, II-A, IV-A, and IV-B program funds to review and develop policies in areas such as nondiscrimination, bullying and harassment, and student privacy, including policies to support transgender, non-binary, gender non-

[center/library/dear-colleague-letters/2021-06-11/early-implementation-fafsa-simplification-acts-removal-selective-service-and-drug-conviction-requirements-title-iv-eligibility](https://www.glsen.org/center/library/dear-colleague-letters/2021-06-11/early-implementation-fafsa-simplification-acts-removal-selective-service-and-drug-conviction-requirements-title-iv-eligibility).

<sup>55</sup> GLSEN. Policy Resources. <https://www.glsen.org/policy-resources>. Accessed July 2, 2021.

GLSEN. Educator Resources. <https://www.glsen.org/educator-resources>. Accessed July 2, 2021.

GLSEN. (2019). Developing LGBTQ-Inclusive Classroom Resources. <https://www.glsen.org/activity/inclusive-curriculum-guide>.

GLSEN. (2020). Nondiscrimination Protections and Inclusion of LGBTQ+ Students in K-12 Learning Communities:

Recommendations for State Education Agencies. <https://www.glsen.org/activity/state-education-agency-recommendations>.

GLSEN. (2020). How State Education Agencies Can Advance Implementation of Enumerated Anti-Bullying and Harassment Laws. <https://www.glsen.org/activity/state-education-agency-implementation-resources>.

conforming, and intersex students.<sup>56</sup> In future Title I-A, II-A, IV-A, and IV-B guidance, ED should provide examples of how program funds can support policy development that advanced equity inclusive of LGBTQ+ students and educators.

- **Educator and staff supports, including supports for LGBTQ+ staff.** Title II-A funds can be used to support a diverse workforce and improve conditions for LGBTQ+ educators and students alike.<sup>57</sup> Future guidance can provide additional examples, including training and professional development on a wide range of topics; policy review and development; technical assistance and programming resources; supporting employee resource groups; leadership development opportunities for LGBTQ+ and other minority educators and staff; and efforts to strengthen teacher preparation, licensing, and certification standards.<sup>58</sup> Building on prior Title II-A guidance, ED should make clear that these activities can include efforts to **strengthen teacher preparation, licensing, and certification standards** to ensure readiness promote equity and support LGBTQ+ and other marginalized students.<sup>59</sup>
- **Curricular standards (SEAs), curriculum (LEAs), library, and other academic supports.** GLSEN’s research shows that LGBTQ+ students who attend schools with curriculum that is inclusive of LGBTQ+ people, history, and events experience a better school climate and improved academic outcomes.<sup>60</sup> Examples of inclusive curricular standards can help SEAs envision what LGBTQ+ inclusion might look like in their state. To that end, ED could highlight the example of California’s current ESSA State Plan, which addresses inclusion of LGBTQ+ people throughout its curriculum framework.<sup>61</sup> ED should also make clear how SEAs and LEAs can use ESSA Title program funds to support improved curricular standards and curriculum, respectively. SEAs can use ESSA Title IV-A program funds to review and develop LGBTQ+ inclusive curriculum standards and provide technical assistance to LEAs.<sup>62</sup> LEAs can use ESSA Title II-B and IV-A funds to review and develop LGBTQ+ inclusive content and materials across subject areas,<sup>63</sup> including history and civics, health and sex

56 See, e.g., ESEA §§ 1103(e)(1)(F) (requiring description of how LEAs will modify policies to achieve its improvement plan), § 1112 (b)(1)(D) (policy development and implementation can be included under Title I activities to “improve school conditions for student learning”), 1116 (requiring family engagement policies), 1603(a) (requiring SEAs to ensure their rules and policies conform to Title I goals), § 2101(c)(4)(B)(vii) and § 2103 (b)(3)(E) (SEA or LEA professional development to train educators, administrators, and other staff on developing policies with community input), § 2212(e)(2)(E) (authorizing funding for policy development to improve staff recruitment, readiness, and retention), § 4104(b)(3)(B) and 4108(a)(5)(C)(iii) (SEA or LEA program to prevent bullying), § 4108(5)(F) (LEA locally-tailored plan to reduce exclusionary discipline practices), 4108(5)(C)(i) (LEA activities that integrate health and safety practices into school or athletic programs), §4202(c)(3)(G) (SEA program to review and improve State policies and practices that support the implementation of effective extracurricular programs); McKinney-Vento Act 722(g)(1)(I) (requiring policy reviews to eliminate barriers for homeless students).

See also U.S. Department of Education. (June 2019). Title IV, Part A Local Educational Agency (LEA) Needs Assessment Tool (2019).

U.S. Department of Education. (October 2016). Non-Regulatory Guidance Early Learning in the Every Student Succeeds Act.

57 U.S. Department of Education. (September 27, 2016). Non-Regulatory Guidance for Title II, Part A: Building Systems of Support for Excellent Teaching and Leading, p. 19.

58 See, e.g., ESEA § 2101(c)(4)(B)(v).

59 ESEA § 2101(c)(4)(B)(i)(I).

U.S. Department of Education. (2016). Non-Regulatory Guidance for Title II, Part A: Building Systems of Support for Excellent Teaching and Leading (p. 13). <https://www2.ed.gov/policy/elsec/leg/essa/essatitleiipartaguidance.pdf>.

60 Kosciw et al. (2020). The 2019 National School Climate Survey.

61 California State Board of Education (2020). ESSA Consolidated State Plan (p. 124). <https://www.cde.ca.gov/re/es/>. California Department of Education. (2018). 2016 Science Framework for California Public Schools, Kindergarten Through Grade Twelve: Chapter 10: Access and Equity. <https://www.cde.ca.gov/ci/sc/cf/documents/scifwchapter10.pdf>.

62 ESEA § 4104(b)(3)(A)(i)(V).

63 ESEA §§ 2233, 4107(a)(3)(E).

education, humanities, and STEM.<sup>64</sup> SEAs and LEAs can use ESSA Title II-A and Title II-B program funds to acquire LGBTQ+ inclusive library materials and support LGBTQ+ inclusive library programming,<sup>65</sup> to make these spaces safe havens for LGBTQ+ and other marginalized students.<sup>66</sup> SEAs and LEAs can also use ESSA Title IV-A and IV-B funds to support mentoring and academic counseling, including through targeted services, outreach, partnerships, and professional development focused on supporting LGBTQ+ and other marginalized students.<sup>67</sup>

- **Parent and family engagement.** Family acceptance is a critical influencer on LGBTQ+ students' well-being, success, and can reduce risks for other outcomes such as experiencing homelessness. SEAs and LEAs can use ESSA Title I-A, IV-A, IV-B, and IV-E program funds, to ensure appropriate engagement of parents and families of LGBTQ+ students, including through targeted outreach, programming, and community partnerships to promote family acceptance.<sup>68</sup>
- **Suicide prevention.** The COVID-19 pandemic has exacerbated startlingly high suicidality among LGBTQ+ youth.<sup>69</sup> SEAs and LEAs can use ESSA Title II-A and IV-A program funds to support training, technical assistance, policy development, teacher resources, curriculum development and materials, extracurricular programs, and community partnerships with a focus on LGBTQ+ mental health and suicide prevention.<sup>70</sup> The American Foundation for Suicide Prevention, American School Counselor Association, National Association of School Psychologists, and Trevor Project jointly created a Model School District Policy on Suicide Prevention that can support these efforts.<sup>71</sup>
- **Effective and trauma-informed practices in classroom management.** GLSEN's research reveals that many educators are not sufficiently equipped or supported to maintain a safe and inclusive classroom environment for LGBTQ+ students, including intervening in bullying and harassment and supporting students experiencing trauma or suicidality.<sup>72</sup> SEAs and LEAs can use ESSA Title II-A and IV-A program funds for targeted efforts to ensure safety and equity for LGBTQ+ students, including through educator resources and training, specialized support staff, and partnerships with LGBTQ+ affirming health and service providers.<sup>73</sup>
- **Supporting LGBTQ+ affirming student groups and student leadership.** LGBTQ+ affirming clubs (such as Gender and Sexuality Alliances or GSAs) and student leadership opportunities have been

64 GLSEN. (2019). Developing LGBTQ-Inclusive Classroom Resources. <https://www.glsen.org/activity/inclusive-curriculum-guide>.

65 ESEA §§ 1112(b)(13)(b), 2101(c)(4)(B)(xiii), 2103(b)(3)(K).

66 Bannister, M.E. (2020). School Library as a Safe Harbor for LGBTQ Students and Families. *Knowledge Quest: Journal of the American Association of School Librarians*, 48(3):E1-E6.

67 See, e.g., ESEA §§ 4108(5)(A)(ii), (C)(v), and (F)(iii), 4205(a)(1).

68 See, e.g., ESEA §§ 1118(e), 2103(b)(6)(iii), 4108(5)(C)(vii), 4205(a)(10), 4503.

69 CDC (2020) Youth Risk Behavior Survey Data Summary & Trends Report 2009-2019 (2020).

John MM, Lowry R, Andrzejewski J, et al. (2019). Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students —19 States and Large Urban School Districts, 2017. *Morbidity & Mortality Weekly Report*, 68:67–71.

70 See, e.g., ESEA §§ 2103(b)(3)(B)(iv)(I), 4104 (b)(3)(B)(ii)(I), 4108(5)(D).

71 American Foundation for Suicide Prevention, American School Counselor Association, National Association of School Psychologists, The Trevor Project. (2019). *Model School District Policy on Suicide Prevention: Model Language, Commentary, and Resources* (2nd ed.). New York: American Foundation for Suicide Prevention.

72 Kosciw et al. (2020). The 2019 National School Climate Survey.

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. <https://www.glsen.org/research/teasing-torment-school-climate-revisited-survey-us-seconda>.

73 ESEA §§ 2103(b)(3)(B)(iv)(I), 2103(b)(3)(I), 4104 (b)(3)(B)(ii), 4108(5)(D).

shown to benefit student success.<sup>74</sup> Some SEAs and LEAs provide targeted resources and technical assistance for schools to support GSAs, and at least one SEA (Massachusetts) has a statewide GSA Student Leadership program. SEAs and LEAs can use ESSA Title II-A, IV-A, and IV-B program funds for these efforts.<sup>75</sup>

- **Afterschool, athletic, and other extracurricular activities.** Afterschool programs, sports, and other extracurricular activities all have demonstrated academic and well-being benefits, LGBTQ+ students are less likely to participate, and often face harassment.<sup>76</sup> This is especially true for transgender, gender non-conforming, and intersex youth. SEAs and LEAs can use Title IV funds to promote equitable access to afterschool and extracurricular programs for LGBTQ+ students, including through program or policy development, outreach, training, community partnerships, and participating in reform of athletic participation standards.<sup>77</sup> GLSEN's Gender Affirming and Inclusive Athletics Participation guide can support this work.<sup>78</sup>
- **Improving forms, records, and IT systems.** Certain name and gender-related information may be sensitive and protected by FERPA and Title IX,<sup>79</sup> and ED should provide updated guidance in this area. Some SEAs and LEAs may need to update their IT infrastructure to accommodate best practices.<sup>80</sup> ED should make clear that SEAs and LEAs can use ESSA Title II-A and IV-A program funds to support policy development, training, and IT infrastructure changes to enable students to make name and gender changes and protect student privacy.<sup>81</sup>
- **Supporting LGBTQ+ homeless students.** ED has previously encouraged agencies to consider the needs of the up to 40% of homeless youth who are LGBTQ+.<sup>82</sup> SEAs and LEAs may use Title I-A and McKinney-Vento Act funds for targeted outreach, programming, evaluation, training, and partnerships to effectively serve LGBTQ+ homeless youth.<sup>83</sup>

74 The Trevor Project. (January 15, 2021). Research Brief: Evidence on Covid-19 Suicide Risk and LGBTQ Youth. <https://www.thetrevorproject.org/2021/01/15/research-brief-evidence-on-covid-19-suicide-risk-and-lgbtq-youth/>.

75 ESEA §§ 2101(c)(4)(B)(vii), 2103(b)(3)(E), 4205(a)(7), §4108(5)(H).

76 See, e.g., Vermont Department of Health. (March 2020). 2019 Vermont Youth Risk Behavior Survey: Statewide Results. [https://www.healthvermont.gov/sites/default/files/documents/pdf/CHS\\_YRBS\\_statewide\\_report.pdf](https://www.healthvermont.gov/sites/default/files/documents/pdf/CHS_YRBS_statewide_report.pdf).

US Office of the Assistant Secretary for Health, The National Youth Sports Strategy (2019), [https://health.gov/sites/default/files/2019-10/National\\_Youth\\_Sports\\_Strategy.pdf](https://health.gov/sites/default/files/2019-10/National_Youth_Sports_Strategy.pdf).

The Trevor Project (2020). The Trevor Project Research Brief: LGBTQ Youth Sports Participation. <https://www.thetrevorproject.org/wp-content/uploads/2020/06/June-2020-Brief-LGBTQ-Youth-Sports-Participation-Research-Brief.pdf>.

Human Rights Campaign. (2018). Play to Win: Improving the Lives of LGBTQ Youth in Sports. Available at: <https://www.hrc.org/resources/play-to-win-improving-the-lives-of-lgbtq-youth-in-sports>.

77 See, e.g. ESEA §§ 2101(c)(4)(B)(vii), § 2103(b)(3)(E), 4104(b)(3)(A), 4107(a)(3)(H), 4108(5)(C)(i), 4108 (5)(H), 4205 (a)(7).

78 GLSEN. (2021). Gender Affirming and Inclusive Athletics Participation. <https://www.glsen.org/activity/gender-affirming-inclusive-athletics-participation>.

79 U.S. Departments of Education and Justice. (May 13, 2016). Dear Colleague Letter on Transgender Students (pp. 4-5) (rescinded). <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>.

80 GLSEN. (2020). State Education Agency Recommendations. <https://www.glsen.org/activity/state-education-agency-recommendations>.

81 ESEA §§2101(c)(4)(B)(xx), 4104(b)(3)(C)(i), (iv), 4109(a)(2).

Dear Colleague Letter: Federal Funding for Technology (Jan. 18, 2017).

82 U.S. Department of Education. (July 27, 2016 [updated March 2017]). Education for Homeless Children and Youths Program Non-Regulatory Guidance: Title VII-B of the McKinney-Vento Homeless Assistance Act, as amended by the Every Student Succeeds Act.

83 ESEA §1113(b)(3)(A)(i); McKinney-Vento Act §723.

- **In-school mental health services.** School counselors, psychologists, social workers, and other school health professionals have an important role to play in supporting LGBTQ+ students, but that many received little or no relevant training and don't feel fully equipped or supported to do so.<sup>84</sup> SEAs and LEAs can use ESSA Title IV-A program funds for training and professional development, targeted outreach or services, partnerships with LGBTQ+ affirming health centers or providers; and efforts to reform professional education, licensing, and certification standards to support LGBTQ+ students.<sup>85</sup>
- **Community outreach and partnerships.** LEAs can use Title I-A, IV-A, or IV-F funds to support partnerships with LGBTQ+ affirming community center, health centers, or other community groups,<sup>86</sup> and some have already done so.<sup>87</sup>
- **Identifying key resources and considerations on the evidence base for LGBTQ+ equity activities.** Data from sources such as GLSEN's National School Climate Survey<sup>88</sup> and the CDC's Youth Risk Behavior Surveillance System (YRBSS) provides at least tier 3 "promising evidence."<sup>89</sup> ESSA guidance should assist SEAs and LEAs by identifying these and other key resources and considerations for using evidence to support LGBTQ+ equity efforts.
- **Discouraging and promoting alternatives to discriminatory policies.** As outlined above, some approaches pursued by the SEAs or LEAs with the ostensible goals of improving instruction or safe and healthy extracurricular programs are anything but evidence-based. ESSA guidance should expressly discourage, and promote alternatives to, these and other exclusionary policies that claim to advance ESSA goals, clarifying that they are not evidence-based—in addition to raising grave concerns under Title IX and other laws.
- **Dedicated LGBTQ+ equity offices, programs, and needs assessments** Several SEAs, including Illinois, Oregon, and the District of Columbia have developed **comprehensive, community-informed LGBTQ+ equity plans** or recommendations to guide state and local equity efforts.<sup>90</sup> Some EAs, such as Massachusetts and the District of Columbia, have also established **standing LGBTQ+ offices or programs** to provide resources, technical assistance, and programming for LEAs, educators, and students. SEAs and LEAs can use Title IV-A funds, among other options to support these efforts.<sup>91</sup>

84 GLSEN, ASCA, ACSSW, & SSWAA. (2019). Supporting safe and healthy schools for lesbian, gay, bisexual, transgender, and queer students: A national survey of school counselors, social workers, and psychologists. New York: GLSEN.

Reisner SL, Sava LM, Menino DD, et al. (2020). Addressing LGBTQ Student Bullying in Massachusetts Schools: Perspectives of LGBTQ Students and School Health Professionals. *Prev. Sci.* 21(3):408-421.

85 ESEA §§ 4104 (b)(3)(B)(ii), 4108(5)(B).

86 ESEA §§ 1003(b)(1)(B), 1114(d), 1115(d), 1418(b), 4106(e)(1)(a), 4107(a)(2), 4108(4)-(5), 4202(b)(2)(H), 4502, 4611(b)(6), 4624, 4625.

87 Ridings, A., & Clark, D. (December 12, 2016). Community Schools Can Make a Difference for LGBTQ Youth. Center for American Progress. <https://www.americanprogress.org/issues/lgbtq-rights/news/2016/12/12/294803/community-schools-can-make-a-difference-for-lgbtq-youth/>.

88 Kosciw et al. (2020). The 2019 National School Climate Survey.

89 *See generally* U.S. Department of Education. (Sept. 16, 2016). Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments.

90 DC Public Schools. (August 2011). A Plan to Create an Inclusive School Community.

<https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20LGBTQ%20plan%20final%20August%202011.pdf>.

Illinois Affirming and Inclusive Schools Task Force. (January 2020). Strengthening Inclusion in Illinois Schools.

[https://www.aclu-il.org/sites/default/files/field\\_documents/affirming\\_and\\_inclusive\\_schools\\_task\\_force\\_report.pdf](https://www.aclu-il.org/sites/default/files/field_documents/affirming_and_inclusive_schools_task_force_report.pdf).

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

91 *See, e.g.*, ESEA §§ 4104(b)(1), 4104(b)(3)(A)-(B), 4107, 4108(2), 4108(5)(C)(iii).

#### **4 Financial Assistance. Approaches and methods for assessing equity in the administration of agency grant programs and other forms of financial assistance.**

ED has taken important initial steps to support recipients of federal financial assistance in advancing equity by issuing guidance and initiating rulemaking on their Title IX obligations, and by acknowledging LGBTQ+ students as an underserved population in some recent funding notices,<sup>92</sup> proposed priorities,<sup>93</sup> and requests for information,<sup>94</sup> albeit not on a comprehensive basis.

##### ***4(a) Update Title IX regulations, including the Title IX Common Rule.***

Title IX nondiscrimination requirements are a bedrock foundation of ensuring equity in federal financial assistance. As noted above, discrimination against LGBTQ+ students takes myriad forms. In addition to harassment, violence, and unequal discipline, students experience intentional misgendering and misnaming, refusal to update names and gender markers on records and school systems, denial of access to single-sex spaces and activities, and penalties under dress and grooming codes for failure to conform to sex stereotypes. All forms of discrimination are a serious problem that violate students' rights under Title IX. The current (and past) Administration has acknowledged these protections, in accordance with Supreme Court and circuit court precedents, and ED has undertaken a review of Title IX rules.<sup>95</sup>

***4(a)(i) Recommendation:*** ED and other agencies should adopt revised Title IX rules and guidance, including:

- Revising ED's Title IX rules to codify that the law prohibits discrimination based on sexual orientation, gender identity, transgender status, sex characteristics (including intersex traits), or sex stereotypes.
- Revising ED's Title IX rules to clarify that provisions intended to permit single-sex or sex-specific practices in limited contexts may not be construed to permit or require exclusion of an otherwise eligible students from opportunities consistent with their gender identity.
- Working with the Department of Justice and other agencies to revise the 2000 Title IX common rule accordingly, and potentially to incorporate Section 1557 of the Affordable Care Act (ACA).<sup>96</sup>
- Issuing additional guidance to provide clarity on common questions regarding LGBTQ+ students' rights under Title IX, the Family Educational Rights and Privacy Act (FERPA), and the Equal Access Act.

92 Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities-Model Demonstration Projects To Improve Services and Results for Infants, Toddlers, and Children With Disabilities; Notice, 86 FR 27571 (May 21, 2021).

93 Proposed Priorities and Definitions-Education Innovation and Research-COVID-19 and Equity; Notice, 86 FR 23304 (May 3, 2021).

Proposed Waiver and Extension of the Project Periods for the Equity Assistance Centers Grant Program; Proposed waiver and extension of project periods, 86 FR 15829 (March 25, 2021).

94 Request for Information on Supporting the Reopening and Continuing Operation of Schools, Colleges and Universities, and Early Childhood Education Providers, 86 FR 14616 (March 17, 2021).

95 Executive Order 14021 of March 8, 2021 (Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity).

Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*; Interpretation, 86 FR 32637 (June 22, 2021).

96 Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance; Final common rule, 65 FR 52857 (August 30, 2000).



**4(b) Expand federal training, technical assistance, and grant support for state and local LGBTQ+ student equity efforts.**

While developing a national strategic plan, ED and other agencies should take key short-term steps to advance LGBTQ+ student equity, including expanding training, technical assistance, and grant support. ED has taken important initial steps in this area by acknowledging LGBTQ+ students as an underserved population in some recent funding notices,<sup>97</sup> proposed priorities,<sup>98</sup> and requests for information,<sup>99</sup> albeit not on a comprehensive basis. ED and other agencies should take a more comprehensive approach to promoting LGBTQ+ equity throughout their grants, training, and technical assistance programs.

**4(b)(i) Recommendation:** Ensure strong and explicit focus on equity and underserved populations, including lesbian, gay, bisexual, transgender, non-binary, queer, gender non-conforming, and intersex (LGBTQ+) youth in Comprehensive Center, Equity Assistance Center, and other technical assistance grants in Fiscal Year 2022 and beyond.<sup>100</sup>

**4(b)(ii) Recommendation:** Ensure a strong and explicit focus on equity and underserved populations, including LGBTQ+ students, across ED's and other agencies' education- and youth-focused grant programs by:

- Addressing LGBTQ+ and other intersecting underserved groups in program priorities and definitions across ED grant programs.
- Incentivizing or requiring applicants to describe how their project/program will support LGBTQ+ young people and educators and other intersecting underserved groups.
- Incentivizing or requiring applicants to describe how they will engage in robust consultation with LGBTQ+ community stakeholders on program design, recruitment, and evaluation. Essential stakeholders include LGBTQ+ students and former students, educators, school health professionals, families, researchers, and organizations that serve or advocate for LGBTQ+ youth.
- Incentivizing or requiring grantees to collect and report disaggregated participant data, on a voluntary and confidential basis, that at minimum includes gender identity and (beginning at grade 8) sexual orientation.
- Offering training and technical assistance to help applicants and awardees meet these goals and requirements, including by offering examples, case studies, and best practices.

ED has also acknowledged challenges facing LGBTQ+ students in recent reports and resources on COVID-19, but provided relatively little in terms of concrete recommendations or resources for addressing their needs.<sup>101</sup> Similarly, the ED-sponsored *School Climate Improvement Resource Package*

97 Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities-Model Demonstration Projects To Improve Services and Results for Infants, Toddlers, and Children With Disabilities; Notice, 86 FR 27571 (May 21, 2021).

98 Proposed Priorities and Definitions-Education Innovation and Research-COVID-19 and Equity; Notice, 86 FR 23304 (May 3, 2021).

Proposed Waiver and Extension of the Project Periods for the Equity Assistance Centers Grant Program; Proposed waiver and extension of project periods, 86 FR 15829 (March 25, 2021).

99 Request for Information on Supporting the Reopening and Continuing Operation of Schools, Colleges and Universities, and Early Childhood Education Providers, 86 FR 14616 (March 17, 2021).

100 U.S. Department of Education. (March 4, 2021). Withdrawal of Notice Inviting Applications and Cancellation of the Competition for the Equity Assistance Centers Program, 86 FR 12664.

101 U.S. Department of Education. (2021). COVID-19 Handbook. <https://www.ed.gov/coronavirus/>.

(developed by the National Center on Safe Supportive Learning Environments and housed on ED.gov) includes no resources on LGBTQ+ equity.<sup>102</sup>

**4(b)(iii) Recommendation:** ED and other agencies should create and collect up-to-date, pragmatic best-practices for LGBTQ+ equity. These resources should:

- Cover topics including in areas including policy development, training, data collection, needs assessments, climate improvement, family and community engagement, and accountability.
- Be tailored to a variety of audiences, including state and local education agencies, administrators, educators, school health professionals, student leaders, community partners, and researchers.
- Build on resources and input from key experts and stakeholders, including GLSEN’s Educator, Administrator, Student, and GSA resources.<sup>103</sup>
- Be disseminated through multiple channels, including through the National Center on Safe Supportive Learning Environments and other technical assistance partners, social media, directly to grantees, and on federal websites such as ED.gov, StopBullying.gov, and Youth.gov.

## **5 Stakeholder and Community Engagement. Approaches and methods for accessible and meaningful agency engagement with underserved communities.**

In response to OMB request for information of Equity Assessments and Strategies, GLSEN advised the establishment of an interagency Task Force on LGBTQ+ Student Equity (see 1(a)), noting that state Task Forces have a demonstrated record of supporting robust consultation and stakeholder engagement to advance equity inclusive of LGBTQ+ equity. This recommendation is relevant here as well (see especially recommendation 1(a)(ii) on page 5 of this comment). Beyond this, GLSEN advises strengthening supports for consultation required under ESSA.

**5(a) ED should provide technical assistance on the consultation requirement for ESSA state plans.**

ESSA was designed to require robust consultation on both the initial development and subsequent amendments to state plans.<sup>104</sup> However, ED guidance on ESSA’s stakeholder consultation was rescinded by Congress under the Congressional Review Act requirements in 2017.<sup>105</sup> According to the National Association of State Boards of Education (NASBE), no state no SEA felt “confident they were doing

Office for Civil Rights, Education in a Pandemic: The Disparate Impacts of COVID-19 on America’s Students (2021), <https://www2.ed.gov/about/offices/list/ocr/docs/20210608-impacts-of-covid19.pdf>.

<sup>102</sup> National Center on Safe Supportive Learning Environments. School Climate Improvement Resource Package. <https://safesupportivelearning.ed.gov/scirp>.

<sup>103</sup> GLSEN. Policy Resources. <https://www.glsen.org/policy-resources>. Accessed July 2, 2021.

GLSEN. Educator Resources. <https://www.glsen.org/educator-resources>. Accessed July 2, 2021.

GLSEN. Support for Student-Led Clubs. <https://www.glsen.org/support-student-gsas>. Accessed July 2, 2021.

GLSEN. (2020). Nondiscrimination Protections and Inclusion of LGBTQ+ Students in K-12 Learning Communities: Recommendations for State Education Agencies. <https://www.glsen.org/activity/state-education-agency-recommendations>.

GLSEN. (2020). How State Education Agencies Can Advance Implementation of Enumerated Anti-Bullying and Harassment Laws. <https://www.glsen.org/activity/state-education-agency-implementation-resources>

<sup>104</sup> ESEA §§ 1111(a)(1)(A) and (a)(8), 1304(c)(3), 2101(d)(3), 3113(b)(2) and (b)(3)(G), section 4203(a)(12)(A).

<sup>105</sup> Bauer, L., Mann Levesque, E. (2017). Repealing ESSA rule raises implementation, transparency concerns. Brookings Institute. <https://www.brookings.edu/blog/brown-center-chalkboard/2017/02/16/repealing-essa-rule-raises-implementation-transparency-concerns/>.

everything right on stakeholder engagement” less than one year prior to the rescission.<sup>106</sup> In this context, states may have deprioritized stakeholder consultation or may simply need additional technical assistance to ensure robust consultation.

**5(a)(i) Recommendation:** ED should provide technical assistance on the consultation requirement for ESSA State Plans to improve states’ stakeholder engagement. This technical assistance should include the following:

- Information and examples of the importance of using an intersectional lens explicitly inclusive of LGBTQ+ students to protect the right to education of all students.
- Best practices on consultation inclusive of LGBTQ+ and other enumerated underserved students, educators, and families, including those at the intersection of two or more underserved identities.
- Best practices for conducting stakeholder engagement activities on an ongoing, regular business (such as every 2-3 years).
- Best practices for conducting consultation and outreach in languages spoken by a significant portion of the students or families.
- Information and examples of how SEAs can better describe consultation and outreach activities as part of ESSA revised state plan template.
- Encouraging SEAs and LEAs to form an LGBTQ+ equity committee, task force, or program.
- Encouraging SEAs and LEAs to include stakeholders such as GSAs, GLSEN and PFLAG chapters, LGBTQ+ community centers and clinics, and other organizations that serve LGBTQ+ youth.

**5(a)(ii) Recommendation:** ED should robustly enforce ESSA’s stakeholder consultation requirements for ESSA State Plans.

## Conclusion

We thank OMB for considering these comments and recommendations, and urge you to work closely with ED, HHS, CDC, and other agencies adopt these approaches to promote equity inclusive of LGBTQ+ students. GLSEN looks forward to continuing to serve as a resources for agencies in these efforts. To discuss GLSEN’s recommendations, please contact me at 202-621-5815 or [aaron.ridings@glsen.org](mailto:aaron.ridings@glsen.org).

Sincerely,

Aaron Ridings  
Interim Chief of Staff  
Director of Public Policy

<sup>106</sup> Rachel Man and Chris Hofmann. (January 2017). ESSA Stakeholder Engagement: Early Challenges and Promising Practices, Policy Update 24, no. 1. National Association of State Boards of Education. [https://nasbe.nyc3.digitaloceanspaces.com/2017/01/Man\\_Hofmann-Stakeholders-Final.pdf](https://nasbe.nyc3.digitaloceanspaces.com/2017/01/Man_Hofmann-Stakeholders-Final.pdf).