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# **LGBTQ+ DATA INCLUSION: ADVANCING INTERSECTIONAL EQUITY IN K-12 EDUCATION SYSTEMS**

**ISSUE BRIEF**

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# 1 Introduction: Why LGBTQ+ Data Inclusion is Necessary for Safe, Inclusive K-12 Schools

Collecting data on LGBTQ+ issues and the experiences of LGBTQ+ young people — including those who are lesbian, gay, bisexual, transgender, queer, nonbinary, Two-Spirit<sup>1</sup>, and intersex<sup>2</sup> — is essential both for enforcing civil rights protections and advancing racial, gender, and disability justice outcomes in K-12 education systems across the country.

## The absence of this data:

- Is a barrier to full implementation of nondiscrimination protections;
- Obscures disparities impacting LGBTQ+ young people in K-12 schools;
- Prevents educators from accessing the information they need to develop and evaluate the impact of programming on LGBTQ+ students and their non-LGBTQ+ peers; and
- Limits the ability to assess the impact of laws, policies, and initiatives on the health and wellbeing of LGBTQ+ young people and young people with an LGBTQ+ parent, guardian, or family member.

Leading scientists, researchers, and educators agree on the need for LGBTQ+ data inclusion: in 2020, the National Academies of Sciences, Engineering, and Medicine (NASEM) recommended that federal, state, local, and tribal government agencies “should consider adding measures of sexual orientation, gender identity, and intersex status to all data collection efforts and instruments,” including in education.<sup>3</sup> In 2022, NASEM issued a consensus study with guiding principles for the collection of LGBTQ+ demographic data and recommended measures for collecting such data, primarily with adults.<sup>4</sup>

## Young People and LGBTQ+ Data Inclusion

GLSEN uses the term “young people” to refer to all students in K-12 schools. LGBTQ+ data inclusion encompasses measures of LGBTQ+ issues, such as the availability of curriculum that is inclusive of LGBTQ+ communities and experiences with victimization related to LGBTQ+ bias, and measures of LGBTQ+ identity.

Measures of LGBTQ+ issues are recommended for use in surveys of all K-12 students. For example, it is important to assess whether students experience bullying at school or barriers to full participation in educational programming because a parent or guardian is LGBTQ+. Measures of LGBTQ+ identity, or LGBTQ+ demographic measures, are specifically recommended for use in surveys of secondary students. The GLSEN Research Institute’s brief, [Considerations for Measuring Sexual Orientation and Gender Identity in Surveys of Secondary School Students](#), provides sample measures.

GLSEN further recommends that K-12 student information systems provide inclusive options for self-reported names and gender identities. See [Section 3](#) of this brief for more information.

For over twenty years, GLSEN's biennial **National School Climate Survey** (NSCS) has demonstrated that LGBTQ+ young people commonly experience bullying, harassment, discrimination, and other forms of victimization in secondary schools because of their LGBTQ+ identities, which negatively impacts their educational outcomes and wellbeing.<sup>5</sup> LGBTQ+ young people who are transgender; nonbinary; Black, Indigenous, people of color (BIPOC); and people with disabilities experience starker disparities and intersecting marginalization. For example, at least two in five LGBTQ+ young people of color report bullying based on both their sexual orientation and their race; those who experience both racist and anti-LGBTQ+ victimization are 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>6</sup>

Owing in part to the findings of GLSEN's Research Institute, important national and statewide collections, including the CDC's Youth Risk Behavior Survey (YRBS), have added measures related to the identities and experiences of LGBTQ+ young people. Since adding these measures, the YRBS has consistently found that LGBTQ+ secondary students are far more likely than their non-LGBTQ+ peers to experience victimization, including bullying at school.<sup>7</sup>

In light of coordinated efforts by politicians across the country pushing an extreme political agenda that denigrates, erases, and further stigmatizes LGBTQ+ people — and particularly transgender and nonbinary young people and those who are BIPOC — it is more important than ever that surveys routinely collect data related to LGBTQ+ identities and issues to evaluate the impacts of policies targeting communities that already experience marginalization.<sup>8</sup>

**Research indicates the harm we can expect — and that is already occurring — as a result of such policies, including:**

- More hostile school climates and higher rates of harassment and assault of LGBTQ+ young people based on sexual orientation, gender identity, and gender expression in states where there are prohibitions on LGBTQ+ inclusive curriculum.<sup>9</sup>
- Decreased mental health and wellbeing among LGBTQ+ young people, particularly those who are transgender and nonbinary.<sup>10</sup>

Unfortunately, many surveys of young people and educators omit LGBTQ+ inclusive measures and, in some states, politicians are seeking to impose new barriers to LGBTQ+ data inclusion in surveys of students.<sup>11</sup> The absence or erasure of LGBTQ+ inclusive measures in surveys of young people and educators is particularly troubling as **surveys are often the only source of data on the experiences of LGBTQ+ young people in K-12 schools and educators need this information to develop and evaluate programming that supports all students in schools** (see the spotlight on the next page on **Types of Data Collection Conducted by K-12 Education Agencies**).

Educators are responsible for understanding the impact of school climate on LGBTQ+ young people and providing equal opportunity in K-12 schools. Furthermore, in order for federal, state, and local efforts to advance equity for students who are BIPOC, students with disabilities, and for students who otherwise experience marginalization, they must include LGBTQ+ young people. For these reasons, LGBTQ+ data inclusion should be the norm for surveys of young people and educators in K-12 schools.

## Types of Data Collection Conducted by K-12 Education Agencies

**Survey Data:** Surveys, including federal surveys like the YRBS and school climate surveys, enable LGBTQ+ and other young people to share information about their identities and experiences without linking responses to an individual's records or other information that will compromise the anonymity of respondents. In assuring student privacy and anonymity, surveys make it possible to paint a more complete picture of school climate, particularly for students who experience marginalization and may mistrust available mechanisms for reporting experiences of victimization, such as being bullied or being referred to by incorrect pronouns, also referred to as being misgendered.

**Administrative Data:** Administrative data refers to information collected and linked to an individual's administrative record and includes student and school personnel records. K-12 schools collect data on student demographics (including gender, race, and ethnicity), student subgroups (including English learners, students with disabilities, and students experiencing homelessness), academics (including course enrollments and performance), attendance, discipline, and incidences of harassment or bullying and other forms of victimization. In turn, this data on students is compiled and reported, often disaggregated by student demographics and subgroups, to local, state, and federal education agencies to help inform funding allocation decisions, evaluate school climate, conduct broader needs assessments, and comply with federal and state reporting requirements and other standards. Increasingly, K-12 schools are collecting data on incidents of harassment or bullying based on sexual orientation and gender identity; for example, schools receiving federal funds collect and report data on allegations of harassment or bullying on the basis of sexual orientation. See [Section 3](#) of this brief for more information.

## 2 Recommendations to Federal, State, and Local Agencies on LGBTQ+ Inclusion in Surveys of Young People and Educators in K-12 Schools

GLSEN recommends the following LGBTQ+ data inclusion practices in surveys administered by federal agencies, State Education Agencies (SEA), and Local Education Agencies (LEAs):

**Recommendation: Surveys of secondary school students that include demographic questions should allow respondents to self-report their sexual orientation and gender identity**

Researchers estimate that LGBTQ+ young people represent 9.5% of the United States population aged 13-17.<sup>12</sup> According to a 2022 Gallup poll, 7.1% of adults identify as LGBTQ+ with LGBTQ+ adults representing a larger share of younger adult populations: more than one in five (20.8%) adults aged 18-25 and more than 1 in 10 (10.5%) adults aged 26 to 41 identify as LGBTQ+.<sup>13</sup> These trends indicate that a greater number of younger people identify as LGBTQ+ and that the share of the people who openly identify as LGBTQ+ will likely continue to grow as the population ages.

Given that available data consistently shows disparities impacting LGBTQ+ young people in K-12 schools, it is even more important that surveys routinely collect data related to LGBTQ+ identities and issues. See the GLSEN Research Institute's brief, [Considerations for Measuring Sexual Orientation and Gender Identity in Surveys of Secondary School Students](#), for sample measures.

### **Recommendation: Surveys of teachers, administrators, and staff that include demographic questions should allow respondents to self-report their sexual orientation and gender identity**

While all educators can create supportive learning environments for LGBTQ+ students, research indicates that LGBTQ+ educators are more likely than their non-LGBTQ+ peers to engage in LGBTQ-inclusive and affirming best practices. However, these educators are more likely than their non-LGBTQ+ peers to report barriers to such practices, including fear that their job would be at risk if they came out or were outed as LGBTQ+.<sup>14</sup>

Understanding the identities and experiences of LGBTQ+ educators is important for identifying programming that supports the retention of a teaching workforce that better reflects the diversity of our student bodies, including with regard to race and disability. The 2022 NASEM report, “Measuring Sex, Sexual Orientation, and Gender Identity,” provides recommended measures and considerations for adapting recommended measures that can be used for surveys of administrators, teachers, and staff.<sup>15</sup>

### **Recommendation: Surveys of students should include intersex demographic measures and such measures should be considered for use in surveys of teachers, administrators, and staff**

“Intersex” is an umbrella term describing individuals born with variations in internal or external sex characteristics. For example, an intersex person may have variations in their chromosomes or genitals. Comprehensive LGBTQ+ inclusive data collection must include measures that allow people, including young people and educators in K-12 schools, to voluntarily self-report if they are intersex. While there is limited demographic data on intersex people, some scientists estimate that as many as 1.7% of the population are born with variations in sex characteristics, sometimes referred to as “intersex traits.”<sup>16</sup> Intersex people face documented but understudied health and social disparities, including privacy infringements at school and curriculum that erase or stigmatize their bodies.<sup>17</sup> As with the general population, intersex people are diverse in terms of their gender identities and sexual orientations.

The Trevor Project has found that more than half (51%) of intersex youth aged 13 to 17 reported seriously considering suicide in the past 12 months and nearly one in four (24%) reported attempting suicide in the past 12 months.<sup>18</sup> Intersex youth who reported that they had access to affirming spaces, including an LGBTQ+ affirming secondary or post-secondary school, were less likely to report attempting suicide in the past year.<sup>19</sup>

Discriminatory state policies barring transgender young people from accessing school facilities and athletics programming will likely increase incidents of discrimination and harassment of intersex young people as they tacitly sanction scrutiny of students’ sex characteristics.<sup>20</sup> For these reasons, an intersex demographic measure should be included in surveys evaluating school climate.

Because not all individuals with intersex traits identify as intersex, it is important that measures include definitions or examples. The 2022 NASEM report provides sample intersex measures, including a measure for use in surveys of young people recommended by interACT: Advocates for Youth, the leading U.S. organization advocating for the health, wellbeing, and civil and human rights of people born with variations in their sex characteristics.<sup>21</sup>

### **Recommendation: Surveys evaluating school climate and educational programming should include measures of victimization related to LGBTQ+ bias and measures of LGBTQ+ inclusive programming**

GLSEN’s NSCS demonstrates that experiencing victimization related to LGBTQ+ bias is associated with a range of adverse educational outcomes, including increased absences, lower GPAs, and decreased likelihood of pursuing post-secondary education.<sup>22</sup> Students who experience bias-related victimization also reported decreased wellbeing, as measured by reported levels of depression and self-esteem, feelings of belonging at school, and feelings of safety at school.<sup>23</sup> Other national survey research has found disparities impacting LGBTQ+ young people that include an increased likelihood of experiencing victimization,<sup>24</sup> homelessness,<sup>25</sup> and suicidal ideation.<sup>26</sup>

Students in K-12 schools experience victimization related to LGBTQ+ bias that is distinct from victimization based on their sexual orientation and gender identity and may precede a student identifying as straight or heterosexual, cisgender, or LGBTQ+.<sup>27</sup> For example, students experience associational harassment and bullying when they are

victimized because of their association with an individual who is or is perceived to be LGBTQ+, including family members. A GLSEN survey of secondary students with an LGBTQ+ parent or parents found that more than two in five reported that they had been verbally harassed at school in the past year because a parent is LGBTQ+ and more than one in ten reported being physically harassed or assaulted because a parent is LGBTQ+.<sup>28</sup> Among elementary school students, GLSEN and Harris Interactive found that 7% said that students at their school were bullied or called names because they have gay parents.<sup>29</sup>

In addition to associational bullying, students experience victimization because the way they act or dress is considered “inappropriate” based on gender. GLSEN and Harris Interactive found that more than one in five (21%) elementary school students said students at their school were bullied because they “act gay.”<sup>30</sup> Students who said other people think the way they act or look is inappropriate based on gender were more likely to report that they regularly experience bullying at school than students who said they have not been told that the way they act or look is inappropriate based on gender.<sup>31</sup> Elementary school students who reported being bullied for any reason were four times as likely as other students to say they do not want to go to school because they feel afraid or unsafe and those who are bullied regularly at school report lower grades and a lower quality of life than other students.<sup>32</sup>

All students can experience bullying related to gender expression that is considered to be different from the norm and gender expression must not be confused with or used as a measure of LGBTQ+ identity. Measures related to observing and experiencing victimization based on gender expression help to assess the impact of LGBTQ+ related bias and whether schools are inclusive of all students and families.

LGBTQ+ young people who are transgender, nonbinary, BIPOC, and people with disabilities experience starker disparities and intersecting marginalization.<sup>33</sup> Therefore, measures of racist, ableist, and other forms of bias-related victimization should be included in surveys evaluating school climate and educational programming.

Over twenty years, GLSEN’s national survey research demonstrates that access to GLSEN’s **Four Supports** promotes the educational success and wellbeing of LGBTQ+ youth. For this reason, measures related to the availability of comprehensive policies, supportive school personnel, supportive school clubs, and inclusive curriculum should be included when evaluating school climate and educational programming.

## Four Supports



**Comprehensive Policies:** Supportive school policies set a standard for safe, inclusive schools by prohibiting victimization based on sexual orientation, gender identity, or gender expression, and promoting equal access for LGBTQ+ young people.



**Supportive School Personnel:** Educators and other adult allies have a significant positive impact on school experiences for LGBTQ+ students by listening, helping students navigate challenges, and promoting educational engagement and aspirations.



**Supportive School Clubs:** Gender and Sexuality Alliances or Gay-Straight Alliances (GSAs) and other student-led clubs that are supportive of LGBTQ+ students provide a safe and affirming space and facilitate youth leadership.



**Inclusive Curricular Resources:** Learning about the history and contributions of LGBTQ+ people provides role models and information about the LGBTQ+ community to students who might otherwise experience marginalization.

Surveys of young people, administrators, teachers, and other staff in K-12 schools should include measures related to LGBTQ+ issues, including victimization related to LGBTQ+ bias and the availability of inclusive and supportive programming. **The following are examples of how such measures can be incorporated in general population surveys of young people and educators in K-12 schools:**

- GLSEN's **Local School Climate Survey** tool includes questions for secondary students about hearing homophobic, transphobic, racist, ableist, and other biased remarks and questions about experiencing bias-related harassment or bullying.
- GLSEN's national survey of elementary school students includes measures assessing students' experiences of hearing biased remarks and with bullying related to gender expression.<sup>34</sup>
- GLSEN's national surveys of teachers in K-12 schools include measures of LGBTQ+ inclusive practices, reports of biased remarks, and comfort in responding to LGBTQ+ related bias.<sup>35</sup>
- GLSEN's national survey of school mental health staff includes measures of whether respondents have completed coursework or professional development on supporting LGBTQ+ students.<sup>36</sup>
- The CDC provides measures of victimization based on bias related to sexual orientation in its resource, "Measuring Bullying Victimization, Perpetration, and Bystander Experiences: A Compendium of Assessment Tools."<sup>37</sup>

The following two sections detail additional recommendations regarding LGBTQ+ data inclusion in federal surveys and surveys administered by state or local agencies, respectively.

## Additional Federal Recommendations on Surveys

Federally administered surveys have a unique role to play in advancing intersectional equity because the scale at which they are administered best supports the establishment of population parameters, such as the number of BIPOC young people in K-12 schools who identify as LGBTQ+.<sup>38</sup> This information provides a guidepost or comparison point for researchers across the country. For example, the inclusion of both race and sexual orientation measures on the YRBS allows for representative sample sizes that enable richer study on young people of color who are lesbian, gay, and bisexual than was previously possible.

President Biden's Executive Order 13985 on advancing racial equity and support for underserved communities — including BIPOC communities, LGBTQ+ people, and people with disabilities — acknowledges that the lack of data on underserved communities across federal agencies "impedes efforts to measure and advance equity."<sup>39</sup> The order also establishes an Interagency Working Group on Equitable Data to address this lack of foundational data and research. As the U.S. Department of Education (USED) and other federal agencies work to advance equity for people who are BIPOC, LGBTQ+, people with disabilities, and who otherwise experience marginalization, the implementation of LGBTQ+ inclusive survey design and methodology will provide additional data that should be used to inform enforcement of nondiscrimination protections, rulemaking, and guidance on federal standards and programs, including grants and technical assistance initiatives.

GLSEN recommends several actions to implement LGBTQ+ inclusive survey design and practices at the federal level as detailed below.

### **Recommendation: Pass the LGBTQ Data Inclusion Act**

The LGBTQ Data Inclusion Act will require federal agencies that collect demographic data through surveys to add measures where respondents can self-report their sexual orientation and gender identity. Passing the LGBTQ+ Data Inclusion Act ensures that LGBTQ+ inclusive data collection is the rule, rather than the exception, and is critically important to advancing intersectional equity in programs and services in K-12 learning communities across the country. See our **LGBTQ Data Inclusion Act Online Action**, where you can send a message to your Members of Congress asking them to support this important legislation.



### **Recommendation: The Office of Management and Budget should establish data collection standards on sexual orientation and gender identity**

The 2020 NASEM report recommended the White House Office of Management and Budget (OMB), which oversees the implementation of the President’s priorities across federal agencies, establish “government-wide standards for the collection of data on sexual orientation, gender identity, and intersex status.”<sup>40</sup> The follow-up 2022 NASEM report includes recommended measures and guiding principles for collecting this data, primarily with adults.<sup>41</sup> OMB should establish data collection standards on sexual orientation and gender identity in federal surveys, including through its leadership and support of the Interagency Working Group on Equitable Data.

### **Recommendation: The Domestic Policy Council (DPC) should support the addition of LGBTQ+ demographic measures across federal data collection mechanisms and invest in ongoing research to further strengthen LGBTQ+ demographic measures**

The DPC is uniquely situated to support the addition of NASEM recommended LGBTQ+ demographic measures as a standardized component of demographic questions across federal data collection mechanisms through guidance, organizational resources, and coordination across different departments. Advancing the inclusion of these measures is crucial to fulfilling the directives set out by Executive Order 13985, which established the Interagency Working Group on Equitable Data (discussed above) as well Executive Order 13988, which requires all federal agencies that enforce federal laws prohibiting sex discrimination to also prohibit discrimination based on sexual orientation and gender identity.<sup>42</sup> Additionally, DPC should invest in ongoing research to continue to develop, test, and improve LGBTQ+ demographic measures, particularly in subpopulations including young people and intersex people.

### **Recommendation: The CDC’s Division of Adolescent and School Health (CDC DASH) should add measures of gender identity and intersex status to the standard YRBS questionnaire**

The CDC’s Youth Risk Behavior Surveillance System (YRBSS) includes two distinct studies that survey young people in secondary schools on behaviors and experiences related to their health and wellbeing, including their experiences of bullying at school and with suicidality. The national YRBS is administered by the CDC and a state and local YRBS is administered by the CDC in coordination with state and local government agencies. Access to data that allows for assessments of the health and wellbeing of LGBTQ+ young people — and particularly those who are transgender and nonbinary — is urgently needed, given politically coordinated efforts to denigrate, erase, and further stigmatize these populations.

Beginning in 2015, two measures of sexual orientation have been included in the standard YRBS questionnaire that is the starting point for both the national and state and local studies.<sup>43</sup> No gender identity measures are included in the standard YRBS questionnaire,<sup>44</sup> however, beginning in 2019, states and localities can opt to add a transgender identity measure if they participate in the state and local YRBS.<sup>45</sup> No measures are available for respondents to self-report that they are nonbinary or another gender identity, and no intersex demographic measure is available. The GLSEN Research Institute brief, **Considerations for Measuring Sexual Orientation and Gender Identity in Surveys of Secondary School Students**, includes a discussion of LGBTQ+ demographic measures on the YRBS.

### **Recommendation: The National Center for Education Statistics (NCES) should include LGBTQ+ identity measures in surveys of secondary school students and K-12 teachers, administrators, and other staff**

The NCES designs and administers national surveys of students, teachers, administrators, and other school staff that generate data that is foundational for developing and evaluating programs that improve educational outcomes for K-12 students, including academic performance across subjects and the pursuit of postsecondary education. GLSEN’s research demonstrates that LGBTQ+ young people disproportionately experience bullying and other barriers to opportunity and access at school and that these experiences are associated with negative educational outcomes, including lower GPAs and increased absences.

The NCES has been slower to adopt LGBTQ+ inclusive measures than peer agencies that design and administer surveys for young people in K-12 schools, including the CDC DASH and the Department of Justice Bureau of Justice Statistics (DOJ BJS). The NCES should include LGBTQ+ identity measures and other demographic measures related to communities that experience marginalization — such as measures of race and disability — in surveys of secondary students and K-12 teachers, administrators, and other staff, including:

- **The High School & Beyond: Longitudinal Study (HS&B):** The HS&B examines students' trajectories during and after leaving high school. As a longitudinal study, the same respondents are surveyed over time, providing insight on trends and long-term impacts that inform education policies, programs, and practices.<sup>46</sup> The HS&B study beginning in Fall 2022 will survey school counselors on how frequently they have provided support to a student related to their gender identity or sexual orientation. Students and teachers are asked to self-report their race, ethnicity, and sex, with responses to the latter limited to binary (male/female) categories.<sup>47</sup> No LGBTQ+ identity measures are available.
- **The National Teacher and Principal Survey (NTPS):** The NTPS is a national survey of K-12 teachers and principals in public and private schools that informs education policy and practice related to school workplace conditions, salaries, and training opportunities. The NTPS teacher and principal surveys collect data on respondents' gender, race, and ethnicity. Respondents self-report gender and are limited to binary (male/female) responses.<sup>48</sup> No LGBTQ+ identity measures are available.
- **The National Assessment of Educational Progress (NAEP):** The NAEP is a national survey of students, teachers, and schools that provides insight into student achievement and learning experiences across academic subjects. The NAEP student and teacher surveys collect data on respondents' gender, race, and ethnicity, and the student survey includes measures related to socioeconomic class. No LGBTQ+ identity measures are available.<sup>49</sup>

**Recommendation: The DOJ BJS and NCES should revise the School Crime Supplement (SCS) to the National Crime Victimization Survey (NCVS) to include LGBTQ+ demographic measures for all secondary students and to improve measures of victimization related to LGBTQ+ bias**

The NCVS is a national survey of individuals' experiences of victimization, including bias-related assault and other forms of violence. The SCS is administered to secondary school students and includes measures of bullying based on the respondent's sexual orientation and gender. The SCS measure of bullying based on gender should be revised to specify "gender identity — such as being a boy, a girl, nonbinary, or another gender." A new measure should be added to the SCS that allows respondents to report bullying based on their gender expression.

The BJS collects demographic data on respondents' sexual orientations and gender identities through the NCVS for secondary students aged 16 and older, but no LGBTQ+ demographic measures are available for secondary students younger than 16. Additional details and recommendations are available on GLSEN's public comment on the proposed 2022 SCS.<sup>50</sup>

**Recommendation: USED should support state and local education agencies in using LGBTQ+ inclusive survey data to advance intersectional equity in K-12 learning communities**

The Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015 (ESSA) establishes standards for the development of evidence-based programs.

**To support SEAs and LEAs in using data to advance intersectional equity, USED should:**

- Revise ESSA Title I-A guidance to clarify how SEAs can use an LGBTQ+ inclusive climate survey to measure a "school quality and student success" indicator as part of their statewide accountability system.<sup>52</sup>
- Revise ESSA Title II-A guidance to clarify how SEAs and LEAs can use funds to develop, pilot, coordinate, and administer LGBTQ+ inclusive surveys of educators and school staff<sup>53</sup> and provide professional development on the use of student data provided anonymously.<sup>54</sup>

- Revise ESSA Title IV-A guidance to clarify how SEAs and LEAs can use funds to develop, pilot, coordinate, and administer LGBTQ+ inclusive climate surveys of students and their families, including parents and guardians.<sup>55</sup>
- Revise ESSA guidance on “Using Evidence to Strengthen Education Investments” to assist SEAs and LEAs in identifying research to inform efforts to advance intersectional equity, including findings of the YRBS and GLSEN’s NSCS.<sup>51</sup>
- Revise USED’s School Climate Surveys (EDSCLS) to add LGBTQ+ demographic measures and measures related to bullying based on actual or perceived gender identity and respect for people of all genders. (The current EDSCLS includes demographic measures of race and ethnicity for all respondents. Students are asked about their level of agreement with the following statement: “Students at this school are teased or picked on about their real or perceived sexual orientation.” Parents are asked for their level of agreement with the following statement: “This school communicates how important it is to respect students of all sexual orientations.”)<sup>56</sup>
- Disseminate best practices for analyzing and reporting LGBTQ+ inclusive school climate survey data, including through the EDSCLS Help Desk.

## **Additional State and Local Recommendations on Surveys**

LGBTQ+ inclusive data collection is needed for SEAs to allocate ESSA and other funds in ways that advance intersectional equity inclusive of LGBTQ+ young people in schools. Such data is also needed to inform and strengthen programs and services for schools and LEAs that support all students. GLSEN recommends the following actions to implement LGBTQ+ inclusive survey design and practices at the state and local levels.

### **Recommendation: States and localities should participate in the CDC’s YRBSS, use all available LGBTQ+ inclusive measures, and agree to distribute the findings**

As discussed above, the CDC’s YRBSS includes both a national YRBS administered by the CDC and a state and local YRBS the CDC administers in coordination with states and localities (see p. 8). States are not required to participate in the YRBSS, but most do.<sup>57</sup> States and localities can decline to distribute findings of the state and local YRBS and, in 2019, a handful of survey sites, including Massachusetts and Ohio, declined to do so.<sup>58</sup>

Although two sexual orientation measures are included on the standard YRBS questionnaire, states and localities may opt to exclude up to one-third of these measures and, in 2019, a small minority of states and one locality opted to exclude both sexual orientation measures.<sup>59</sup> No gender identity measures have been included in the standard YRBS questionnaire however, in 2019, states and localities could opt to include a measure that allowed respondents to indicate if they identify as transgender. Fifteen states opted to use the transgender identity measure.<sup>60</sup>

The YRBS allows for a better, richer study of young people’s experiences of victimization, suicidality, and other health risk factors than ever before. More states and eligible localities should participate in the YRBSS, use all available LGBTQ+ measures, and agree to the distribution of findings.

### **Recommendation: SEAs and LEAs should use LGBTQ+ inclusive school climate surveys to support positive educational outcomes and experiences for LGBTQ+ students and students with LGBTQ+ family members**

K-12 public schools receive sustaining funding from the federal government under the Elementary and Secondary Education Act of 1965, as amended by ESSA (see p. 9). ESSA requires that states adopt a statewide accountability system that uses data to promote accountability across LEAs for disparities in students’ educational outcomes and experiences. Additionally, all educational programs and activities must meet minimum evidential standards.

SEAs should use an LGBTQ+ inclusive school climate survey to measure an ESSA indicator of school quality and student success,<sup>61</sup> such as “school climate” or “conditions for learning,” and report disaggregated climate survey data on LGBTQ+ students’ experiences in their annual State Report Card.<sup>62</sup> LGBTQ+ inclusive school climate survey results should inform needs assessments and allocations of funds under all ESSA Title programs.

An LGBTQ+ inclusive school climate survey should use measures that allow for an evaluation of school climate and intersectional equity. At a minimum, as discussed above, GLSEN recommends the use of measures of victimization related to LGBTQ+ bias and the availability of comprehensive policies that prohibit victimization, supportive educators and adult allies, inclusive curriculum, and supportive school clubs such as GSAs (see our spotlight on GLSEN's **Four Supports** on p.6). School climate surveys of secondary school students should also include LGBTQ+ identity measures. SEAs can refer to the GLSEN Research Institute brief, **Considerations for Measuring Sexual Orientation and Gender Identity in Surveys of Secondary School Students**, for discussion on survey methodology and sample measures.

Where no statewide survey exists or is being developed, LEAs can use GLSEN's **Local School Climate Survey** tool to collect LGBTQ+ inclusive climate survey data. GLSEN's report, **States' Use of ESSA to Advance LGBTQ+ Equity**, provides additional details on the use of LGBTQ+ inclusive school climate surveys to foster safe, inclusive schools for LGBTQ+ young people.

SEAs and LEAs can use ESSA Title IV-A funds to support the development and administration of LGBTQ+ inclusive school climate surveys.<sup>63</sup> SEAs can offer training and technical assistance to LEAs on administering climate surveys, under ESSA Title I-A, II-A, and IV-A.<sup>64</sup>

**Recommendation: SEAs and LEAs should use surveys of staff that are LGBTQ+ inclusive to evaluate their preparedness to meet the needs of LGBTQ+ young people in K-12 schools**

Teachers, administrators, school psychologists, school counselors, and other staff have a powerful role to play in fostering K-12 learning communities that are safe and inclusive for LGBTQ+ students. For example, educators can provide one-on-one support to LGBTQ+ students and lead professional development training on LGBTQ+ issues. Surveys of staff can help identify programming that supports recruitment and retention of LGBTQ+ educators, as well as the preparedness of all staff to support LGBTQ+ young people in schools, including students who hold multiple marginalized identities.

SEAs and LEAs can use ESSA Title I-A and Title II-A use funds to develop, pilot, coordinate, and administer LGBTQ+ inclusive surveys of educators and school staff<sup>65</sup> and provide professional development on using student data in ways that support student achievement and wellbeing while maintaining privacy.<sup>66</sup>

**Recommendation: SEAs and LEAs should use measures related to LGBTQ+ victimization and nondiscrimination protections in surveys evaluating workplace conditions for staff**

More than one in three (33.9%) LGBTQ+ teachers reported that they felt their job would be at risk if they came out to an administrator,<sup>67</sup> and those who are out have experienced negative consequences, including being threatened with job loss, not having their contracts renewed, or being reassigned and investigated.<sup>68</sup> In 2020, the landmark *Bostock* decision prohibited discrimination based on sexual orientation and transgender status as illegal sex discrimination under Title VII of the Civil Rights Act, which addresses nondiscrimination protections for employees.<sup>69</sup> In 2021, the U.S. Department of Justice and other federal agencies interpreted the *Bostock* decision to prohibit discrimination based on gender identity.<sup>70</sup>

Following the *Bostock* decision, LGBTQ+ employees continue to experience workplace discrimination and harassment.<sup>71</sup> Surveys designed to help enforce nondiscrimination protections and improve workplace climate should include LGBTQ+ identity measures and measures of victimization related to LGBTQ+ bias, in addition to other personal characteristics, such as race and disability. Other LGBTQ+ inclusive measures should be included depending on the goals of the survey. For example, a survey might include questions about the availability of supportive programs, such as LGBTQ+ affinity groups or employee resource groups, and professional development undertaken or needed to support LGBTQ+ students.

SEAs and LEAs can use ESSA Title I-A and Title II-A use funds to develop, pilot, coordinate, and administer LGBTQ+ inclusive surveys of educators and school staff.<sup>72</sup>

### **Recommendation: SEAs and LEAs should use LGBTQ+ inclusive surveys of parents and guardians to inform programming that is supportive and welcoming of all families**

Family engagement can support students' educational achievement and wellbeing. Unfortunately, GLSEN's national survey of LGBTQ+ parents or guardians with students in K-12 schools found that more than half (53%) reported being excluded or prevented from fully participating in school activities and events, being excluded by school policies and procedures, or being ignored and feeling invisible.<sup>73</sup>

Therefore, surveys of families, including parents and guardians, should include LGBTQ+ demographic measures, along with other demographic measures, including race, disability, and preferred language. Other LGBTQ+ inclusive questions should be used to evaluate perceptions of welcome and belonging and to identify programming that supports family engagement.

LEAs can use ESSA Title I-A and IV-A funds to support the development, piloting, coordination, and administration of LGBTQ+ inclusive surveys of parents and families.<sup>74</sup> ESSA Title IV-E provides grants for statewide family engagement centers that can develop or provide assistance in developing, piloting, and administering LGBTQ+ inclusive surveys of families, including parents and guardians.<sup>75</sup>

### **Recommendation: SEAs should provide guidance and technical assistance to LEAs on administering and using LGBTQ+ inclusive school climate survey data**

SEAs should assist LEAs in the correct use of data to identify needs and evaluate school climate. For example, it is important to present data in a way that does not identify specific LGBTQ+ respondents. This is particularly a concern for small school districts or other relatively small populations, where there may only be a few LGBTQ+ respondents. The GLSEN Research Institute's brief, **Considerations for Measuring Sexual Orientation and Gender Identity in Surveys of Secondary School Students**, provides additional guidance on the use of student data.

## **3 LGBTQ+ Inclusion in K-12 Administrative Data Collection**

In addition to the important information that can be obtained through surveys, the collection of administrative data is also critically important. Disaggregated administrative data has been a driving force in revealing disparities in educational experiences and outcomes for BIPOC young people, students with disabilities, and other students who are from communities that experience marginalization. Unlike survey data, K-12 administrative data is linked to an individual's administrative record, such as student and school personnel records. See our spotlight in Section 1 on **Types of Data Collection Conducted by K-12 Education Agencies** for additional information.

Nearly all public K-12 schools now collect and report data on allegations of harassment and bullying based on sexual orientation through USED's Civil Rights Data Collection (CRDC).<sup>76</sup> Many schools also collect data on harassment and bullying based on gender identity in compliance with state anti-bullying laws and regulations.<sup>77</sup> The proposed design for the 2021-2022 CRDC includes additional measures related to harassment and bullying based on gender identity. If these measures are approved in the final survey, public schools will be required to separately collect and report data on allegations of harassment and bullying based on gender identity and LEAs will report whether they have an anti-bullying policy that enumerates both sexual orientation and gender identity.<sup>78</sup>

Schools and LEAs are required to collect and report data on student enrollment, academic performance, and other educational experiences and activities disaggregated by gender, including through the CRDC and in compliance with ESSA (no such reporting requirements require education agencies to collect or report administrative data on students' sexual orientations).<sup>79</sup> Gender markers are commonly included on school-related documents, including test booklets and school ID cards, which can contribute to transgender and nonbinary students' experiences of gender dysphoria and may expose them to victimization related to LGBTQ+ bias.



**For these reasons, it is crucial that K-12 administrative data systems are responsive to the safety and wellbeing needs of transgender and nonbinary students.** As of February 2022, at least thirteen SEAs allow for reporting of nonbinary gender identity data for students.<sup>80</sup> The 2021-2022 proposed CRDC includes a measure of nonbinary gender identity that schools and LEAs can use to accurately report gender identity data on nonbinary students if the proposed collection is approved. In subsequent administrations of the CRDC, schools and LEAs that use a nonbinary gender identity measure will disaggregate most reported data by male-female-nonbinary.<sup>81</sup>

The collection and analysis of data that accurately reflect students' gender identities is a benefit of K-12 data systems that are responsive to the safety and wellbeing needs of transgender and nonbinary students. However, LGBTQ+ inclusive surveys are needed for more nuanced and comprehensive data on the identities and experiences of LGBTQ+ students in K-12 schools (see Section 2 for details and recommendations).

Significant barriers remain to making K-12 administrative data systems more inclusive and responsive to the safety and wellbeing needs of transgender and nonbinary students. For example, many K-12 information systems vendors have coded gender identity as a binary category with male and female as the only options. Updated software can address this barrier however supportive policies and technical assistance are needed to ensure student safety and the privacy of student data. Because parents or guardians typically are able to access their child's student records, strong federal or state protections for vulnerable students will best support LGBTQ+ administrative data inclusion. Education agencies must center the safety and wellbeing of transgender and nonbinary students, including ensuring students are not outed through policies or practices related to K-12 administrative data systems.

The following sections detail GLSEN's recommendations regarding policies, technical assistance, and privacy protections to advance intersectional equity through K-12 administrative data collection.

## **Federal Recommendations on Administrative Data Collection**

The federal government has an important role to play in supporting LGBTQ+ data inclusion in K-12 administrative data collection and the implementation of K-12 information systems that are more inclusive and responsive to the safety and wellbeing needs of transgender and nonbinary students.

### **Recommendation: USED should further strengthen the CRDC to support nondiscrimination protections for LGBTQ+ students**

As proposed, the 2021-2022 CRDC collects data on allegations of harassment or bullying based on sexual orientation and gender identity separately and under the broader category of harassment or bullying based on sex, which also encompasses sexual harassment, harassment or bullying based on variations in sex characteristics, and other forms of sex-based harassment or bullying. However, on the proposed CRDC, data on confirmed incidents — including the number of students who victims of, or were disciplined for, harassment or bullying on the basis of sexual orientation or gender identity — will only be collected under the broader category of harassment or bullying based on sex.

Unlike data on allegations, data on incidents are disaggregated by race and gender identity, including nonbinary where available. Without separate data on incidents of different subcategories of harassment or bullying based on sex, USED OCR and researchers who work with CRDC data will be unable to analyze the impact of different subcategories of sex-based harassment on distinct student populations, including young people of color, young people with disabilities, and nonbinary young people.

The CRDC is a critical source of data on disparities that can help surface discriminatory school practices. GLSEN's NSCS research indicates that school or staff responses to bias-related harassment or bullying play a role in fostering school climates that are hostile to LGBTQ+ students. For example, among LGBTQ+ students who said they reported being harassed or bullied to school staff, more than three in five (60.5%) said that staff did nothing or told the student to ignore it.<sup>82</sup> More than one in five (20.8%) were told to change their behavior by, for example, changing the way they dressed.<sup>83</sup> For these reasons, it is essential the CRDC collects data on incidents of harassment or bullying based on sexual orientation or gender identity. Additional recommendations are available in GLSEN's public comment on the proposed 2021-2022 CRDC.<sup>84</sup>

### **Recommendation: USED should allow for a nonbinary gender identity category to be used when reporting gender data from student or personnel records**

As discussed above, USED requires that data on student enrollment, academic performance, and other educational experiences and activities disaggregated by gender, including through the CRDC and in compliance with ESSA. At least thirteen SEAs allow for the reporting of nonbinary gender identity data and the proposed 2021-2022 CRDC includes a nonbinary gender category.

The absence of a nonbinary gender category in federal collections has led to burdensome data reporting that is known to be inaccurate. For example, schools and LEAs that use a nonbinary gender category have been instructed to report nonbinary students as “either male or female... mak[ing] the determination as best it can.”<sup>85</sup> USED should allow for a nonbinary gender category to be used when schools, LEAs, and SEAs report gender identity data from student or personnel records, including through the ED Facts Submission System (ESS)<sup>86</sup> and the NAEP.<sup>87</sup>

### **Recommendation: USED should provide guidance and instructions on collecting and reporting data on gender identity**

In adopting ESSA, Congress stated “the responsibility to protect students’ personally identifiable information is more important than ever,” and “[t]he Secretary has the responsibility to ensure every entity that receives funding under this Act holds any personally identifiable information in strict confidence.”<sup>88</sup> USED’s Office of Civil Rights (USED OCR) has previously recognized that certain name and gender-related information may be sensitive and protected by the Family Education Rights and Privacy Act (FERPA) and Title IX.<sup>89</sup> Additional guidance is needed on protections for transgender and nonbinary students as they relate to K-12 administrative data collection and student information systems.

Instructions for data collections involving student records or school personnel records should clearly state that an individual’s self-reported gender identity is appropriate and recommended for the purpose of the collection. USED guidance on reporting requirements under ESSA, such as Opportunities and Responsibilities for State and Local Report Cards, should be updated to communicate the same.<sup>90</sup>

## **State and Local Recommendations on Administrative Data Collection**

Some SEAs and LEAs have led the way in making K-12 administrative data collection more inclusive and responsive to the safety and wellbeing needs of transgender and nonbinary students. For example, in 2019, Montgomery County Public Schools in Maryland requested permission to use an “X” gender marker for nonbinary students and received approval from their SEA.<sup>91</sup> In 2021, Illinois passed a law requiring the collection of sexual orientation and gender identity data by state agencies, including the Illinois State Board of Education (ISBE), when other demographic data is collected.<sup>92</sup>

### **Recommendation: SEAs should provide technical assistance to schools and LEAs in reporting data related to harassment or bullying based on sexual orientation and gender identity**

As discussed above, schools and LEAs have a responsibility to report data on harassment or bullying based on sex — including based on sexual orientation and based on gender identity — to USED through the CRDC. In some states, schools report and collect this data in compliance with state anti-bullying laws and regulations.<sup>93</sup> SEAs should provide technical assistance to schools and LEAs to support the identification and accurate reporting of data on harassment or bullying related to LGBTQ+ bias.

### **Recommendation: SEAs should issue guidance to LEAs on nondiscrimination and privacy protections for LGBTQ+ students as they relate to K-12 administrative data**

Under Title IX of the Education Amendments of 1972, harassment or bullying based on sex — including harassment or bullying based on sexual orientation and gender identity — is prohibited in federally funded educational programs.<sup>94</sup> Student information systems and related policies and procedures that do not allow for the use of a student’s name or pronouns may be in violation of Title IX to the extent they contribute to the unlawful harassment of transgender and

nonbinary students.<sup>95</sup> State nondiscrimination laws may provide additional nondiscrimination protections related to students' records.<sup>96</sup>

FERPA protects information contained in student records from disclosure without a student or parent or guardian's consent in most circumstances, including information about a student's sexual orientation and gender identity (as well as related medical history or current or former legal name).<sup>97</sup> State laws may provide additional privacy protections related to the student records of transgender and nonbinary students. Failure to protect student privacy can lead to unlawful harassment or bullying, for example, if a student is outed as transgender and subsequently subjected to harassment or bullying based on their gender identity.

SEAs should issue guidance clarifying responsibilities and best practices related to nondiscrimination and privacy protections for LGBTQ+ students in K-12 information systems. For example, ISBE issued guidance to schools and LEAs clarifying responsibilities under the Illinois Human Rights Act, the Illinois School Student Records Act, Title IX, and FERPA, clearly stating that "schools may not require a legal name change or change of a gender marker on a birth certificate... before updating most school records to properly reflect the student's identity." ISBE's guidance also outlines best practices for ensuring that transgender and nonbinary students are addressed by their names and pronouns, including that schools survey students annually to ask how they wish to identify themselves; remove gender markers from school records, except where required by law and, in these cases, record this information in a separate, confidential file; and contract with student information system vendors that provide inclusive options for self-reported name and gender.<sup>98</sup>

GLSEN's resource, **Nondiscrimination Protections and Inclusion of LGBTQ+ Students in K-12 Learning Communities: Recommendations for State Education Agencies**, includes recommended components of guidance on nondiscrimination and privacy protections for LGBTQ+ young people, and particularly transgender and nonbinary students, as they relate to K-12 information systems.

SEAs can use ESSA Title II-A funds to strengthen or develop training "on the appropriate use of student data to ensure that individual student privacy is protected" under FERPA and state student privacy laws.<sup>99</sup> Additional training and technical assistance can be supported by ESSA Title I-A, II-A, and IV-A funds.<sup>100</sup>

**Recommendation: LEAs should adopt and implement information systems and related policies and procedures that support safe, inclusive schools and enforcement of nondiscrimination and privacy protections**

LEAs may need to update student and other school information systems, procedures, or training on processes for correcting and maintaining separate, confidential records of sensitive information in cases where a school is required to report a legal name or legal sex that differs from a student's or educator's self-reported name and gender identity.

GLSEN's **Model Local Education Agency Policy on Transgender and Nonbinary Students**, created in partnership with the National Center for Transgender Equality, includes sample policies on transgender and nonbinary students that ensure student privacy and promote the wellbeing and inclusion of transgender and nonbinary young people.

ESSA Title IV-A funds may support improvements to student and other school information systems.<sup>101</sup> LEAs can use ESSA funding, including under Titles II-A and IV-A, to develop and implement policies and procedures related to school information systems that support safe, inclusive schools for LGBTQ+ young people and particularly those who are transgender and nonbinary.<sup>102</sup>



## 4 Conclusion

LGBTQ+ data inclusion is essential to ensuring all students have access to safe and inclusive schools and advancing intersectional equity in K-12 education systems. GLSEN can assist education agencies in implementing more inclusive data collection practices, supportive policies, and evidence-based programs in which all students can thrive and reach their full potential. For questions or additional information, please contact [policy@glsen.org](mailto:policy@glsen.org).

### GLSEN Resources

#### Research Institute Resources

- [Considerations for Measuring Sexual Orientation and Gender Identity in Surveys of Secondary School Students](#)
- [National School Climate Survey](#)
- [Improving School Climate for Transgender and Nonbinary Youth](#)
- [LGBTQ-Inclusive and Supportive Teaching: The Experiences of LGBTQ and non-LGBTQ Educators](#)
- [State-By-State Research: 2019 State Snapshots from the National School Climate Survey](#)

#### State and Local Policy Development Resources

- [States' Use of ESSA to Advance LGBTQ+ Equity](#)
- [Nondiscrimination Protections and Inclusion of LGBTQ+ Students in K-12 Learning Communities: Recommendations for State Education Agencies](#)
- [Model Local Education Agency Policy on Transgender and Nonbinary Students](#)

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## 5 Notes

- <sup>1</sup> “Two-Spirit” is a contemporary umbrella term used by Native American LGBTQ+ communities that refers to the historical and current First Nations people whose individual spirits were and are a blend of female and male spirits. See: Edmo, Se-ah-dom and Aaron Ridings, editors. (2017). Tribal Equity Toolkit 3.0: Tribal Resolutions and Codes to Support Two Spirit & LGBT Justice in Indian Country. <https://www.thetaskforce.org/tribal-equity-toolkit-3-0/> (Accessed May 3, 2022).
- <sup>2</sup> “Intersex” is an umbrella term describing individuals born with variations in internal or external sex characteristics. For example, an intersex person may have variations in their chromosomes or genitals. See: interact: Advocates for Intersex Youth. (N.D.). Intersex Definitions. <https://interactadvocates.org/intersex-definitions/> (Accessed May 3, 2022).
- <sup>3</sup> National Academies of Sciences, Engineering, and Medicine. (2020). Understanding the Wellbeing of LGBTQI+ Populations. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25877> (Accessed May 3, 2022).
- <sup>4</sup> National Academies of Sciences, Engineering, and Medicine. (2022). Measuring Sex, Gender Identity, and Sexual Orientation. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26424> (Accessed May 3, 2022). See also: GLSEN et al. “An Open Letter to Health, Education, Corporate, Government & Other Policy Leaders,” March 9, 2022. <https://cancer-network.org/wp-content/uploads/2022/03/NASEM-Data-Letter.pdf> (Accessed May 3, 2022).
- <sup>5</sup> 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. New York: GLSEN. <https://www.glsen.org/research/2019-national-school-climate-survey> (Accessed May 3, 2022).
- <sup>6</sup> 40.0% of both Black and Asian American/Pacific Islander students, 41.2% of Indigenous students, and 41.6% of Latinx students reported bullying based on both their sexual orientation and their race. See: 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/research/aapi-lgbtq-students> (Accessed May 3, 2022). (p. 17).  
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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/research/native-and-indigenous-lgbtq-students> (Accessed May 3, 2022). (p. 18).
- <sup>7</sup> Johns, M. M., Lowry, R., Haderkhanaj, L. T., Rasberry, C. N., Robin, L., Scales, L., ... & 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. [https://www.cdc.gov/mmwr/volumes/69/su/su6901a3.htm?s\\_cid=su6901a3\\_w](https://www.cdc.gov/mmwr/volumes/69/su/su6901a3.htm?s_cid=su6901a3_w) (Accessed May 3, 2022).  
Johns, M. M., Lowry, R., Andrzejewski, J., Barrios, L. C., Demissie, Z., McManus, T., ... & Underwood, J. M. (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 and Mortality Weekly Report*, 68(3):67–71. DOI: <http://dx.doi.org/10.15585/mmwr.mm6803a3> (Accessed May 3, 2022).
- <sup>8</sup> As of May 1, 2022, 15 states have enacted laws barring transgender youth from participating on the school athletic team or program that aligns with their gender identities. See: GLSEN and TransAthlete. (2022). Gender Affirming and Inclusive Athletics Participation. <https://www.glsen.org/activity/gender-affirming-inclusive-athletics-participation>. States have also introduced bills barring transgender students from using the bathroom or locker room that aligns with their gender identity and one such bill has passed in Alabama. See Alabama HB 322, available at <http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2022RS/PrintFiles/HB322-enr.pdf> (Accessed May 3, 2022).  
Dozens of bills targeting LGBTQ+ inclusive curriculum and other LGBTQ+ inclusive classroom or school practices have been introduced, such as Florida’s “Don’t Say Gay or Trans” bill, which passed in March 2022. See: GLSEN. (2022). GLSEN Navigator: Inclusive Curricular Standards Policies. <https://maps.glsen.org/inclusive-curricular-standards-policies/> (Accessed May 3, 2022).  
See also: Movement Advancement Project. March 2022. Policy Spotlight: Curriculum Censorship & Hostile School Climate Bills. [www.lgbtmap.org/2022-spotlight-school-bills-report](http://www.lgbtmap.org/2022-spotlight-school-bills-report) (Accessed May 3, 2022).
- <sup>9</sup> GLSEN. (2018). Laws that Prohibit the ‘Promotion of Homosexuality’: Impacts and Implications. Available at: <https://www.glsen.org/research/laws-prohibit-promotion-homosexuality-impacts-and-implications> (Accessed May 4, 2022). Note that four states still have so-called “No Promo Homo” laws on the books and new LGBTQ+ censorship bills have been introduced, including Florida’s “Don’t Say Gay or Trans” bill, which passed in March 2022. See: GLSEN. (2022). GLSEN Navigator: Inclusive Curricular Standards Policies. <https://maps.glsen.org/inclusive-curricular-standards-policies/> (Accessed May 3, 2022).
- <sup>10</sup> The Trevor Project. (2022). “Issues Impacting LGBTQ Youth: Polling Analysis.” [https://www.thetrevorproject.org/wp-content/uploads/2022/01/TrevorProject\\_Public1.pdf](https://www.thetrevorproject.org/wp-content/uploads/2022/01/TrevorProject_Public1.pdf) (Accessed May 4, 2022).
- <sup>11</sup> See, e.g., Indiana H.B.1134 (2022), available at <http://iga.in.gov/legislative/2022/bills/house/1134>; Missouri HB 1752 (2022), available at <https://www.house.mo.gov/BillContent.aspx?bill=HB1752&year=2022&code=R%20>.
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- <sup>19</sup> Price, M.N., et al. (2021).The mental health and wellbeing of LGBTQ youth who are intersex.
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- <sup>23</sup> Kosciw, J. G., et al. (2020). The 2019 National School Climate Survey. (pp. 51-54).
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- <sup>25</sup> LGBTQ+ young people are more than twice as likely (120% more likely) to experience homelessness, compared to non-LGBTQ+ young people. See: Voices of Youth Count. (2017). Missed Opportunities: Youth Homelessness in America. Chicago: Chapin Hall at the University of Chicago. <https://voicesofyouthcount.org/wp-content/uploads/2017/11/VoYC-National-Estimates-Brief-Chapin-Hall-2017.pdf>.
- <sup>26</sup> Johns, M. M., et al. (2020). Trends in violence victimization and suicide risk by sexual identity among high school students — Youth Risk Behavior Survey, United States, 2015–2019.
- Johns, M. M., 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.
- <sup>27</sup> Pediatric research indicates that transgender young people can be aware of gender incongruence at young ages. One study found that children who later identified as transgender or gender diverse first recognized their gender identity as “different” at an average age of 8.5 years, but did not disclose such feelings until an average of 10 years later.
- Olson, J., Schragger, S. M., Belzer, M., Simons, L. K., & Clark, L. F. (2015). Baseline physiologic and psychosocial characteristics of transgender youth seeking care for gender dysphoria. *Journal of Adolescent Health*, 57(4), 374-380. Available at <https://publications.aap.org/pediatrics/article/142/4/e20182162/37381/Ensuring-Comprehensive-Care-and-Support-for> (Accessed May 9, 2022).
- See also: Michael Yogman, MD; Rebecca Baum, MD; Thresia B. Gambon, MD; Arthur Lavin, MD; Gerri Mattson, MD; Lawrence Sagin Wissow, MD; Cora Breuner, MD; Elizabeth M. Alderman, MD; Laura K. Grubb, MD; Makia E. Powers, MD; Krishna Upadhyia, MD; Stephenie B. Wallace, MD; Lynn Hunt, MD; Anne Teresa Gearhart, MD; Christopher Harris, MD; Kathryn Melland Lowe, MD; Chadwick Taylor Rodgers, MD; Ilana Michelle Sherer, MD. (2018). Ensuring comprehensive care and support for transgender and gender-diverse children and adolescents. *Pediatrics*, 142(4).
- For resources on supporting transgender children and youth see TransActive Gender Project, Lewis & Clark Graduate School. [https://graduate.lclark.edu/programs/continuing\\_education/transactive/](https://graduate.lclark.edu/programs/continuing_education/transactive/).
- <sup>28</sup> Kosciw, J. G. and Diaz, E. M. (2008). Involved, Invisible, Ignored: The Experiences of Lesbian, Gay, Bisexual and Transgender Parents and Their Children in Our Nation’s K–12 Schools. New York: GLSEN. <https://www.glsen.org/research/involved-invisible-ignored-lgbtq-parents-and-their-children>. (pp.52, 56). While having an LGBTQ+ parent may be associated with an increased likelihood of a student being harassed or bullied because of their own actual or perceived sexual orientation or gender identity, associational harassment or bullying is a distinct form of victimization related to LGBTQ+ bias. Among students who have an LGBTQ+ parent, 37% reported being verbally harassed because of their actual or perceived sexual orientation. Over half of these students reported being verbally harassed both because a parent is LGBTQ+ and because of their sexual orientation, while the remainder reported being verbally harassed only based on their actual or perceived sexual orientation. Nearly one-fifth (19%) of students with an LGBTQ+ parent reported that they were verbally harassed because their parent is LGBTQ+, but not because of their actual or perceived sexual orientation.
- <sup>29</sup> GLSEN and Harris Interactive. (2012). Playgrounds and Prejudice: Elementary School Climate in the United States, A Survey of Students and Teachers. New York: GLSEN. <https://www.glsen.org/research/playgrounds-and-prejudice-lgbtq-issues-elementary-schools> (Accessed May 9, 2022). (pp. 24, 27).
- <sup>30</sup> GLSEN and Harris Interactive. (2012). Playgrounds and Prejudice. (pp. 25).
- <sup>31</sup> GLSEN and Harris Interactive. (2012). Playgrounds and Prejudice. (pp. 45-46).
- <sup>32</sup> GLSEN and Harris Interactive. (2012). Playgrounds and Prejudice. (p. 51).
- <sup>33</sup> GLSEN. (2022). Improving School Climate for Transgender and Nonbinary Youth. <https://www.glsen.org/research/improving-school-climate-transgender-and-nonbinary-youth> (accessed May 2, 2022).
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- <sup>34</sup> GLSEN and Harris Interactive. (2012). Playgrounds and Prejudice.
- <sup>35</sup> Greytak, E.A., Kosciw, J.G., Villenas, C. and 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> (Accessed May 4, 2022).
- GLSEN and Harris Interactive. (2012). Playgrounds and Prejudice.
- <sup>36</sup> 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. <https://www.glsen.org/research/supporting-safe-and-healthy-schools-national-survey-mental-health-providers> (Accessed May 4, 2022).
- <sup>37</sup> Hamburger, M. E., Basile, K. C., & Vivolo, A. M. (2011). Measuring bullying victimization, perpetration, and bystander experiences; a compendium of

assessment tools. <https://www.cdc.gov/violenceprevention/pdf/bullycompendium-a.pdf> (Accessed May 4, 2022). See C4 & D4.

<sup>38</sup> GLSEN et al. (2022). The New National Academies Report and the Importance of LGBTQI Data Inclusion. [https://www.glsen.org/sites/default/files/2022-03/NASEMReportExplainer\\_March2022.pdf](https://www.glsen.org/sites/default/files/2022-03/NASEMReportExplainer_March2022.pdf).

<sup>39</sup> 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>.

<sup>40</sup> National Academies. (2020). Understanding the Wellbeing of LGBTQI+ Populations.

<sup>41</sup> National Academies. (2022). Measuring Sex, Gender Identity, and Sexual Orientation.

<sup>42</sup> Executive Office of the President, "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation," Federal Register 86 (14) (2021): 7023–7025, available at <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01761.pdf>.

<sup>43</sup> CDC. (N.D.). LGBTQ Youth Programs-At-A-Glance. <https://www.cdc.gov/lgbthealth/youth-programs.htm> (Accessed April 5, 2022).

States and localities participating in the YRBS are only required to include two-thirds of the measures on the standard YRBS questionnaire, so it is still possible for participating states and localities to exclude YRBS measures of sexual orientation and gender identity, and some do. See our State and Local Recommendations for LGBTQ+ Survey Data Inclusion for additional details.

<sup>44</sup> Underwood JM, Brener N, Thornton J, et al. Overview and Methods for the Youth Risk Behavior Surveillance System — United States, 2019. MMWR Suppl 2020;69(Suppl-1):1–10. DOI: <http://dx.doi.org/10.15585/mmwr.su6901a1external icon>.

<sup>45</sup> Valant, J and Zerbino, N. "Transgender students' rights shouldn't be subject to partisan feuds," Brookings Institute, September 13, 2021. <https://www.brookings.edu/blog/brown-center-chalkboard/2021/09/13/transgender-student-rights-shouldnt-be-subject-to-partisan-feuds/> (Accessed April 10, 2022).

<sup>46</sup> National Center for Education Statistics. (N.D.). High School & Beyond: 2022: Frequently asked questions. <https://surveys.nces.ed.gov/hsb22/Home/FAQS> (Accessed April 5, 2022).

<sup>47</sup> National Center for Education Statistics, U.S. Department of Education. (2021). "High School and Beyond Longitudinal Study of 2022 (HS&B:22) Base-Year Full-Scale Study Data Collection and First Follow-up Field Test Sampling, Tracking, and Recruitment: Supporting Statement Appendix B," p. 451-453. Available at [https://www.reginfo.gov/public/do/PRAViewIC?ref\\_nbr=202103-1850-009&icID=232997](https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202103-1850-009&icID=232997) (Accessed May 4, 2022).

<sup>48</sup> National Center for Education Statistics. (N.D.). 2020-21 NTPS Questionnaires. <https://nces.ed.gov/surveys/ntps/question2021.asp> (Accessed April 5, 2022).

<sup>49</sup> GLSEN. (2022). Comment on Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Assessment of Educational Progress (NAEP) 2022 Materials Update #3. 87 Federal Register §41. Available at: <https://www.glsen.org/NAEP-surveys>.

<sup>50</sup> GLSEN. (2021). Comment on Agency Information Collection Activities; Proposed Collection Comments Requested; Revision of Currently Approved Collection: 2022 School Crime Supplement (SCS) to the National Crime Victimization Survey (NCVS). 86 Federal Register §172. Available at: <https://www.glsen.org/doj-ncvs-school-crime-supplement-2021>.

<sup>51</sup> U.S. Department of Education. (Sept. 16, 2016). Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments. <https://www2.ed.gov/policy/elsec/leg/essa/guidanceuseinvestment.pdf> (Accessed May 10, 2022).

<sup>52</sup> ESEA § 1111(d)(3)(A)(iii).

<sup>53</sup> ESEA §2103(b)(3)(N), as an LEA "feedback mechanisms to improve school working conditions." ESEA §2101(c)(4)(B)(vii)(III) or ESEA §2103(b)(3)(B)(iv), as part of SEA or LEA "new teacher, principal, or other school leader induction and mentoring programs... [that]... improve classroom instruction and student learning and achievement... and... increase the retention of effective teachers, principals, or other school leaders."

SEAs can provide technical assistance to LEAs in administering surveys of school staff under ESEA §2101(c)(4)(B)(x).

<sup>54</sup> ESEA §2101(c)(4)(B)(xx), ESEA §2103(b)(3)(E)(ii).

<sup>55</sup> ESEA § 4104(b).

<sup>56</sup> National Center on Safe Supportive Learning Environments. ED School Climate Surveys (EDSCLS) National Benchmark Study 2016. "Appendix D: EDSCLS Pilot Test 2015 Report." Available at: [https://safesupportivelearning.ed.gov/sites/default/files/Appendix\\_D\\_2015\\_EDSCLS\\_Pilot\\_Test\\_Report%20%281%29.pdf](https://safesupportivelearning.ed.gov/sites/default/files/Appendix_D_2015_EDSCLS_Pilot_Test_Report%20%281%29.pdf) (Accessed May 18, 2022).

<sup>57</sup> CDC. (N.D.). LGBTQ Youth Programs-At-A-Glance. <https://www.cdc.gov/lgbthealth/youth-programs.htm> (Accessed April 5, 2022).

<sup>58</sup> CDC. (August 2020). YRBS Participation History, Data Quality, and Data Availability. Available at: [https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2019/2019\\_hs\\_participation\\_history.pdf](https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2019/2019_hs_participation_history.pdf) (Accessed April 13, 2022).

<sup>59</sup> CDC. (2020). Table 2. Number of states and local school districts that included at least one of two questions ascertaining sexual minority status and obtained representative data, by year of survey. [https://www.cdc.gov/healthyyouth/data/yrbs/2019\\_tables/included\\_sexual\\_minority\\_status\\_questions.htm](https://www.cdc.gov/healthyyouth/data/yrbs/2019_tables/included_sexual_minority_status_questions.htm). Movement Advancement Project. "Equality Maps: Data Collection." [https://www.lgbtmap.org/equality-maps/data\\_collection](https://www.lgbtmap.org/equality-maps/data_collection). Accessed 02/11/2022.

<sup>60</sup> Valant, J and Zerbino, N. "Transgender students' rights shouldn't be subject to partisan feuds," Brookings Institute, September 13, 2021. <https://www.brookings.edu/blog/brown-center-chalkboard/2021/09/13/transgender-student-rights-shouldnt-be-subject-to-partisan-feuds/>.

<sup>61</sup> Schools identified for Title I-A school improvement grants are required to use all accountability indicators to inform their improvement plans. ESEA §§ 1111 (d)(1)(B)(i), 1111 (d)(2)(B)(i).

<sup>62</sup> At a minimum, SEAs should publish data at the state level on LGBTQ+ secondary students' experiences. Large LEAs may also be able to publish such data.

<sup>63</sup> ESEA § 4104(b). LEAs may fund the development or administration of an LGBTQ+ inclusive school climate survey as part of a Title IV-A program that "helps prevent bullying and harassment" (ESEA §4108(a)(5)(C)(iii)).

<sup>64</sup> ESEA §§ 1111 (d)(3)(A)(iii), 2101 (c)(4)(B)(x), 4104 (b)(1).

<sup>65</sup> ESEA §2103(b)(3)(N), as an LEA "feedback mechanisms to improve school working conditions"

ESEA §2101(c)(4)(B)(vii)(III) or ESEA §2103(b)(3)(B)(iv), as part of SEA or LEA "new teacher, principal, or other school leader induction and mentoring programs... [that]... improve classroom instruction and student learning and achievement... and... increase the retention of effective teachers, principals, or other school leaders."

SEAs can provide technical assistance to LEAs in administering surveys of school staff under ESEA §2101(c)(4)(B)(x).

<sup>66</sup> ESEA §2101(c)(4)(B)(xx), ESEA §2103(b)(3)(E)(ii).

<sup>67</sup> GLSEN. (2020). Supporting LGBTQ Students by Protecting LGBTQ Teachers.

<sup>68</sup> Wright, T. E., & Smith, N. J. (2015, October). A safer place? LGBT educators, school climate, and implications for administrators. In The Educational Forum



(Vol. 79, No. 4, pp. 394-407). Routledge.

<sup>69</sup> *Bostock v. Clayton County, Georgia*, 140 S.Ct. 1731, 1742 (2020).

<sup>70</sup> Memorandum of Principal Deputy Assistant Attorney General Pamela S. Karlan, Civil Rights Division, “Application of *Bostock v. Clayton County* to Title IX of the Education Amendments of 1972” (March 26, 2021).

<sup>71</sup> Sears, B., Mallory, C., Flores, A. R., & Conron, K. J. (2021). *LGBT People’s Experiences of Workplace Discrimination and Harassment*. <https://williamsinstitute.law.ucla.edu/publications/lgbt-workplace-discrimination/>.

<sup>72</sup> ESEA §2103(b)(3)(N), as an LEA “feedback mechanisms to improve school working conditions”

ESEA §2101(c)(4)(B)(vii)(III) or ESEA §2103(b)(3)(B)(iv), as part of SEA or LEA “new teacher, principal, or other school leader induction and mentoring programs... [that]... improve classroom instruction and student learning and achievement... and... increase the retention of effective teachers, principals, or other school leaders.”

SEAs can provide technical assistance to LEAs in administering surveys of school staff under ESEA §2101(c)(4)(B)(x).

<sup>73</sup> Kosciw, J. G. and Diaz, E. M. (2008). *Involved, Invisible, Ignored*. (p. 78).

<sup>74</sup> ESEA §1116(3)(D)(5), as an activity the LEA deems “appropriate and consistent with such agency’s parent and family engagement policy”; ESEA §4108(a)(5)(C)(iii), as part of an LEA program that “helps prevent bullying and harassment”; and ESEA §4108(a)(3), for LEAs to “develop, implement, and evaluate comprehensive programs and activities that... promote the involvement of parents in the activity or program.”

<sup>75</sup> ESEA §4500.

<sup>76</sup> At this time, a relatively small number of federally funded schools are not required to participate in the CRDC, including tribal schools operated by the Department of the Interior’s Bureau of Indian Education, schools operated by the Department of Defense Education Activity, and schools U.S. territories, except Puerto Rico, which is treated as a state under ESSA. See: U.S. Department of Education, Office of Civil Rights. (N.D.) Civil Rights Data Collection (CRDC): Frequently Asked Questions. <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/crdc.html> (Accessed March 11, 2022).

<sup>77</sup> GLSEN. (April 2020). *Model State Anti-Bullying and Harassment Legislation*. <https://www.glsen.org/activity/model-state-anti-bullying-harassment-legislation> (Accessed May 4, 2022).

GLSEN. (2022). *GLSEN Navigator: Enumerated Anti-Bullying and Harassment Policies*. Available at: <https://maps.glsen.org/enumerated-anti-bullying-and-harassment-policies/> (Accessed May 4, 2022).

<sup>78</sup> U.S. Department of Education, Office of Civil Rights. (December 7, 2021). *Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection: Supporting Statement A*. Available at <https://www.regulations.gov/document/ED-2021-SCC-0158-0042>.

If the proposed new measures are not approved, allegations of harassment or bullying should still be reported under the broader category of harassment or bullying based on sex.

<sup>79</sup> The CRDC uses the term “Sex (Membership)” to refer to its measure of gender. See: U.S. Department of Education, Office of Civil Rights. (December 7, 2021). *Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection, “Attachment A-2: Data Groups for Civil Rights Data Collection for School Year 2021–22.”* Available at <https://www.regulations.gov/document/ED-2021-SCC-0158-0043>.

ESSA uses the term “gender,” which is not defined. See: ESEA §1111(b)(2)(B)(xi)(V).

<sup>80</sup> The 13 SEAs represent California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, New Jersey, New Mexico, Oregon, Pennsylvania, Utah, Virginia, and Washington. See:

U.S. Department of Education, Office of Civil Rights. (December 7, 2021). *Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection: Supporting Statement A*. Available at <https://www.regulations.gov/document/ED-2021-SCC-0158-0042>.

Pennsylvania Information Management System. (2021). *User Manual, Vol. 1*. Available at <https://www.education.pa.gov/DataAndReporting/PIMS/ManualsCalendar/Pages/default.aspx>.

Washington Office of Superintendent of Public Education. (2021). *Comprehensive Education Data and Research System (CEDARS) Data Manual*. Available at: <https://www.k12.wa.us/data-reporting/reporting/cedars#dexp-accordion-item> (Accessed May 3, 2022).

<sup>81</sup> If the proposed 2021-2022 CRDC is approved, schools and LEAs that use a nonbinary gender category can opt to report other data disaggregated by male-female-nonbinary, but are not required to do so until subsequent administrations of the CRDC. See: U.S. Department of Education, Office of Civil Rights. (December 7, 2021). *Agency Information Collection Activities; Comment Request; Mandatory Civil Rights Data Collection: Supporting Statement A*. Available at <https://www.regulations.gov/document/ED-2021-SCC-0158-0042>.

<sup>82</sup> Kosciw, J.G. et al. (2020). *The 2019 National School Climate Survey*. <https://www.glsen.org/research/2019-national-school-climate-survey>. (pp. 34-35).

<sup>83</sup> Kosciw, J.G. et al. (2020). *The 2019 National School Climate Survey*. <https://www.glsen.org/research/2019-national-school-climate-survey>. (pp. 34-35).

<sup>84</sup> GLSEN et al. (February 11, 2022). *Comment on Mandatory Civil Rights Data Collection*. Available at <https://www.glsen.org/activity/civil-rights-data-collection-and-lgbtq-youth>.

<sup>85</sup> See: GLSEN. (2021). *Comment on U.S. Department of Education Agency Information Collection Activities; Comment Request; 21st Century Community Learning Centers Annual Performance Report*. 86 Fed. Reg. 133. Available at <https://www.glsen.org/21st-Century-Community-Learning-Center-LGBTQ-Inclusive-Data>.

GLSEN commends the Department for revising this collection to provide an alternative to binary coding for nonbinary students.

<sup>86</sup> GLSEN. (2022). *Comment on Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; EDFacts Data Collection School Years 2022-23, 2023-24, and 2024-25 (With 2021-22 Continuation)*. Available at: <https://www.glsen.org/EDFacts>.

<sup>87</sup> GLSEN. (2022). *Comment on Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Assessment of Educational Progress (NAEP) 2022 Materials Update #3.87 Federal Register §41*. Available at: <https://www.glsen.org/NAEP-surveys>.

<sup>88</sup> ESEA § 8545.

<sup>89</sup> 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>.

<sup>90</sup> ESSA requires that certain data be disaggregated by gender, but does not define gender (ESEA §1111(b)(2)(B)(xi)(V)).

<sup>91</sup> Peetz, C. “MCPS Offers New Option for Classifying Student Gender,” *Bethesda Magazine*, August 23, 2019. <https://bethesdamagazine.com/bethesda-beat/schools/mcps-offers-new-option-for-classifying-student-gender/>.

<sup>92</sup> Illinois SB 2133 (2021). <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0543>.

- <sup>93</sup> GLSEN. (April 2020). Model State Anti-Bullying and Harassment Legislation. <https://www.glsen.org/activity/model-state-anti-bullying-harassment-legislation> (Accessed May 4, 2022).  
 GLSEN. (2022). GLSEN Navigator: Enumerated Anti-Bullying and Harassment Policies. Available at: <https://maps.glsen.org/enumerated-anti-bullying-and-harassment-policies/> (Accessed May 4, 2022).
- <sup>94</sup> U.S. Department of Education, Office of Civil Rights. (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. 86 Fed. Reg. 86 no. §117. <https://www.govinfo.gov/content/pkg/FR-2021-06-22/pdf/2021-13058.pdf>.
- <sup>95</sup> U.S. Department of Education, Office for Civil Rights and U.S. Department of Justice, Office of Civil Rights. (2021). Confronting Anti-LGBTQI+ Harassment in Schools: A Resource for Students and Families. <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-tix-202106.pdf>.
- <sup>96</sup> GLSEN. (2022). GLSEN Navigator: Student Nondiscrimination Policies. Available at: <https://maps.glsen.org/student-nondiscrimination-policies/> (Accessed May 4, 2022).
- <sup>97</sup> U.S. Department of Education. (2021). Family Educational Rights and Privacy Act (FERPA). Available at <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html> (Accessed May 3, 2022).
- <sup>98</sup> Illinois State Board of Education. (2020). Non-Regulatory Guidance: Supporting Transgender, Nonbinary, and Gender-Nonconforming Students. <https://www.isbe.net/Documents/ISBE-Guidance-Supporting-Transgender-Nonbinary-Gender-Nonconforming-Students.pdf> (Accessed April 6, 2022).
- <sup>99</sup> ESEA §§ 2101 (c)(4)(B)(xx).
- <sup>100</sup> ESEA §§ 1111 (d)(3)(A)(iii), 2101 (c)(4)(B)(x), 4104 (b)(1).
- <sup>101</sup> ESEA §§ 4109 (a)(2).
- <sup>102</sup> Policy development can be supported under ESEA § 4107 (a)(3)(J), as an LEA activity that supports equitable access to educational opportunities, and under ESEA § 4108 (2), as an LEA activity that fosters safe, healthy, and supportive environments for all students. LEAs can provide training to ensure individual student privacy is protected, as required by FEPPA and applicable state and local policies and laws, under ESEA § 2103 (b)(3)(E)(ii).

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