



**Model Local Education
Agency Policies on
Implementing Title IX
and other Federal
Nondiscrimination
Protections for
LGBTQIA2S+ Young
People in K-12 Schools**

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Introduction

This document presents Model Local Education Agency (LEA) Policies on Implementing Title IX and other Federal Nondiscrimination Protections for LGBTQIA2S+ Young People in K-12 Schools, outlining model policies to comply with federal laws and best practices for schools to ensure that all students are safe, included, and respected in school, regardless of sex characteristics, sexual orientation, or gender identity. Approximately 2 million youth aged 13 to 17 in the United States identify as LGBTQIA2S+,¹ including an estimated 300,100 who identify as transgender.² LGBTQIA2S+ students have the same innate aspirations and ability to thrive as all other youth, but many are not meeting this potential due to stigma and discrimination. These disparities are particularly stark for LGBTQIA2S+ students who are transgender, nonbinary, and gender non-conforming; Black, Indigenous, and people of color (BIPOC); and/or students with disabilities. Recent updates to Title IX work in concert with federal nondiscrimination laws to address these disparities and advance racial, gender, and disability justice in school settings. Schools are responsible not only for intervening in peer bullying, harassment, and violence, but for ensuring their own policies and practices do not discriminate, and taking proactive steps to reduce victimization, an essential first step to addressing educational inequities.

The purpose of this Model Policy is:

1. *to foster an educational environment that is safe, welcoming, and free from stigma and discrimination for all students, regardless of race, sex, sex stereotypes, sex characteristics, sexual orientation, gender identity, or disability,*
2. *to facilitate compliance with federal, state, and local laws and best practices concerning bullying, harassment, privacy, discrimination, and restorative justice approaches to school discipline, and*
3. *to ensure that all students have the opportunity to express themselves and live authentically.*

The Model Policy presents policy objectives, key points, and alternatives to consider when creating LEA or school policy. It is important that LEAs adopt federal and state standards, particularly Title IX federal Civil Rights obligations. The Model Policy was developed by examining LEA policies from various states, reviewing guidance provided by states and the federal government, and consulting with educators and school administrators to identify best practices for a national context. The Model Policy has been constructed so that LEAs can easily find language that will work in your LEA while aligning with federal standards for nondiscrimination.

While federal protections create a floor, many states and the District of Columbia have specific state laws that may be applicable to this Model Policy. Many elements of this Model Policy may be explicitly incorporated in policies or regulations implementing these state laws. Some state and local governments may have enacted laws that seek to restrict or undermine the rights of LGBTQIA2S+ students, including efforts to permit parents,

¹ Kerith J. Conron, "LGBT Youth Population in the United States," The Williams Institute, UCLA School of Law (September 2020), <https://williamsinstitute.law.ucla.edu/publications/lgbt-youth-pop-us/>.

² Jody L. Herman, Andrew R. Flores, and Kathryn K. O'Neill, "How many adults and youth identify as transgender in the United States?" How Many Adults and Youth Identify as Transgender in the United States? The Williams Institute, UCLA School of Law (2022), <https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/>.

educators, or other adults to infringe on a student's rights. Federal law — including Title IX — preempts state law, and many state or local policies inconsistent with Title IX are likely to be challenged in court settings.

While this document provides a starting place to create an LEA policy pertaining to LGBTQIA2S+ young people and communities in your LEA, the language should be modified to address state laws and existing LEA policies. For technical assistance, please contact GLSEN's Public Policy Department at policy@glsen.org.

GLSEN is a multi-racial, intergenerational LGBTQIA2S+ organization working nationally and locally to transform K-12 educational systems in the United States. Each year, GLSEN programs and resources reach millions of students and educators in K-12 schools, via action at the national, state, and local level. GLSEN works to build safe and affirming learning environments for LGBTQIA2S+ youth while advancing racial, gender, and disability justice in education settings.

Definitions

These definitions are provided to assist in understanding the language used to identify the students impacted by the proposed policy language in this Model Policy and the legal obligations of school and LEA personnel. Young people in K-12 schools may or may not use these terms to describe themselves or their experiences.

Note on terminology:

LGBTQIA2S+ (Lesbian, Gay, Bisexual, Transgender and/or gender expansive, Queer and/or Questioning, Intersex, Asexual, and Two-Spirit) youth use a number of words to describe their lives and experiences. To list just a few examples, these students may refer to themselves as gay, lesbian, bisexual, queer, trans, intersex, transgender, male-to-female (MTF), female-to-male (FTM), genderqueer, nonbinary, gender fluid, Two-Spirit, trans boy, trans girl, and a variety of other terms. Terminology and language describing LGBTQIA2S+ individuals can differ based on region, language, race or ethnicity, age, culture, and many other factors. Generally speaking, school staff and educators should employ those terms students use to describe themselves and avoid terms that make students uncomfortable. Additionally, we note that there may be some overlap between definitions of discrimination, harassment, and bullying. While actions which are considered bullying may also be harassment, harassment and discrimination arise when the actions against a person are influenced by that person's protected class.

BIPOC

This is an acronym for Black, Indigenous, and People of Color. It acknowledges the specific histories of Black and African American, Latino/a/x, Asian, Asian American, and Pacific Islanders (API), and Native and Indigenous people within the United States without collapsing them into a homogenous category of people of color.

Bullying

Bullying is a form of conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities by placing the student(s) in fear of physical, psychological, social, or educational harm. This can include, but is not limited to, conduct based on a student's actual or perceived race, color, national origin, sex, disability status, sexual orientation, gender identity or expression, ethnicity,

religion, or association with a person or group with one or more of these actual or perceived characteristics. Bullying can be verbal, physical, written or electronic communication.

Cisgender

An adjective an individual whose gender identity and expression corresponds to their sex assigned at birth. The majority of people are cisgender, while a minority are transgender. For example, a cisgender woman was assigned female at birth and identifies as female.

Cyberbullying

Cyberbullying is the use of any electronic communication technology to bully or harass, as defined above, regardless of the location (on or off of school premises) or type of communication used.

Discrimination

Discrimination is the unfair or prejudicial treatment of students based on characteristics such as race, disability, religion, national origin, or sex. Sex discrimination includes discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Discrimination takes three forms: different/disparate treatment, harassment, and retaliation.

Gender Affirmation/Transition

This refers to the process in which transgender and non-binary people begin to live according to and affirm their gender identity. Transitioning is a process that is different for everyone, and it may or may not involve specific medical treatments, use of a different name or pronouns that affirm their identity, changing their personal style including the way they dress or their hair, or changes to official documents. There is no one step or set of steps that an individual must undergo in order to have their gender identity affirmed and respected.

Gender Expression

The external presentation of one's gender identity, usually through behavior, clothing, and body characteristics. Expression of gender, whether through hair styles, makeup, or personal fashion, changes over the course of a person's lifetime. One's gender expression may or may not align with society's expectations of gender expression associated with the sex they were assigned at birth.

Gender Identity

A person's innermost concept as male, female, or a blend of both or neither; how individuals perceive themselves and what they call themselves. One's gender identity may or may not align with society's expectations of gender associated with the sex they were assigned at birth.

Gender Nonconforming/Gender Expansive

A term sometimes used to describe people whose gender expression differs from social expectations, such as "feminine boys," "masculine girls," and people who are perceived as androgynous in some way. Being gender nonconforming is distinct from being transgender (though some trans people may consider themselves to be gender nonconforming). For example, a cisgender woman who has short hair and likes sports might consider herself gender nonconforming, but may not identify as transgender.

Harassment

Harassment is a form of discriminatory conduct that demeans, humiliates, or intimidates a person and adversely affects the ability of one or more students to participate in or benefit from a school's educational programs or activities. This can include conduct directed by one student towards another student, on the basis of a student's actual or perceived race, color, national origin, sex, disability status, sexual orientation, gender identity, ethnicity, religion, or any other distinguishing characteristics or is based on association with a person or group with any person with one or more of the actual or perceived characteristics listed here. Harassment can be verbal, physical, written or electronic communication, and includes consistent and intentional misgendering and/or deadnaming.³

Intersex

An adjective describing a person who has innate variations in bodily traits (such as genitals, reproductive organs, hormone function, or chromosomes) that don't fit typical expectations of male or female bodies. Regardless of their physical traits, intersex people have almost always been assigned either male or female at birth due to U.S. social norms and birth certificate practices; some intersex people experience nonconsensual surgeries in infancy or early childhood to enforce that sex assignment. Intersex people may be cisgender, transgender, and/or nonbinary, and may have any sexual orientation.

LGBTQIA2S+

This acronym used in this resource stands for Lesbian, Gay, Bisexual, Transgender, Questioning and/or Queer, Intersex, Asexual and Two-Spirit.

Nonbinary

An adjective used to refer to people whose gender identity is not exclusively male or female, including those who identify with a different gender, a combination of genders, or no gender. Some nonbinary people may consider their identity to be a subset of the transgender identity, or a distinct identity entirely. There are other similar or more specific terms that people may use to describe their gender identity as neither male nor female, including genderqueer, gender fluid, agender, or Two-Spirit (for Native American/American Indian/Indigenous students).

Sexual Orientation

A person's romantic and/or sexual attraction to other people. This includes being straight, gay, bisexual, queer, asexual, or many other terms used to describe sexual orientation. This is different and distinct from gender identity. Transgender and nonbinary people may be straight, gay, lesbian, asexual, or any other sexual orientation.

Transgender/Trans

An adjective describing a person whose gender identity or expression differs from the sex they were assigned at birth. A trans woman is a woman whose sex was assigned male when she was born. A trans man is a man whose sex was assigned female when he was born. Some transgender people are not male or female, and may use terms like nonbinary to describe their gender (see below).

³ A *deadname* is "the name that a transgender person was given at birth and no longer uses upon transitioning." Source: "Deadname." Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/deadname>. Accessed 1 Nov. 2023.

Overview: Nondiscrimination and Equal Educational Opportunity Protections

Title IX Prohibits Discrimination, Harassment, Bullying, and Other Forms of Victimization Based on Sex, including Sexual Orientation, Gender Identity, Sex Stereotypes, and Sex Characteristics

Title IX of the Education Amendments of 1972 is a federal Civil Rights law that prohibits discrimination based on sex in federally funded education institutions. The U.S. Department of Education (ED) is the federal agency primarily responsible for enforcing Title IX. ED has provided guidance dating back to 1997 stating that sexual harassment directed against gay and lesbian students could violate Title IX. The U.S. Supreme Court’s decision in *Bostock v. Clayton County* in June 2020 established that discrimination based on being LGBTQIA2S+ is prohibited under Title VII.⁴ In *Bostock*, the U.S. Supreme Court ruled that discrimination on the basis of sex inherently includes discrimination on the basis of sexual orientation, transgender status, and gender identity. Although Title VII (employment-related discrimination) and Title IX (education-related discrimination) are two distinct statutes, their statutory prohibitions against sex discrimination are very similar and federal courts have historically relied upon Title VII jurisprudence when interpreting and applying Title IX.⁵ As such, following the Supreme Court’s *Bostock* decision, federal courts began applying the reasoning of *Bostock* to Title IX claims to hold that Title IX’s bar on sex-based discrimination included discrimination on the basis of sexual orientation, sex stereotypes, and transgender status.⁶

ED’s Office for Civil Rights (OCR) subsequently issued guidance in 2021 explicitly acknowledging that the Court’s decision in *Bostock* applies to students in schools as well as in workplace settings and stated that “OCR will fully enforce Title IX to prohibit discrimination based on sexual orientation and gender identity.”⁷ OCR has also prepared several resources and fact sheets to assist recipients of federal funds, primarily State Education Agencies (SEAs) and Local Education Agencies (LEAs), to help educators understand and comply with the law, as well as provide information on rights under Title IX to students, parents, and others in K-12 learning communities. GLSEN provides this information in our Know Your Rights resource for LGBTQIA2S+ students⁸ and educators,⁹ as well as a Claim Your Rights resource¹⁰ that outlines the process for submitting a

⁴ *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020).

⁵ See, e.g., *N. Haven Bd. of Ed. v. Bell*, 456 U.S. 512, 546 (1982); see also U.S. Dept of Justice Civil Rights Division “Title IX Legal Manual,” at chapters 1 and IV.

⁶ See, e.g., *Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586, 616-17 (4th Cir. 2020) (“Although *Bostock* interprets [Title VII], it guides our evaluation of claims under Title IX.”), *as amended* (Aug. 28, 2020), *reh’g en banc denied*, 976 F. 3d 399 (4th Cir. 2020), cert. denied, No. 20-1163 (June 28, 2021); *B.P.J. v. W. Virginia State Bd. of Educ.*, No. 2:21-CV-00316, 2021 WL 3081883, at *7 (S.D.W. Va. July 21, 2021); *Koenke v. Saint Joseph’s Univ.*, No. CV 19-4731, 2021 WL 75778, at *2 (E.D. Pa. Jan. 8, 2021); *Doe v. Univ. of Scranton*, No. 3:19-CV-01486, 2020 WL 5993766, at *11 n.61 (M.D. Pa. Oct. 9, 2020). Even before *Bostock* was decided, federal courts had relied upon their own Title VII jurisprudence to conclude that transgender students were protected under Title IX. See *Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1049-50 (7th Cir. 2017); *Dodds v. U.S. Dep’t of Educ.*, 845 F.3d 217, 221-22 (6th Cir. 2016) (*per curiam*).

⁷ See US Department of Education. “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*.” (2021). <https://www2.ed.gov/about/offices/list/ocr/docs/202106-titleix-noi.pdf>.

⁸ GLSEN, ACLU, NWLC, Human Rights Campaign, PFLAG, NCLR, NCTE, InterACT. “LGBTQ+ Students Rights.” Accessible at: <https://www.glsen.org/activity/lgbtq-student-rights>

⁹ GLSEN, ACLU, NWLC, Human Rights Campaign, PFLAG, NCLR, NCTE, InterACT. “LGBTQ+ Educator Rights.” Accessible at: <https://www.glsen.org/activity/lgbtq-educator-rights>

¹⁰ GLSEN, ACLU, NWLC, Human Rights Campaign, PFLAG, NCLR, NCTE, InterACT. “Claim Your Rights.” Accessible at: <https://www.glsen.org/activity/claim-your-rights-pflag>

discrimination, bullying, and/or harassment complaint to OCR. Also in 2021, the U.S. Department of Justice updated its *Title IX Legal Manual* to state that: “The Bostock holding applies with equal force to discrimination on the ground of intersex traits.”¹¹

In April 2024, ED issued final Title IX regulations that expressly prohibit sex discrimination, including discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.¹² These regulations also clarify that preventing transgender students from accessing sex-separated facilities or participating in lawfully sex-separated activities consistent with their gender identity causes substantial harm and is therefore prohibited

under Title IX.¹³ The regulation also requires schools to address all types of sex-based harassment, which will ensure that schools can take proactive measures to remedy verbal and physical harassment against LGBTQI+ youth. In addition, the regulation strengthens grievance processes for students who submit complaints of sex-based harassment and other sex discrimination, and requires schools to offer supportive measures for victims of harassment or discrimination. Recent updates to Title IX also work in concert with federal nondiscrimination and other civil rights laws to provide protections on the basis of race, ethnicity, disability, and other protected characteristics in school settings.

Other Federal Protections: Equal Access Act, FERPA

Constitutional Protections

The Equal Protection Clause of the U.S. Constitution also prohibits sex-based discrimination. ED has the authority to investigate and resolve complaints that federally funded schools are depriving students of equal protection based on sex (including sexual orientation, gender identity, sex characteristics, sex stereotypes, and pregnancy or related conditions). The U.S. Department of Justice (DOJ) has the authority to initiate civil action in court and may intervene in cases of general public importance involving alleged denials of the “equal protection of the laws under the Fourteenth Amendment to the Constitution.”¹⁴ The Equal Protection Clause applies to SEAs, LEAs, and all publicly funded schools. Even one of the dissenting opinions in *Bostock* recognized that the logical consequence of the Supreme Court’s *Bostock* decision was that it would be difficult for a public entity to justify discrimination based on sexual orientation or gender identity under the federal Constitution.¹⁵

¹¹ U.S. Department of Justice, Title IX Legal Manual, <https://www.justice.gov/crt/title-ix#Bostock>

¹² U.S. Department of Education, Office for Civil Rights. Final Rule: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (Apr. 19, 2024), at § 106.10, p. 1522 <https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf>.

¹³ *Id.* at § 106.31, p. 1524

¹⁴ 42 U.S.C. 2000c-6; 28 U.S.C. § 517 (“[t]he Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.”)

¹⁵ See, *Bostock*, 140 S. Ct. at 1783 (Alito, J., dissenting) (Justice Alito’s dissenting opinion in *Bostock*: “By equating discrimination because of sexual orientation or gender identity with discrimination because of sex, the Court’s decision will be cited as a ground for subjecting all three forms of discrimination to the same exacting standard of review.”); see also *id.* at 1778-1783 (citing transgender students’ rights, namely access to bathrooms, locker rooms, and sports, among the “potential consequences of the Court’s decision.”)

The Equal Access Act

The Equal Access Act (EAA) requires public secondary schools to treat all student groups equally, regardless of the religious, political, philosophical, or other organizing principle(s).¹⁶ As explained in guidance issued by ED, the EAA’s “protections apply to groups that address issues relating to LGBT students and matters involving sexual orientation and gender identity, just as they apply to religious and other student groups.”¹⁷ Under the Act, schools must treat student groups equally and may not single out groups such as GSAs (Gender and Sexuality Alliances or Gay-Straight Alliances) by imposing limitations not imposed on other student groups.¹⁸ There have been numerous court cases where efforts to block or restrict GSAs at school have been rejected.¹⁹

Federal Protections for Students with Disabilities

Any student with a disability is broadly entitled to accommodations. Some transgender and intersex youth may have additional rights under the Individuals with Disabilities Education Act (IDEA),²⁰ Section 504 of the Rehabilitation Act (Section 504),²¹ and the Americans with Disabilities Act (ADA)²² based on a diagnosis of gender dysphoria or related conditions, which may include anxiety or depressive disorders. For some transgender youth, the distress caused by not having their gender identity affirmed at school may manifest in ways (anxiety, depression, school avoidance, inability to concentrate) that may be diagnosable and for which schools have an obligation to provide accommodations. Some intersex students experience disabilities related to their variation (such as adrenal insufficiency in the variation Congenital Adrenal Hyperplasia), and some intersex students have one or more disabilities stemming from prior medical interventions (most often performed nonconsensually in early childhood), such as urinary incontinence, infertility, or post-traumatic stress disorder. In addition, while intersex variations represent part of the spectrum of healthy variation in human development and many intersex individuals do not regard their variation as a disability, the presence of an intersex-related diagnosis may nevertheless entitle intersex students to accommodations under the broad protections of the IDEA, Section 504, and the ADA.

When a hostile school environment negatively impacts a student’s health and ability to learn, protections for students with disabilities may be utilized as a powerful tool to create a more inclusive, safe, and supportive environment for transgender and intersex youth.

¹⁶ 20 U.S.C. § 4071(a).

¹⁷ U.S. Department of Education, “Key Policy Letters from the Education Secretary and Deputy Secretary” (2011) <https://www2.ed.gov/policy/elsec/guid/secletter/110607.html>

¹⁸ 20 U.S. Code § 4071.

¹⁹ See ACLU, GSA Court Victories: A Guide for LGBTQ High School Students (2022), https://www.aclu.org/sites/default/files/field_document/2022-02-15-gsa-legalvictories.pdf.

²⁰ The IDEA is a federal law that requires that all public schools provide a free appropriate public education (FAPE) to eligible children with specific disabilities, 20 U.S.C. § 1412(a)(1), which requires the creation and implementation of an Individual Education Plan (IEP) to meet the social, emotional, or academic needs of the individual student. Transgender students may qualify under

²¹ Section 504 is a civil rights act that protects individuals from being denied benefits or discriminated against in any program receiving federal financial assistance (i.e. public schools) on the basis of disability. Section 504 does not specifically list disabilities for eligibility, but defines disability as an impairment that substantially limits one or more major life activities. Under 34 C.F.R. § 104.3(j)(2)(ii), “learning” is considered a major life activity, so a student who is struggling to learn due to a non-affirming environment could qualify for a 504 Plan which can include appropriate accommodations, such as access to an affirming bathroom, use of affirmed name and pronouns, stress breaks, access to a safe and affirming teacher or staff member, and more.

²² 42 USC 12131-12134

For example, accommodations that have been provided through a 504 Plan or an IEP include: ensuring consistent use of affirmed names and pronouns by all teachers, staff, and peers; access to sex-separated spaces in accordance with the student's gender identity, including bathrooms and locker rooms; stress breaks; identifying a support person with whom the student feels safe and affirmed; and the provision of LGBTQIA2S+ professional development training for teachers and staff. Finally, in addition to the protections and accommodations available under the IDEA and Section 504, the ADA can also provide protections for transgender and intersex youth in need of an affirming school environment. In August 2022, the U.S. Court of Appeals for the Fourth Circuit ruled that gender dysphoria could qualify as a disability under the Americans with Disabilities Act.²³

The Family Educational Rights and Privacy Act (FERPA)²⁴

FERPA is a federal law that protects personally identifiable information contained in student records from disclosure without a student or parent or guardian's consent in most circumstances and establishes a right to seek to have the records amended. FERPA affords parents and/or guardians the right to access and amend the student records of their child if their child is a minor in the K-12 education system. When a student turns 18 years old or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student. FERPA guarantees the right "to challenge the content of such student's education records, in order to ensure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein."²⁵ When a transgender student's education record reflects their sex assigned at birth and/or birth name, this is inaccurate and misleading, and also violates the privacy rights of the student, as it "outs" them (disclosing sensitive, protected information, including transgender status) to others without their or their parent/guardians' consent. Notably, FERPA does not mandate affirmative notification or disclosure of private information without parental or student request. Similarly, information about a student's sex characteristics, including intersex variations, is protected by FERPA if it is contained in the student record. A FERPA Complaint can be filed online with the U.S. Department of Education's Student Privacy Policy Office (SPPO).²⁶

²³ See, *Williams v. Kincaid*, 45 F.4th 759 (4th Cir. 2022), *cert denied* by U.S. Supreme Court on June 30, 2023, *Kincaid v. Williams*, 600 U. S. _____, No. 22-633 (2023).

²⁴ 20 U.S.C. § 1232g; 34 CFR Part 99

²⁵ 20 U.S.C. 1232g(a)(2) (emphasis added)

²⁶ Access the online FERPA Complaint at <https://studentprivacy.ed.gov/file-a-complaint>.

What About State Laws?

While federal protections create a floor, many states and the District of Columbia have specific state laws that may be applicable to this Model Policy. Many elements of this Model Policy may be explicitly incorporated in policies or regulations implementing these state laws. Consistent with these laws, a number of states have developed guidance documents for LEAs pertaining to LGBTQIA2S+ students. Several examples are listed in the Resources section of this document or can be found by consulting GLSEN Navigator, which is a resource intended to provide communities with information on the policy landscape, experiences of students, and resources on how to advocate for positive school transformation that benefits all youth, including LGBTQIA2S+ students, in K-12 learning communities.²⁷

Some state and local governments may have enacted laws that seek to restrict or undermine the rights of LGBTQIA2S+ students, including efforts to permit parents, educators, or other adults to infringe on a student's rights. Federal law — including Title IX — preempts state law, and many state or local policies inconsistent with Title IX are likely to be challenged in federal court. LEAs are obligated to comply with federal laws, including the recent Title IX updates. LEAs should also adopt explicit nondiscrimination and anti-bullying policies to help ensure acceptance, respect, and safety for all students and compliance with all federal and state laws. For technical assistance, feel free to reach out to GLSEN Policy at policy@glsen.org.

Regardless of whether state laws explicitly address sexual orientation, gender identity, or sex characteristics, all LGBTQIA2S+ students are protected under federal Title IX and state laws regarding sex and/or disability discrimination. Title IX regulations are enforced by OCR, and most of OCR's activities are conducted by its regional offices throughout the country. You can locate the enforcement office serving your State or territory by visiting: <https://ocrcas.ed.gov/contact-ocr>, find your state or local Title IX coordinator by visiting: <https://ocrcas.ed.gov/civ-rts-coordinators>, and learn more about filing a complaint through GLSEN and PFLAG's "Claim Your Rights" resource.²⁸

²⁷ GLSEN Navigator. Accessible at: <https://maps.glsen.org/>

²⁸ GLSEN, et al. "Claim Your Rights." *supra* note 10.

Model Policy

Enumerated Nondiscrimination Policy

Scope

This Policy covers conduct that takes place in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles, during a student's commute to and from school, and at bus stops. This Policy also pertains to usage of electronic communication that occurs in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles and at bus stops, and on personal or school computers, networks, forums, and mailing lists, as well as any electronic communication that is directed towards a student and which substantially interferes with the student's ability to participate in or benefit from the services, activities, or privileges provided by the school. This Policy applies to the entire school community, including educators, school and LEA staff, students, parents/guardians/families, and volunteers.

Prohibition

- Discrimination, bullying, and harassment on the basis of sex stereotypes, sex characteristics (including intersex traits), pregnancy or related conditions, sexual orientation, and gender identity is prohibited within the LEA. It is the responsibility of each school and all staff to ensure that all students, including LGBTQIA2S+ students, have safe school environments. The scope of this responsibility includes ensuring that any incident of discrimination, harassment, or bullying is given immediate attention, including investigating the incident, taking age and developmentally appropriate action, and providing students and staff with appropriate resources and support that affirms their identity. Enforcement of anti-bullying policies should focus on education and prevention rather than exclusionary and/or punitive discipline. Complaints alleging discrimination or harassment based on a student's actual or perceived sexual orientation, gender identity or expression, or variation(s) in sex characteristics are to be taken seriously and handled in the same manner as other discrimination, bullying, or harassment complaints.
- School administrators shall make every effort to keep LGBTQIA2S+ students at the original school site. Punitive transfers of LGBTQIA2S+ students being harassed shall not be a school's first or preferred response to discrimination, bullying, and/or harassment of LGBTQIA2S+ students and shall be considered only when necessary for the protection or personal welfare of the transferred student, or when requested by the student or the student's parent or guardian. The student or the student's parent or guardian must consent to any such transfer and shall be informed of alternative arrangements considered by the school before a transfer is considered.

Publication and Notification Requirements (of Policy)

The LEA will annually publish notice of this Policy. A student nondiscrimination statement and Title IX policy shall be published on the LEA website, and shall be included in student and staff handbooks, course selection handbooks, and other published material describing school activities and opportunities. The complete student discrimination complaint procedure, including the Title IX Coordinator(s) contact information (including office address, electronic mail address, and telephone number), shall be prominently displayed on the school's website and included in student/parent and staff handbooks.

Schools can play an important role in providing a place of acceptance for LGBTQIA2S+ students. School may be the only safe space where a student feels comfortable fully expressing their sexual orientation or gender identity, with most LGBTQIA2S+ youth coming out to friends either before or at the same time as coming out to their family.²⁹ Therefore, it is critical that schools promote an affirming environment while taking steps to respect a student’s privacy and assure their safety in school and beyond. Unwarranted disclosure of a student’s sexual orientation or gender identity without the student’s consent - especially to parents — breaches trust between the student and school staff, can impact academic performance and mental health outcomes, and weighs the LEA’s actions against a student’s legal rights, including student’s constitutional right to informational privacy. LEAs should work with students to affirm their identity, including chosen name and pronouns, and safely navigate instances where it is not in the student’s best interest to have parental involvement — especially in scenarios that would expose a student to harm or abuse — or where parental approval is not possible due to lack of support or knowledge by the parent(s). Although LEAs should be mindful of state mandates that may require disclosure to and/or permission from parents, LEA policies should encourage school staff to be transparent about their legal obligations and sensitive to the privacy and safety concerns presented by students expressing their identity.

Notification of Parent/Family/Guardian

- Staff shall privately ask all students how they want to be addressed in communications to the student’s parent(s)/legal guardian(s). For purposes of this procedure, communications include, but are not limited to, materials sent to the student’s home, electronic communications between school staff and the student’s parent(s)/legal guardian(s) (including text messages and emails), and how the student is referred to at conferences or on phone calls with the student’s parent(s)/legal guardian(s).
- Staff informed on the student’s LGBTQIA2S+ status should take guidance from and work collaboratively with the student to ensure that the student remains safe, both at school and at home. This may include, for example: determining what information to share with the student’s parents or guardians; identifying resources that could assist the parents or guardians to better understand how to support their child; and, how to communicate with the student’s siblings as well as staff and other students.

Complaint Procedure

- Anyone may file a complaint under Title IX. Complaints may be made to the Title IX Coordinator (see: staff responsibilities) as well as other persons within the LEA, such as supervisors, the EEO Director, or Human Resources.
 - Complaints can be filed 24 hours a day, 7 days a week.
 - Any Complainant can remain anonymous, and a reporting party has the discretion to exclude personally identifiable information, such as their name and contact information, in the form.
 - Complaints submitted to the Title IX Coordinator will be accepted via mail, email, phone, or in-person.

²⁹ Human Rights Campaign Foundation. 2023 LGBTQ+ Youth Report. <https://reports.hrc.org/2023-lgbtq-youth-report>.

- The LEA will investigate all formal complaints of sex-based harassment and/or discrimination. A formal complaint is a document signed by the Complainant (or a parent/legal guardian) or the Title IX Coordinator specifically requesting an investigation. If a Complainant does not want to file a formal complaint, supportive measures are still available. Formal complaints with the U.S. Department of Education’s Office for Civil Rights can be filed by anyone, even if they are not the victim of the alleged discrimination. The Title IX Coordinator shall consult with the student on names and/or pronouns if the student is personally referred to in the formal complaint.
- Investigation by Title IX Coordinator: If a Complainant does not wish to file a formal complaint, Title IX Coordinator may, at their discretion, file a formal complaint without Complainant, as long as it is not clearly unreasonable to do so and in compliance with applicable law. In this case, the reported victim is Complainant, who still has rights under these procedures, including the right to supportive measures, and to inspect and review evidence. The Title IX Coordinator may consider the following when deciding to file a formal complaint:³⁰
 - Risk of additional sex discrimination (the risk the conduct may be repeated);
 - Seriousness of alleged sex discrimination (the nature and severity of the conduct alleged);
 - Age and relationship of the parties (whether the respondent is an employee, student, or third party);
 - Scope of alleged sex discrimination (including the actual and potential impact of the conduct);
 - Availability of evidence to assess whether sex discrimination occurred; and
 - Disciplinary Sanctions.

Supportive Measures

- Supportive measures are reasonable, individualized services offered equitably and without charge to the Complainant and Respondent to the extent possible to restore or preserve access to the LEA’s education programs and activities, and to ensure the overall safety of the parties and other individuals and deter retaliation.
- The Title IX Coordinator is responsible for implementing supportive measures, and will work with parents/legal guardians as applicable to provide them. Supportive measures shall remain as confidential to the student as reasonably possible.
- If either Complainant or Respondent is or may have a Special Education designation, the Title IX Coordinator will ensure the appropriate Special Education Supervisor is consulted regarding the provision of supportive measures.
- The Title IX Coordinator will promptly offer and discuss supportive measures with the Complainant, considering the Complainant’s wishes. This conversation may involve the Responsible Administrator. A Complainant can receive supportive measures even if a formal complaint is not filed.
- Examples of supportive measures may include:
 - Referral to an LEA student-based resource (i.e. counseling or social work services)
 - Referral for academic or workplace accommodations

³⁰ See *Supra* n.12 at § 106.2, p. 1505 for detailed explanation of each factor.

- Altering daily class schedules (i.e. classroom, recess, lunch, assigned seating)
- Altering work arrangements or assignments for employees
- Providing safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines
- Withdrawals, transfers, or leaves of absence
- Any other actions deemed appropriate by the Title IX Coordinator

Staff Responsibilities

Role clarifications

- Title IX Coordinator: The LEA will designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this policy, who will be referred to as the “Title IX Coordinator.” The LEA will notify applicants for admission and employment, students, parents or legal guardians of students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the LEA, of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator. The Title IX Coordinator is responsible for overseeing compliance with Title IX, including by ensuring that any complaint is responded to promptly and effectively and that effective supportive measures are offered to complainants. Schools may designate one or more staff to carry out some Title IX responsibilities (such as collecting and maintaining data on reports of harassment or bullying), but the Title IX Coordinator must retain ultimate oversight over those responsibilities.
- Staff who are not confidential employees: All staff who are not confidential employees must notify the Title IX Coordinator if they have information about a student being subjected to conduct that may constitute sex discrimination under Title IX, including harassment or bullying based on sex stereotypes, sex characteristics (including intersex traits), pregnancy or related conditions, sexual orientation, and gender identity.
- Confidential employees: Confidential employees are employees whose communications are privileged under federal or state law (such as licensed counselors) or those whom the school designates as confidential resources for the purpose of providing services related to sex discrimination. Confidential employees must explain their confidential status to any person who informs the confidential employee of conduct that may constitute sex discrimination under Title IX and must provide that person with contact information for the recipient’s Title IX Coordinator and explain how to report information about conduct that may constitute sex discrimination under Title IX.

Training, and Professional Development

- The LEA shall deliver professional development to all staff members on their responsibilities under applicable laws and this policy, in addition to evidence-based practices for fostering a positive school climate for LGBTQIA2S+ students, staff, and families. Since all LEA employees are required to comply with Title IX and other applicable laws, all staff should be required to participate, including teachers, LEA, administrators, school leaders, counselors, school psychologists, social workers, school librarians, school nurses,

- paraprofessionals, bus drivers, coaches, custodians, nutrition professionals, and other staff. The content of such professional development shall include, but not be limited to:
- (i) responsibilities of staff regarding the legal rights of students, staff, and families on the basis of gender identity, gender expression, sexual orientation, sex characteristics (including intersex traits), race, and disability, as set forth in law and LEA policy;
 - (ii) evidence-based conceptual background about gender identity, gender expression, gender diversity, sex characteristics (including intersex traits), and sexual orientation;
 - (iii) using gender inclusive language, and individuals' self-identified names and pronouns;
 - (iv) quantitative and qualitative research on the experiences of LGBTQIA2S+ students, including those who have intersectional identities and who face additional barriers, including LGBTQIA2S+ students who are BIPOC, disabled, unhoused, undocumented, and in the foster system;
 - (v) guidance on leading developmentally appropriate conversations with students and adults on topics related to gender identity, gender expression, variations in sex characteristics (including intersex traits), and sexual orientation;
 - (vi) differentiated, role-specific best-practices and resources that support inclusion in:
 - counseling and mental health services;
 - curriculum and book access;
 - dress codes;
 - facilities access;
 - family engagement;
 - sports participation;
 - student records;
 - student-led GSA clubs
- Schools and LEAs can use various state and federal funding streams for professional development for staff on this policy. These include Title II-A, Title IV-A, and ESSER funds.³¹
 - The LEA shall make materials available to school staff on wraparound support services, including school mental health services, that can improve student well-being and contribute to suicide prevention. Where possible, the LEA should bolster funding for these services.³²

Data Collection, Maintenance, and Reporting

Schools must maintain Title IX records for at least seven years, including:

- A record of each complaint of sex discrimination (including sex-based bullying and harassment), the corresponding grievance procedure or informal resolution process (if applicable), and the outcome of the complaint;

³¹ Washick, B., Tobin, H. J., Ridings, A., Juste, T. States' Use of the Every Student Succeeds Act to Advance LGBTQ+ Equity: Assessment of State Plans and Recommendations. (2021) GLSEN. Available at: <https://www.glsen.org/essa-implementation> ; https://www.glsen.org/sites/default/files/2021-10/GLSEN_Covid_Relief_Funds.pdf

³² Both SEAs and LEAs can use ESSA funds to review and develop policies to ensure students from communities that experience marginalization, including LGBTQIA2S+ students, are guaranteed equal access to quality education. Learn more in GLSEN's report, States' Use of ESSA to Advance LGBTQ+ Equity: https://www.glsen.org/sites/default/files/2021-09/GLSEN_States_ESSA_Report-21.pdf

- A record of actions taken to fulfill its obligations under Title IX for each; and
- All materials used to train staff on their Title IX responsibilities.

The U.S. Department of Education’s Mandatory Civil Rights Data Collection (CRDC) collects anonymized data on allegations, incidents, responses to incidents of sex-based discrimination in school, and the existence of LEA policies on bullying and harassment based on sex (defined by CRDC as harmful conduct on the basis of actual or perceived sex, which includes sexual orientation, gender identity, sex characteristics, sex stereotypes, and pregnancy).

Schools and the LEA shall each designate one person to coordinate its efforts to comply with CRDC and related state reporting requirements. This person may be the Title IX Coordinator. 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. Beginning with the 2022-2023 collection, ED requires that LEAs that collect nonbinary data report it via the CRDC. The CRDC now also includes measures related to allegations of anti-LGBTQI+ harassment and bullying.

Bullying and Harassment Prevention

The policy language included in this Model Policy regarding discrimination, bullying, and harassment is consistent with GLSEN’s Model District Anti-Bullying and Harassment Policy, which can be accessed on GLSEN’s Website.³³

Enumeration

While the goal of any anti-bullying and harassment policy is to protect all students, research has continually shown that enumeration³⁴ of protected characteristics is demonstrated to reduce bullying and harassment and improve perceptions of school climates. Enumeration that includes characteristics (including intersex traits), like race, religion, sex, disability, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity is necessary to protect all students, particularly those who have multiple intersecting marginalized identities, thereby reducing barriers to educational access and opportunity. Research has consistently shown³⁵ that students experience less bullying and harassment, they feel safer overall, and teachers are more likely to intervene to prevent incidents of bullying and harassment in schools with enumerated anti-bullying and harassment policies.

³³ GLSEN Model Local Education Agency Bullying and Harassment Prevention Policy. Accessible at: <https://www.glsen.org/activity/model-district-anti-bullying-harassment-policy>

³⁴ Kosciw, J. G., Greytak, E. A., Zongrone, A. D., Clark, C. M., & Truong, N. L. (2018). The 2017 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation’s schools. New York: GLSEN.

³⁵ *Id.*

Scope

The [LEA] is committed to providing a safe, positive, and productive learning and working environment. This Policy is applicable to all staff, educators, students, parents/guardians, and volunteers working at or attending facilities under the jurisdiction of this LEA. This Policy covers conduct that takes place in schools, on school properties, school sponsored events and activities, on school buses, vehicles, and at bus stops. This Policy also pertains to the usage of electronic technology or communication that is used to bully or harass.

Prohibition

Bullying and harassment of students based on race, color, religion, creed, national origin, marital status, sex stereotypes, sex characteristics (including intersex traits), pregnancy or related conditions, sexual orientation, gender identity, or disability are prohibited in the LEA's schools and facilities (including school properties, school sponsored events and activities, on school buses, vehicles, and at bus stops), as well as electronic technology or communication that is used to bully or harass within the jurisdiction of this LEA. Bullying and harassment may also constitute a violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and/or Title IX of the Education Amendments Act of 1972. Retaliation, or threats of retaliation that are meant to intimidate the victim of bullying or harassment, witnesses, bystanders, or those involved in the investigation of incidents, is also prohibited. Knowingly false reports of bullying or harassment will be regarded as serious and will result in an appropriate response and/or sanctions.

LEA/Agency Responsibilities

- The superintendent and/or LEA head shall identify the appropriate administrator(s) responsible for collecting and responding to incidents of bullying and harassment.
- The LEA has a responsibility to ensure a learning environment free from discrimination, including addressing complaints of sex-based harassment and discrimination committed by other students, school staff, and other members of the broader school community.
- LEA shall provide reports on the aggregate complaints of bullying and harassment (disaggregated by protected characteristic), and document the responses to these complaints to the Board annually. These reports shall be made available to the public on the LEA's website and/or upon request, with appropriate safeguards to assure student privacy.
 - Schools should maintain records of all complaints or allegations of sex-based bullying and harassment (including victim and aggressor demographic data based on sexual orientation and gender identity), and the resolution or outcome of the complaint, including any discipline measures. The U.S. Department of Education's Mandatory Civil Rights Data Collection (CRDC) collects anonymized data on allegations, incidents, responses to incidents of sex-based discrimination in school, and the presence of LEA policies on bullying and harassment based on sex, including sexual orientation, gender identity, and sex characteristics (including intersex traits). This data should also be used to inform the state's biennial report on bullying and harassment incidents in schools.
- The LEA shall make available the means by which complaints from students, educators, staff, or parents alleging that a school or LEA staff member is failing to implement this Policy.

- This Policy will be distributed annually, will be included in all LEA-wide student codes of conduct, student and employee handbooks, and on the LEA website.
- Schools under the jurisdiction of this LEA will:
 - Include a copy of bullying and harassment forms in informational packets provided to students, parents, and guardians at the beginning of the school year.
 - Make forms available in the school’s main administrative offices, the counseling office, nurses offices, classrooms, and other locations determined by the principal or LEA’s designee.
 - Make complaint forms available on the school’s and LEA’s website.
 - Provide the school community, including administrators, staff, volunteers, independent contractors, students, and parents or guardians with written notice of its policies for reporting acts of bullying and retaliation.
 - Provide a description of the reporting procedures and resources, including the name and contact information of the LEA designee, that will be incorporated in student and staff handbooks, and on the school or LEA’s website.

Notification of Parent/Family/Guardian

- When a complaint of bullying or harassment is filed, the LEA’s designated administrator shall notify the parents or guardians of the involved students only so long as doing so will not endanger the health, safety, or well-being of any student. Staff must privately ask students who have identified themselves as LGBTQIA2S+, especially transgender or nonbinary students, how they want to be addressed in communications to the student’s parent(s)/legal guardian(s). For purposes of this procedure, communications include, but are not limited to, materials sent to the student’s home, electronic communications between school staff and the student’s parent(s)/legal guardian(s) (including text messages and emails), and how the student is referred to at conferences or on phone calls with the student’s parent(s)/legal guardian(s).
- Staff should take guidance from and work collaboratively with the student to ensure that the student remains safe, both at school and at home. This may include, for example: determining what information to share with the student’s parents or guardians; identifying resources that could assist the parents or guardians to better understand how to support their child; and, how to communicate with the student’s siblings as well as staff and other students.
- Additionally, when the investigation is completed, the designated administrator shall issue a report in a timely manner regarding the complaint, investigation, and any disciplinary measures taken to the parents or guardians, while maintaining the privacy of the students involved to whatever extent possible. Private educational or personal data regarding an alleged victim or perpetrator who is a student or employee in the LEA’s jurisdiction shall not be disclosed. In certain circumstances, disclosure of the basis for which a student is bullied may result in additional negative consequences to the student’s health and wellbeing.
- If the reported incident involves students from more than one LEA, the principal or designee first informed of the incident will promptly notify by telephone the principal or designee of the other school(s) of the incident (and documenting the communication) so that each school may take appropriate action.

Discipline and Counseling

- Upon the principal or LEA's designee determining that bullying, harassment, or retaliation has occurred, the school or LEA will use a range of responses that balance the need for accountability with the need to teach the perpetrator (Respondent) appropriate behavior. Any disciplinary procedures should be prompt, reliable, and equitable, with a focus on restorative justice practices and conflict resolution.
- Under no circumstances should corporal punishment be used to address bullying or harassment. All consequences should be grounded in restorative justice practices, which focus on resolving conflicts, repairing relationships, and building community. LGBTQIA2S+ students, especially those who are also students of color or students with disabilities, are more likely to be victimized by punitive discipline, harmful seclusion, exclusionary discipline, and restraint practices in schools.
- If the principal or LEA designee decides that disciplinary action is appropriate, the disciplinary action will be determined on the basis of facts found by the principal or LEA designee, including the nature, frequency, and seriousness of the conduct, the length of time the prohibited conduct has occurred, whether the perpetrator has engaged in any prior acts of bullying or retaliation, the age of the students involved, and the need to balance accountability with the teaching of appropriate behavior. Discipline procedures for students with disabilities are governed by the federal Individuals with Disabilities Act (IDEA), which should be read in cooperation with state laws regarding student discipline.
- Consequences should also include recognition for positive behavior exhibited by the student who has previously exhibited bullying behavior, the bullied student who is implementing strategies to offset past problems, and the bystander who has taken an active role in addressing bullying behaviors.
- Supportive Measures
 - Supportive measures are reasonable, individualized services offered equitably and without charge to all students involved to the extent possible to restore or preserve access to the LEA's education programs and activities, and to ensure the overall safety of the parties and other individuals and deter retaliation.
 - The Title IX Coordinator is responsible for implementing supportive measures, and will work with parents/legal guardians as applicable to provide them. Supportive measures shall remain as confidential to the student as reasonably possible.
 - If either student (perpetrator or victim) is or may have a Special Education designation, the Title IX Coordinator will ensure the appropriate Special Education Supervisor is consulted regarding the provision of supportive measures.
 - The Title IX Coordinator will promptly offer and discuss supportive measures with the victim, considering the student's wishes. This conversation may involve the Responsible Administrator. A victimized student can receive supportive measures even if a formal complaint is not filed.
 - Examples of supportive measures may include:
 - Referral to an LEA student-based resource (i.e. counseling or social work services)
 - Referral for academic or workplace accommodations
 - Altering daily class schedules (i.e. classroom, recess, lunch, assigned seating)

- Altering work arrangements or assignments for employees
- Providing safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines
- Withdrawals, transfers, or leaves of absence
- Any other actions deemed appropriate by the Title IX Coordinator

Student Privacy, Confidentiality, and Safety

All persons, including students, have a right to privacy, and this includes the right to keep one's LGBTQIA2S+ or transgender status or intersex variation private at school. Information about a student's transgender status, legal name, gender assigned at birth, or sex characteristics (including an intersex variation) constitutes confidential personally identifiable and medical information. Disclosing this information to other students, parents/guardians, or other third parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA) and constitutional privacy protections.³⁶ Unwarranted disclosure can rarely be reversed or remedied once a student's privacy has been breached. Additionally, disclosure or misuse of this information may establish a hostile environment for LGBTQIA2S+ students, potentially subjecting them to bullying and harassment by peers, discrimination by school staff, or family rejection.³⁷

Staff Communication

- All persons, including students, have a right to privacy. This includes keeping a student's actual or perceived sexual orientation, gender identity, and gender expression private. Such private information shall be shared only if necessary. Students have the right to openly discuss and express their sexual orientation, gender identity, gender expression, and

³⁶ Students, like adults, have constitutional rights. *Tinker v. Des Moines Indep. Cnty Sch. Dist.*, 393 U.S. 503, 506 (1969). This includes the fundamental right to privacy under the United States Constitution, which encompasses "the right to determine whether or not sensitive information about oneself will be disclosed to others." See *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977) (federal constitutional right to privacy not only protects individual's right to bodily autonomy but also the right to control the nature and extent of highly personal information released about that individual); see also *Obergefell v. Hodges*, 576 U.S. 644, 663 (2015) (fundamental liberties include "personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs" such as a person's sexual orientation.) This has been applied to LGBTQ+ students in the school context. See, e.g. *Nguon v. Wolf*, 517 F. Supp. 2d 1177, 1193 (C.D. Cal. 2007) (student's "right to privacy with regards to her sexual orientation falls under the broader right to informational privacy" under federal law); *C.N. v. Wolf*, 2007 WL 9702949, at* 5 (C.D. Cal. Dec. 14, 2007) ("this Court's decision will likely lead subsequent courts to conclude that the right to privacy in one's sexual identity is now clearly established"). Courts have long held that one's gender identity is inherently private for those who wish to preserve privacy in the matter. See e.g., *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir.1999) ("The excruciatingly private and intimate nature of transsexualism, for persons who wish to preserve privacy in the matter, is really beyond debate"); *Wolfe v. Shaefer*, 619 F.3d 782, 785 (7th Cir. 2010) ("The courts of appeals, including this court, have interpreted *Whalen* to recognize a constitutional right to the privacy of medical, sexual, and perhaps other categories of highly personal information"). Refusal to amend students' records to reflect their gender identity can also violate Title IX. See *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 619 (4th Cir. 2020), as amended (Aug. 28, 2020) ("Applying the same framework to the Board's refusal to update Grimm's school records, we hold that it too violated Title IX...This decision harmed Grimm because when he applies to four-year universities, he will be asked for a transcript with a sex marker that is incorrect and does not match his other documentation. And this discrimination is unlawful because it treats him worse than other similarly situated students, whose records reflect their correct sex.")

³⁷ See Reisner SL, et al. *Addressing LGBTQ Student Bullying in Massachusetts Schools: Perspectives of Students and School Health Professionals*. *Prevention Science* 21:408 (2020). <https://doi.org/10.1007/s11121-019-01084-4>.

intersex variation, and to decide when, with whom, and how much information to share. This right to privacy extends to instances where a school is informed about a student's LGBTQIA2S+ identity or sex characteristics (including intersex traits) through school monitoring of student internet usage (through school devices or school wifi, for example).

- If school staff is informed by the family of a student transgender identity or sex characteristics (including intersex traits), the school principal should meet with the parents/guardians to determine which school staff should be informed of the fact that the student's gender identity is different from their assigned sex at birth. For younger children, it may be appropriate to inform the school nurse as well as the classroom teacher to ensure that the student receives the appropriate support for a safe and respectful learning environment. For older children, the parents and school principal may determine that only the school nurse needs to know or, in some cases, that no school staff beyond the principal or other senior administrator need to have information about the child's assigned sex at birth. Since the student's birth certificate and health

records may contain name and gender information that differs from school records, these documents are to be kept apart from the student's school records. The school may choose to keep these documents locked in the office of the principal or nurse. Alternatively, the school may simply note that these records have been received and accepted without retaining the documents themselves.

- The LEA will address the intentional or persistent refusal to respect a student's sexual orientation, gender identity, or gender expression, or inappropriate release of information regarding a student's LGBTQIA2S+ status.

Display of Student Gender Markers

- Students may change their name, pronouns, and gender marker in the LEA's database so that it corresponds to their gender identity. Depending on state laws, students should not be required to obtain a parent/guardian's consent, a court-ordered name change, and/or submit medical or psychological documentation to obtain these changes.
- A student's request to change their name and/or gender marker in the LEA's electronic database shall be completed within fifteen (15) school days of the principal's receipt of the request. Schools shall also provide a method for a student to change their name and/or gender marker anywhere that it may appear publicly including (but not limited to) school website, technology resources, student identification cards, yearbooks, diplomas, and awards, and at events such as graduation.

Private and Confidential Support Plan

- A Student Support Plan shall be authored to any student who expresses safety concerns about obtaining guardian consent to modify student records, and/or expresses a desire for increased privacy and/or safety. A student support team consisting of the student, an adult advocate of the student's choice, and the student's principal or the principal's administrative designee will meet to determine a Student Support Plan addressing, among other things, participation in co-curricular and extracurricular activities, including but not limited to sports, and access to facilities, including but not limited to restroom and locker room access.

- Schools should work with supportive parents/guardians whenever possible to establish healthy communication and ensure the needs of these often-vulnerable students are fully met. When possible, school staff should facilitate family members' understanding and acceptance of LGBTQIA2S+ students. Unfortunately, however, some LGBTQIA2S+ students face family rejection, which can result in negative outcomes, such as abuse or ejection from the home. Schools are responsible for ensuring a safe and affirming environment with equal opportunity for all students.
- All Student Support Plan information is private data in accordance with the Family Educational Rights and Privacy Act (FERPA). FERPA does not mandate disclosure of private information without parental or student request, and affirmative disclosure of this information to other students, parents/guardians, or other third parties without a student or parents' consent may violate privacy laws, such as FERPA and constitutional privacy protections.

Student Names and Pronouns

Addressing Students

- Staff shall collect information about all students' affirmed names and pronouns at regular intervals over a school year, or when a student enrolls mid-year, including the name/pronouns students would like to be used when there is communication with parent(s) and/or guardian(s).
- Students must be addressed by their affirmed name and pronouns that correspond to the gender identity they assert at school. Students are not required to obtain a court-ordered name change and/or submit medical or psychological documentation as a prerequisite to being addressed by the name and pronouns that correspond to their gender identity. Depending on state laws, parent(s)/guardian(s) consent and/or knowledge should not be required to address a student by their affirmed name and pronouns, and school staff shall comply with the student's recommendations in communicating with parents.

School Records

- The standardized high school transcript is the only official record that requires a student's legal name. School staff should adopt practices to avoid the inadvertent disclosure of the student's transgender or gender non-conforming status.
- The school must use the name, pronouns, and gender by which the student identifies on all other records, including but not limited to school identification cards, classroom seating charts, athletic rosters, yearbook entries, diplomas, and directory information.
- Information such as affirmed name and pronouns will be included in all student record systems along with the student's legal name in order to inform teachers and staff of the name and pronoun by which to address the student. However, the student's legal name should be accessible by only necessary staff member — it should not be visible to teachers or other staff who have access to the electronic records.
- When appropriate or necessary, this information will be communicated directly with staff to facilitate the use of a student's affirmed names and pronouns. A student is not required to change their official records or obtain a court-ordered name and/or gender change as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity.

Notification of Parent/Family/Guardian

- Notification of parent(s)/guardian(s), staff, and peers about the student's name, pronoun and/or gender marker change will be guided by the student. With student consent, a communication is to be sent home to notify the student's parent(s)/guardian(s) of the name, pronoun and/or gender marker change, unless the student expresses safety concerns from such a notification.
- LEA and school personnel may encounter situations where students have not publicly disclosed their gender identity; therefore, school personnel must be mindful of the confidentiality and privacy rights of students when communicating with others, so as to not reveal, imply, or refer to a student's gender identity. To ensure confidentiality when discussing a particular concern such as conduct, discipline, grades, attendance, or health, school personnel should focus on the concern, not the student's gender identity or expression. For example, describe the matter in terms of the underlying issue (behavior/conduct, grade issue, attendance issue, health concern) without referring or linking to gender identity or expression.

The parents and guardians of LGBTQIA2S+ students can play a critical role in establishing a safe and affirming school environment. Schools should work with supportive parents/guardians whenever possible to establish healthy communication and ensure the needs of these often-vulnerable students are fully met.

Unfortunately, however, some LGBTQIA2S+ students face family rejection, which can result in negative outcomes, such as abuse or ejection from the home. Schools are responsible for ensuring a safe and affirming environment with equal opportunity for all students. The Model Policy aims to encourage supportive engagement with parents whenever possible, and to prioritize the safety and well-being of students.

Additionally, schools may be in a position to provide additional services, such as counseling, peer support through a school GSA, and referral to outside resources, to help a student cope with family rejection. When possible, school staff should facilitate family members' understanding and acceptance of LGBTQIA2S+ students. For more information about the importance of family acceptance of transgender and nonbinary students and the role that schools can play, please see GLSEN's *Changing the Game* resource titled "Game Plan for Parents, Caregivers and Families"³⁸ in the resources section.

School Facilities

This Model Policy ensures equal access to all school facilities and equal participation in school activities by making clear that all students have the right to be treated in accordance with their gender identity. At the same time, the Model Policy also acknowledges that some students, for a variety of reasons, may feel uncomfortable using shared facilities. This may include transgender and nonbinary students, students with disabilities or other physical differences, students who are reluctant to use facilities alongside LGBTQIA2S+ students, or any student who may have privacy concerns. The Model Policy provides for accommodating students upon request by providing a safe and non-stigmatizing alternative facility. In addition, the Model Policy encourages schools to assess their existing facilities to enhance

³⁸ Accessible at: https://www.glsen.org/sites/default/files/ctg/GLSEN_CTG2021_Parents-Caregivers_Families_Guide.pdf

privacy for all students, convert facilities designed for a single user to be gender-neutral, and provide for single-user facilities in new construction and renovation.

- With respect to all restrooms, locker rooms, or changing facilities, students shall have access to facilities that correspond to their gender identity. Schools may maintain sex-separated restrooms, locker rooms, and changing facilities for students, provided that they allow all students equal access to facilities that are consistent with their gender identity. Nonbinary students should determine which facilities they feel safest and most comfortable using.
- Any student who is uncomfortable using a shared sex-separated facility, regardless of the reason, shall, upon the student's request, be provided with a safe and non-stigmatizing alternative. This may include, for example, addition of a privacy partition or curtain, provision to use a nearby private restroom or office, or a separate changing schedule. However, such alternatives shall only be provided to a student upon that student's request. Requiring a transgender, nonbinary, or intersex student to use a separate space against their wishes threatens to stigmatize the student and disclose their transgender status or intersex variation to others. Under no circumstances may students be required to use sex-separated facilities that are inconsistent with their gender identity.
- Schools shall designate any existing facilities that are designed to be used by only one person at a time as accessible to all students regardless of gender. However, under no circumstances shall a student be required to use a single-user facility because of their LGBTQIA2S+ identity. Schools are encouraged to assess ways to increase privacy for all students in existing facilities and to incorporate universal-design approaches for all-gender facilities with enhanced privacy in new construction or renovation.³⁹

Separate Gender Classes and Classroom Activities

As a general matter, schools shall evaluate all gender-based activities, rules, policies, and practices — including classroom activities, school ceremonies, and school photos — and maintain only those that serve an important educational purpose. Students shall be permitted to participate in any such activities or conform to any such rule, policy, or practice consistent with their gender identity.

School Athletics

For physical education, intramural sports, and other school sports that are not regulated by a state athletic association, the agency of jurisdiction (either the SEA or LEAs) must comply with federal Civil Rights obligations.

While an increasing number of state interscholastic associations have adopted policies ensuring equal participation for transgender, intersex, and nonbinary students, some LEAs may be limited by statewide policies or laws.⁴⁰ Since 2020, 25 states have implemented policies that restrict transgender, intersex, and nonbinary students from fully participating in school sports, especially on interscholastic teams.

³⁹ Both SEAs and LEAs can use ESSA funds to review and develop policies to ensure students from communities that experience marginalization, including LGBTQIA2S+ students, are guaranteed equal access to quality education. Learn more in GLSEN's report, *States' Use of ESSA to Advance LGBTQ+ Equity*: https://www.glsen.org/sites/default/files/2021-09/GLSEN_States_ESSA_Report-21.pdf

⁴⁰ For GLSEN's map on Trans and Nonbinary Interscholastic Athletic Inclusion Policies, visit: <https://maps.glsen.org/trans-and-nonbinary-athletic-inclusion-policies/>

Participation rules for interscholastic sports, particularly for high school sports, are often created by a state athletic association. As of [February 2024], fourteen states and Washington, D.C. have state athletic association policies that are inclusive of transgender students and support their participation in interscholastic sports in a manner consistent with their gender identity.

The Model Policy urges LEAs to promote full inclusion of transgender, intersex, and nonbinary students in school sports and physical education programming that is separated by sex. While Title IX allows for sex-separated sports to remedy systemic discrimination against girls, any exclusionary restriction on a student's participation consistent with gender identity could be challenged as a violation of Title IX (e.g., an LEA prohibiting transgender and intersex girls from trying out for and participating on a girls' athletics team). Exclusionary policies also may have a spillover effect on cisgender girls who do not conform to gender stereotypes, disproportionately impacting Black and Latine girls. In spring 2023, the U.S. Department of Education began a rulemaking process to clarify

legal protections for student athletes. Although this rulemaking is still pending, recent data from the National Federation of State High School Associations demonstrates the benefits of inclusion: states with inclusive policies saw a 48% greater increase in women's sports participation than states with trans-exclusionary policies.

- Students shall be permitted to participate in all physical education, athletics, and other extracurricular activities according to their gender identity. Participation shall not be conditioned by requiring legal or medical documentation.
- Participation in interscholastic sports is governed by the [State Student Athletic Association]. If the Association has policies regarding transgender, intersex, and nonbinary athletic participation, the school will implement and utilize those policies accordingly.
- [If there is no state athletic association policy, see GLSEN's recommendations for athletic policies]⁴¹

Student Clubs

In accordance with the Equal Access Act, schools shall support the formation of extracurricular student-led clubs, such as GSAs (Gender and Sexuality Alliances or Gay-Straight Alliances) in middle and high schools. Under the federal Equal Access Act, secondary schools that allow meetings of any non-curricular student clubs (clubs that do not directly relate to school classes) are prohibited from discriminating against any student group based on its viewpoint, including, for example, GSAs, Black Student Unions, or Disability Justice Clubs, among others. 20 U.S.C. § 4071. All student clubs must be treated equally, regardless of purpose. All student-led extracurricular clubs should be afforded the same rights and privileges, such as appointment of advisors, publicity for events, and inclusion on school websites.

Dress and Appearance Codes

Increasingly, LEAs are adopting dress codes that do not have separate rules based on gender. This approach minimizes the risk of liability under the First Amendment and

⁴¹ See: GLSEN (2022), "Gender Affirming and Inclusive Athletics Participation" pg. 3. Accessible at: https://www.glsen.org/sites/default/files/2022-05/GLSEN_Transathlete_Policies_Issue_Brief-04-2022.pdf

laws prohibiting discrimination based on sex, sexual orientation, gender identity, and sex stereotypes/gender expression.⁴² Moreover, the CROWN (Create a Respectful and Open World for Natural Hair) Act, which prohibits hair texture discrimination in the workplace and schools, has been enacted in twenty-four (24) states and over 40 localities.⁴³ While we strongly urge schools to adopt dress codes that are gender-neutral, any policies that are based on gender differences must permit students to dress in compliance with the school's dress code consistent with their gender identity and expression.⁴⁴

LGBTQIA2S+ students have the right to dress in a manner consistent with their gender identity or expression within the constraints of the dress codes adopted for all students at their schools. Any dress code shall be applied to the student consistent with their gender identity.

In general, schools shall not adopt dress codes that restrict students' clothing or appearance on the basis of gender. Gender-neutral dress codes apply to regular school days as well as any co- and extracurricular activities, special events, including graduation ceremonies and prom. School staff shall not enforce a school's dress code more strictly against LGBTQIA2S+ students than other students.

Nondiscriminatory Learning

LEAs, schools, and educators have a responsibility to manage their educational program and activities (including selection of textbooks and other instructional material, internet access, and school libraries) so as to prevent or effectively respond to actions that foster a hostile school climate in violation of federal Civil Rights laws and, in some cases, state laws.⁴⁵

For internet access, LEAs should be mindful when utilizing discriminatory software or algorithms that automatically bans or notifies school authorities when students access sites or online information that include LGBTQIA2S+ terminology or content. As outlined by the American Library Association (ALA), perceived safety threats, such as cyberbullying, can lead to restrictive policies filtering, surveillance, or restriction of students' access to educational materials online, and could deny youth's right to free expression and privacy. School staff should educate youth about online activities that are appropriate for their maturity level without blocking access for others, as well as advocating for privacy-protecting policies and technology that empower youth to take personal responsibility for their online privacy and prevent the collection and use of information about their online activities for marketing and for-profit activities.⁴⁶

⁴² The First Amendment has protected students' rights to freedom of expression since the landmark U.S. Supreme Court case in 1969 regarding students' rights to wear black armbands to protest the Vietnam war. *Tinker v. Des Moines Indep. Cnty Sch. Dist.*, 393 U.S. 503, 506 (1969) (students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.") This fundamental right protects LGBTQIA2S+ students' rights to express their gender identities through appearance and attire. See, e.g. Doe ex rel. *Doe v. Yunits*, 2000 WL 33162199, at *3 (Mass. Super. Oct. 11, 2000), aff'd sub nom., *Doe v. Brockton Sch. Comm.*, 2000 WL 33342399

⁴³ Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, New York, Oregon, Tennessee, Texas, Virginia, and Washington plus the United States Virgin Islands. Source: <https://www.epi.org/publication/crown-act/#:~:text=Notes-,1>

⁴⁴ See *Supra* n.12 at § 106.10, p. 1522.

⁴⁵ Student non-discrimination policies: <https://maps.glsen.org/student-nondiscrimination-policies/>; Enumerated Anti-Bullying and Harassment Policies <https://maps.glsen.org/enumerated-anti-bullying-and-harassment-policies/>

⁴⁶ "Minors and Online Activity: An Interpretation of the Library Bill of Rights", American Library Association, July 23, 2009. <http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/minorsonlineactivity> (Accessed December 1, 2023)

Furthermore, the U.S. Department of Education's Office for Civil Rights (ED OCR) has enforced Title VI and Title IX to require that schools address the discriminatory impact of censorship of inclusive learning materials on students. ED OCR investigated an LEA for failing to address a hostile school climate resulting from its removal of books by and about LGBTQIA2S+ and BIPOC people, which students said led them to fear that, because of their race and sex, they would be harassed or otherwise unsafe to be who they were. In 2023, ED OCR entered into a resolution agreement with the LEA, and, to come into compliance with its obligations under Title VI and Title IX to address the resulting hostile environment, ED OCR required the LEA to remedy the impact of the removals on the students, including by conducting climate surveys and ensuring students had access to Title VI and Title IX Coordinators to report any future harassment or discrimination.⁴⁷

Additionally, LEAs should comply with the American Library Association's (ALA) guidelines and Library Bill of Rights, which have been interpreted to require that "challenged resources should remain in the collection, and access to the resources remain unrestricted during the review process."⁴⁸ Adopting or updating an LEA policy on School Library Collection Development can prepare the LEA, schools, and educators to maintain a safe, inclusive school environment.

School Library Collection Development⁴⁹

- The following criteria shall be used in selecting school library materials:
 - Materials support the school's and LEA's educational goals and policies, prioritizing the advancement of culturally responsive education and safe, inclusive learning environments.
 - Materials enrich and extend the school's curricula and encourage informational, educational and recreational reading, viewing and/or listening.
 - Materials in the collection represent students' multiple lived experiences and backgrounds, exposing them to new ideas and worldviews different from their own, intentionally embracing student identities and prioritizing representation of historically marginalized communities.
 - Materials in an LEA's collection must use formats that support all learnings, including but not limited to large fonts, Braille, multiple languages, ebooks, and audiobooks.
 - To accommodate the needs of multilingual learners, each school library (and/or classroom library) is expected to have books and/or digital resources available in all languages spoken by students and their families.⁵⁰
 - The value of a work should be examined as a whole and given greater weight than individual words, phrases or passages contained in the work.⁵¹

⁴⁷ Available at U.S. Department of Education, Office for Civil Rights, "U.S. Department of Education's Office for Civil Rights Resolves Investigation of the Removal of Library Books in Forsyth County Schools in Georgia," May 19, 2023, <https://www.ed.gov/news/press-releases/us-department-educations-office-civil-rights-resolves-investigation-removal-library-books-forsyth-county-schools-georgia>.

⁴⁸ "Challenged Resources: An Interpretation of the Library Bill of Rights", American Library Association, July 26, 2006. <http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/challenged-resources> (Accessed October 25, 2023)

⁴⁹ Adapted from Chicago Public Schools Library Collection Development Policy <https://www.cps.edu/sites/cps-policy-rules/policies/600/604/604-7/>

⁵⁰ Both SEAs and LEAs can use ESSA funds to review and develop policies to ensure students from communities that experience marginalization, including LGBTQIA2S+ students, are guaranteed equal access to quality education. Learn more in GLSEN's report, States' Use of ESSA to Advance LGBTQ+ Equity: https://www.glsen.org/sites/default/files/2021-09/GLSEN_States_ESSA_Report-21.pdf

⁵¹ See "the Miller Test" – the primary legal test for determining whether expression constitutes obscenity https://www.milibraries.org/index.php?option=com_content&view=article&id=1435:the-miller-test---news---michigan-library-association&catid=44:news-advocacy&Itemid=311

- In order to assure quality selection, the following additional factors will be weighed as they apply:
 - Educational significance and/or contribution to curricula;
 - Informational or recreational interest;
 - Reputation and significance of the author, producer, editor and/or publisher;
 - Degree of potential user appeal and the request of materials from the learning community;
 - Collections and services representative of multiple perspectives that empower individuals to explore broadly when pursuing their own interests;
 - Resources from self-published, independent, small, and local producers, and other content created by and representative of marginalized and underrepresented groups, including those who are BIPOC, LGBTQIA2S+, and people with disabilities;
 - Accuracy and currency of information;
 - Artistic quality, literary style or production values;
 - Need to replace essential/required worn, damaged, or missing materials.
- School libraries should have a clearly defined written policy for collection development that includes a procedure for review of challenged resources. Collection development applies to library materials and resources in all formats, programs, and services. As outlined by the Articles of the American Library Association’s *Library Bill of Rights*:⁵²
 - *Materials should not be excluded because of the origin, background, or views of those contributing to their creation.*
 - *Materials should not be proscribed or removed because of partisan or doctrinal disapproval.*
 - *Challenged resources should remain in the collection, and access to the resources remain unrestricted during the review process.*
 - *Library workers have a professional and ethical responsibility to be fair and just in defending the library user’s right to read, view, or listen to content protected by the First Amendment, regardless of the creator’s viewpoint or personal history. Library workers should not permit their personal biases, opinions, or preferences to unduly influence collection-development decisions.*

More broadly, GLSEN’s research indicates that LGBTQIA2S+ inclusive curriculum has profound positive impacts for LGBTQIA2S+ students. The 2021 National School Climate Survey found that LGBTQIA2S+ students who had access to an LGBTQIA2S+-inclusive curriculum were less likely to hear homophobic remarks, were less likely to hear negative remarks about gender expression, performed better academically in school, and were more likely to plan on pursuing post-secondary education.⁵³ The majority of LGBTQIA2S+ students (66.9%) who were taught an LGBTQIA2S+-inclusive curriculum reported that their classmates were somewhat or very accepting of LGBTQIA2S+ people, as compared to 35.3% of LGBTQIA2S+ students who were not taught an inclusive curriculum.⁵⁴ Ultimately,

⁵² “Challenged Resources: An Interpretation of the Library Bill of Rights”, American Library Association, July 26, 2006. <http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/challenged-resources> (Accessed October 25, 2023)

⁵³ Kosciw, J. G., Clark, C. M., & Menard, L. (2022). *The 2021 National School Climate Survey: The experiences of LGBTQ+ youth in our nation’s schools*. New York: GLSEN. (p. 62-65).

⁵⁴ *Id.* (p. 65).

LGBTQIA2S+ young people, including those who are BIPOC and people with disabilities, should have access to curriculum that reflects the fullness of their identities. Students benefit greatly from curricular standards that affirm representation of the contributions and lived experiences of LGBTQIA2S+ people, people who are BIPOC, people with disabilities, and all other marginalized communities.

In 6 states,⁵⁵ LGBTQI+ inclusive curricular standards laws empowered LEAs to adopt LGBTQIA2S+ inclusive curriculum, and in most others LEAs have discretion to adopt LGBTQIA2S+ inclusive curriculum. LEAs that have not already done so can revise curriculum to include affirming representations of LGBTQIA2S+ people, including those who are BIPOC, people with disabilities, and who otherwise experience marginalization, as an evidence-based way to improve school climate. **All subjects are improved by the use of an intersectional, LGBTQIA2S+-inclusive lens.**

At minimum, inclusive curricular standards should ensure that the curriculum addresses the following areas:

- **History, civics, and social studies:** Address the histories, contributions, and perspectives of diverse communities, including LGBTQIA2S+ people; and
- **Sexual and reproductive health:** Address human development and variations in sex characteristics; sexual health and wellness; consent; personal boundaries and safe and healthy relationships; and gender identity and sexual orientation in a scientifically accurate, trauma-informed, culturally inclusive manner that is grounded in social justice and equity.⁵⁶

GLSEN's [Inclusive Curriculum resource](#) and [professional development programming](#) can support educators in reviewing, developing, or implementing inclusive curriculum.

School Climate Surveys: Using Data for Bullying and Harassment Prevention Purposes

Data on students' experiences with bullying based on actual or perceived sexual orientation, gender identity, gender expression, and sex characteristics (including intersex traits) helps evaluate the effectiveness of bullying prevention programs and supports needs assessments. LEAs can use GLSEN's Local School Climate Survey tool to collect LGBTQIA2S+-inclusive climate survey data.

LEAs in states that participate in the CDC's state-level Youth Risk Behavior Survey (YRBS) have access to high-quality data on students' experiences of bullying at school that is representative at the state-level, meaning that the data accurately reflects the characteristics and experiences of the state's youth population. LEAs may be eligible to administer a local YRBS survey. Federal funds support the administration of the local YRBS and provide access to funds for school-based programs to support student health and wellbeing and, separately, for local education agencies to provide technical assistance and capacity-building in support of school-based programs.⁵⁷

⁵⁵ GLSEN Navigator: Inclusive Curricular Standards Policies. <https://maps.glsen.org/inclusive-curricular-standards-policies/>

⁵⁶ SIECUS, "National Sex Education Standards: Second Edition" <https://siecus.org/resources/national-sex-ed-standards-second-edition/>

⁵⁷ Foti K, Balaji A, Shanklin S. Uses of Youth Risk Behavior Survey and School Health Profiles data: applications for improving adolescent and school health. *J Sch Health*. 2011 Jun;81(6):345-54. doi: 10.1111/j.1746-1561.2011.00601.x. PMID: 21592130.

Media and Public Communications

Schools and LEAs may receive requests for information about LGBTQIA2S+ students or policies. These types of inquiries can occur when local media learns about a student expressing their identity in the school setting or adoption of a school or LEA policy regarding LGBTQIA2S+ students. In such cases, it is important that school and LEA staff respond appropriately in order to avoid undue and potentially harmful attention to individual students.

In general, if the school or LEA chooses to respond to press inquiries regarding the adoption of a new policy, new curriculum, or the presence of LGBTQIA2S+ students, a designated spokesperson should provide information and talking points regarding the issue for use with the media. Schools and LEAs should not disclose the identity or personal information of individual students publicly, including through contact with reporters/media organizations and public written communication (newsletters, meeting minutes, press releases).

To ensure the privacy of all students, the school or LEA should avoid raising issues relating to specific students through public hearings or communication to the media or community. Schools and LEAs should take care to never make a statement that causes harm, but allow for students and supportive families to drive what the communications plan, if any, should be.

For more information on responding to media requests, please see *Schools in Transition: A Guide to Supporting Transgender Students in K-12 Schools* in the Resources section.

When communicating to the media or community about issues related to sexual orientation, gender identity, and sex characteristics (including intersex traits), the school or LEA shall have a spokesperson to address the issue. Rather than directly commenting on the issue, other LEA and school staff shall direct parents and the media to the designated spokesperson. The designated spokesperson should develop talking points that emphasize the LEAs commitment to inclusion and support for LGBTQIA2S+ students. Protecting the privacy of individual LGBTQIA2S+ students must be a top priority for the spokesperson and all staff, and all personally identifiable and medical information shall be kept strictly confidential, in accordance with local, state, and federal privacy laws.

Additional Resources

[GLSEN, Updates to Title IX: What You Need to Know About the Rights of LGBTQI+ Youth in Schools](#)

[The National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation's Schools](#)

[Resource for Drafting Nondiscrimination Policies, Notices of Nondiscrimination, and Grievance Procedures under 2024 Amendments to the U.S. Department of Education's Title IX Regulations](#)

[Key Resources from the U.S. Department of Education on Equal Educational Opportunity for LGBTQI+ Youth in Schools](#)

[Improving School Climate for Transgender and Nonbinary Youth](#)

[GLSEN Navigator Maps](#)

[Know Your Rights: LGBTQ+ Student Rights](#)

[Know Your Rights: LGBTQ+ Educator Rights](#)

[Claim Your Rights](#)

Erasure and Resilience Reports

- [Erasure and Resilience: The Experiences of LGBTQ Students of Color, Black LGBTQ Youth in U.S. Schools](#)
- [Erasure and Resilience: The Experiences of LGBTQ Students of Color, Latinx LGBTQ Youth in U.S. Schools](#)

[LGBTQ+ Data Inclusion: Advancing Intersectional Equity in K-12 Education Systems](#)

[States' Use of ESSA to Advance LGBTQ+ Equity](#)

American Civil Liberties Union, Gender Spectrum, Human Rights Campaign, National Center for Lesbian Rights, National Educational Association, [Schools in Transition: A Guide for Supporting Transgender Students in K-12 Schools \(2015\)](#).

National Center for Transgender Equality, [Transgender and Gender NonConforming Students: Your Rights at School](#).

The Trevor Project, ["The Mental Health and Well-being of LGBTQ Youth who are Intersex" \(2021\)](#)

GLSEN, ["8 Ways You Can Be An Ally to Intersex Students"](#)

GLSEN, Changing The Game, ["Game Plan for Parents, Caregivers and Families"](#)

Substance Abuse and Mental Health Services Administration, [A Practitioner's Resource Guide: Helping Families to Support Their LGBT Children](#). HHS Publication No. PEP14-LGBTKIDS.

School Districts

Chicago Public Schools **GUIDELINES REGARDING THE SUPPORT OF TRANSGENDER AND GENDER NONCONFORMING STUDENTS**

Saint Paul Public Schools Gender Inclusive Policies

- **Title IX grievance procedure**
- **Non-discrimination/equal opportunity**

Madison, WI school district non-discrimination policy

DCPS Transgender and Gender — Nonconforming Policy Guidance <https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20Transgender%20Gender%20Non%20Conforming%20Policy%20Guidance.pdf>

Boston Public Schools Nondiscrimination policy — Gender Identity

LA Unified School District Gender Identity and Students — Ensuring Equity and Nondiscrimination

- **Affirming the Obligation to Address Discrimination/Harassment**

Arcadia School District Transgender Students — Ensuring Equity and Nondiscrimination

Johnson County Central Public Schools Notice of Title IX Policy

Tacoma Schools HIB policy

Walla Walla Public Schools Gender-Inclusive Schools Policy <https://www.wwps.org/district/information/school-board/procedures/series-3000/5180-3211-transgender-students>

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