



ENSURING SAFE
AND EFFECTIVE
SCHOOLS FOR ALL

MODEL STATE ANTI-BULLYING & HARASSMENT LEGISLATION

MODEL
LANGUAGE,
COMMENTARY &
REFERENCES

TABLE OF CONTENTS / INTRODUCTION

SECTION 1	LEGISLATIVE PURPOSE AND FINDINGS.....	3
	LOCAL MEDIA CONSIDERATIONS SHOULD PRIVATE SCHOOLS BE COVERED?	
SECTION 2	DEFINITIONS AND SCOPE OF PROSCRIBED CONDUCT.....	4-5
	ENUMERATION	
SECTION 3	STATE DEPARTMENT OF EDUCATION RESPONSIBILITIES.....	6
SECTION 4	DISTRICT RESPONSIBILITIES.....	6-7
	TRAINING AND PREVENTION PROGRAMS	
SECTION 5	SANCTIONS AND CIVIL LIABILITY.....	8
	PRIVATE RIGHTS OF ACTION	
SECTION 6	MISCELLANEOUS.....	8

This document presents our Model State Anti-Bullying and Harassment Legislation, explains the policy objectives for each section of the Model, and presents some key points and alternatives to consider. The commentary below will help you tailor the model language to the specific needs of your state, while keeping the original intent of the legislation intact. While this document provides a useful model, it is still necessary to carefully consider the legislative background of your state, the local political environment, the fiscal impact of any proposal, and any existing laws with which this legislation might interact.

If you have any questions about this document or would like GLSEN's assistance to construct your own anti-bullying and harassment bill, you may contact our Public Policy Department at 202-621-5821 or by email at publicpolicy@glsen.org.

Text in the beige boxes contains the language of the Model State Anti-Bullying and Harassment Legislation, partitioned by section.

Text on the white background lists and explains the policy goals and objectives for each section of the Model Legislation.

Text in the yellow boxes provides additional information and key points to consider.

LEGISLATIVE PURPOSE & FINDINGS

MODEL LANGUAGE

Be it enacted by the Legislature of the State of _____:

Section 1.

This Act, henceforth known as the Safe Schools Act, shall be hereby enacted to read as follows:

A. The Legislature finds and declares that:

- (1) All students have the right to participate fully in the educational process, free from bullying and harassment;
- (2) A safe and civil environment in school is necessary for students to learn and to achieve high academic standards;
- (3) Bullying and harassment, like other disruptive or violent behaviors, are forms of conduct that disrupt both a student's ability to learn and a school's ability to educate its students in a safe environment; and
- (4) Because students learn by example, school administrators, faculty, staff, and volunteers should be expected to demonstrate appropriate behavior, treat others with civility and respect, and refuse to tolerate bullying and harassment.

POLICY OBJECTIVES

- **Explain the context and need for the legislation**
- **If appropriate, mention particular local needs or recognized incidents**

This statement provides the context for the legislation, which clearly explains why anti-bullying and harassment legislation is important. Often in attempting to decide how to rule on a particular case, courts will look to the “legislative intent” behind the law. The inclusion of a section like this — which describes the importance of a safe school environment and the way in which bullying and harassment can adversely affect that environment — can help answer that question.

LOCAL MEDIA CONSIDERATIONS

In some states the need for state anti-bullying and harassment legislation is made particularly relevant by media recognition of incidents of bullying or their unfortunate consequences. If local media has been publicizing stories about bullying in schools, you may wish to include in the Legislative Findings section a short statement about the demonstrated need for this legislation in your state.

It's also possible to name the legislation after a particular student or students, especially if a high-profile event in the state has drawn attention to the issue of bullying and harassment. For example, Florida's anti-bullying law provides that “This section may be cited as the ‘Jeffrey Johnston Stand Up for All Students Act,’” after Jeffrey Johnston, a 15 year old boy that died by suicide after being bullied relentlessly.

SHOULD PRIVATE SCHOOLS BE COVERED?

Ideally, anti-bullying and harassment legislation should protect all students by applying to both public and private schools. However, state laws tend to treat public and private schools differently, and many safe schools laws cover only public schools. You should determine whether it's possible, in your state, to reach private schools and whether there will be higher levels of resistance. As an example, Minnesota's anti-bullying law specifically defines an “Education institution” to mean a:

Public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, and a business, nursing, professional, secretarial, technical,

vocational school; and includes an agent of an education institution. Minn. Stat. Ann. § 363.01, Subd. 15.

If the proposed legislation is intended to govern private schools, consider whether to include an exception applicable to certain religious schools to accommodate their constitutional rights. For example, California's law provides that:

This article shall not apply to an educational institution which is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization. Cal. Educ. Code § 220.5.

DEFINITIONS & SCOPE OF PROSCRIBED CONDUCT

MODEL LANGUAGE

Section 2. Definitions and Scope of Proscribed Conduct

A. This act applies to conduct occurring on all public elementary and secondary school premises, at any school-sponsored functions or activities, and on school-sponsored transportation. This act also applies to usage of electronic technology and electronic communications that occurs on all public elementary and secondary school premises, at any school-sponsored functions or activities, on school-sponsored transportation, and on school computers, networks, forums and mailing lists.

B. As used in this Chapter:

- (1) The term ‘bullying’ used in this act means conduct that:
 - (a) Adversely affects the ability of one or more students to participate in or benefit from the school’s educational programs or activities by placing a student in reasonable fear of physical harm; and
 - (b) Includes conduct based on a student’s actual or perceived race, color, national origin, sex, gender, disability, sexual orientation, gender identity or expression, religion, or any other distinguishing characteristics that may be defined by a State or local education agency; or
 - (c) Is based on association with a person or group with any person with one or more of the actual or perceived characteristics listed in (b).
- (2) The term ‘harassment’ used in this act means conduct that:
 - (a) Adversely affects the ability of one or more students to participate in or benefit from the school’s educational programs or activities because the conduct as reasonably perceived by the student is so severe, persistent, or pervasive; and
 - (b) Includes conduct based on a student’s actual or perceived race, color, national origin, sex, gender, disability, sexual orientation, gender identity or expression, religion, or any other distinguishing characteristics that may be defined by a State or local education agency; or
 - (c) Is based on association with a person or group with any person with one or more of the actual or perceived characteristics listed in (b).

POLICY OBJECTIVES

- **Make the Act applicable to all public schools and school-related activities**
- **Focus definitions of bullying and harassment focus on effect of behavior**
- **Specify definitions of bullying and harassment that enumerate specific categories of students to be protected**
- **Provide separate definitions for bullying and harassment**

In some cases, state legislatures have defined bullying and harassment coextensively— as if they were the same thing. A better view recognizes that while certain behavior may represent both bullying and harassment, there are cases in which harassment will not constitute bullying, and vice versa. In defining bullying and harassment, the focus should be on how the conduct interferes with a student’s ability to participate in educational opportunities. By focusing on the impact of the behavior of the “bully” or “harasser,” we do not become involved in issues of the actor’s intent. Rather, we stay focused on real harm to real students—which can adversely affect their educational opportunities.

In addition, this focus will help the legislation comply with the free expression requirements of the First Amendment. To maintain consistency between various state and local bullying laws as well as proposed federal laws, you should use the definitions of bullying and harassment as we have laid them out here. Enumerated categories are a key element in making sure that the legislation will protect LGBT students.

ENUMERATION

As an advocate for anti-bullying and anti-harassment laws, policies and programs at the national, state and local level, you will be challenged to explain why enumerated categories are better than no categories at all.

When a law enumerates categories it usually identifies types of individuals or things that need to be protected.

We generally refer to these individuals or things as groups or classes. Anti-bullying and harassment bills are designed to address the needs of students who

experience bullying and harassment in their schools. This is best achieved through a policy which both requires that all students are protected from bullying and harassment and also specifies categories of students who must be included by name (e.g., LGBT students).

Any time an anti-bullying and harassment bill is introduced we urge its sponsor to enumerate the kinds

(Cont.)

DEFINITIONS & SCOPE OF PROSCRIBED CONDUCT

ENUMERATION (Cont. from page 4)

of students who must be included within the protection of the law. While the goal of any anti-bullying and harassment legislation is to protect all students, we know that enumeration that not only focuses on race, sex or religion – all of which are very important – but also on the basis of sexual orientation and gender identity is critical.

Unfortunately, there are a large number of legislators, community leaders and others who believe that singling out by name any one group through enumeration gives that group special privileges. This is the area where your anti-bullying advocacy is likely to be most controversial and have the greatest opposition. However, we know that enumeration is absolutely necessary to protect ALL students as research has consistently shown that students experience less bullying, they feel safer overall, and teachers are more likely to intervene to prevent incidents of bullying in a school with an enumerated policy.

- The strength of an enumerated law or policy is that it underscores that those students that research shows are most likely to be bullied and harassed and least likely to be protected by generic anti-bullying and harassment laws and policies are protected, as well as ALL other students.
- Proponents of non-enumerated bullying laws argue that enumerated categories protect fewer students than generic laws because only certain students are protected. However, although enumerated bullying laws place an emphasis on certain categories because of their prevalence, all students are still protected. Furthermore, our research shows that students who live in states or school districts with enumerated laws and policies are provided greater protections across the board.
- Research has shown that students in states with non-enumerated bullying laws are no more protected from bullying than students who live in states without any anti-bullying and harassment laws (74.3% with generic policies vs. 75.0% with no policies report 'often or frequently' hearing homophobic remarks based on sexual orientation).
- Students report less overall harassment when they know their school has a comprehensive policy that includes enumeration. Students from schools

with an enumerated policy report that others are harassed far less often in their school for reasons like their physical appearance (36% vs. 52%), their sexual orientation (32% vs. 43%) or their gender expression (26% vs. 37%).

- Students whose schools have a policy that specifically includes sexual orientation and gender identity/expression are less likely than other students to report a serious harassment problem at their school (33% vs. 44%).
- Enumeration gives teachers and other educators the tools they need to implement anti-bullying and harassment policies, which makes it easier for them to intervene to prevent bullying. School personnel often fear that they will themselves be targeted for intervening on behalf of LGBT students. When they can point to language that provides clear protection for LGBT students, they feel more comfortable enforcing the policy. Students reported that teachers were significantly more likely to intervene always or most of the time in states with enumerated policies, as compared to states with either non-enumerated policies or no policies at all (25.3% vs. 15.9% and 12.3%).
- Evidence shows that school officials often do not recognize that anti-LGBT harassment and discrimination are unacceptable behaviors, or do not respond to the problem due to prejudice or community pressure without the cover of a specific law or policy.
- Students from schools with a enumerated policy are 50% more likely to feel very safe at school (54% vs. 36%). Students without such a policy are three times more likely to skip a class because they feel uncomfortable or unsafe (16% vs. 5%).

All statistics quoted above are from the following two reports:

Harris Interactive and GLSEN (2005). *From Teasing to Torment: School Climate in America, A Survey of Students and Teachers*. New York: GLSEN.

Kosciw, J. G., Diaz, E. M. and Greytak, E.A. (2008). *The 2007 National School Climate Survey: The experiences of lesbian, gay, bisexual and transgender youth in our nation's schools*. New York: GLSEN.

STATE DEPARTMENT OF EDUCATION RESPONSIBILITIES

MODEL LANGUAGE

Section 3. State Department of Education Responsibilities

- A. To assist school districts in developing policies for the prevention of bullying and harassment, the Department of Education shall develop and maintain a model policy that is:
- (1) Applicable to grades kindergarten through 12; and
 - (2) Contains definitions of bullying and harassment consistent with this Act.
- B. The Department of Education shall adopt rules to implement this legislation.
- C. The Department of Education shall develop appropriate procedures for:
- (1) Investigating violations of this Act;
 - (2) Reporting of and responding to failures to implement this Act by districts, schools, and administrators;
 - (3) Reporting of incidents of bullying and harassment by districts and schools;
 - (4) Publication of statewide statistics concerning bullying and harassment, as defined in this chapter; and
 - (5) Filing complaints regarding district failure to develop and implement policies that provide the protections set forth in this chapter.

POLICY OBJECTIVES

- **Require the Department of Education (DOE) to maintain a model policy**
- **Require that the DOE Model Policy is consistent with the Act**
- **Grant DOE the responsibility to implement regulations**
- **Specify that DOE should develop procedures for investigating and responding to violations and publicizing bullying statistics**
- **Provide a procedure for filing complaints with the DOE**

Throughout this text, we have used the term Department of Education. Your state may use a slightly different term and you should modify your legislation accordingly.

DISTRICT RESPONSIBILITIES

MODEL LANGUAGE

Section 4. District Responsibilities

- A. Each school district shall adopt a policy prohibiting harassment and bullying as defined in this legislation. Such policies shall, at a minimum, incorporate the model policy established by the Department of Education.
- B. Each school district shall adopt policies pursuant to this legislation that, at a minimum:
- (1) Prohibit bullying and harassment of all students, as specified and defined in this legislation;
 - (2) Designate one person in the district as the primary contact regarding the anti-bullying and harassment policy. The primary contact shall receive copies of all formal and informal complaints, have responsibility for assuring the implementation of the policy and procedure, and serve as the primary contact on the policy and procedures between the school district and the Department of Education;
 - (3) Require that school employees and trained volunteers who witness incidents of bullying or harassment, or possess reliable information that would lead a reasonable person to suspect that a person is a target of bullying or harassment, promptly report that information to the school principal and district designee;
 - (4) Provide a procedure for prompt investigation of reports of complaints of bullying or harassment, identifying either the principal or the principal's designee as the person responsible for the investigation;
 - (5) Delineate the range of ways in which a school will respond once an incident of bullying or harassment is identified, including a range of age-appropriate consequences that may or will attach to the prohibited bullying and harassment;
 - (6) Prohibit reprisal or retaliation against any person who reports an act of bullying or harassment and describe appropriate remedial action for a person who engages in reprisal or retaliation;
 - (7) Allow for anonymous reporting while clarifying that no remedial action may be undertaken solely on the basis of an anonymous report;
 - (8) Include a statement of how the policy is to be publicized, including that the school district's policy shall appear in new employee training materials, any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook; and
 - (9) Describe a process by which data on incidents of bullying and harassment shall be collected, reported and analyzed at least on an annual basis.

(Cont.)

DISTRICT RESPONSIBILITIES

POLICY OBJECTIVES

- **Ensure that the policy is mandatory in every school district**
- **Include a reporting procedure with a primary contact in each district**
- **Require a defined disciplinary process and consequences**
- **Provide protection from retaliation for those who report incidents**
- **Provide for initial anonymous reporting of incidents**
- **Require that policy must use definitions of bullying and harassment that include enumerated categories of students**
- **Require publication of the anti-bullying and harassment policy**
- **Require the incorporation of the model DOE policy**

You should note that school districts and schools will, in all cases, have an existing code of student conduct, which includes many of the provisions called for in the model legislation. Therefore many if not most of these requirements will not impose major new obligations on schools or districts. At most, schools and districts will be required to amend existing policies to include the specific projections set forth in the legislation.

This is one area in which you will want to carefully review existing state law. It is likely that your state already requires a student discipline code and, if so, you should consider presenting this legislation as an amendment to the legislation which requires the discipline code.

In some states, local control is a very important issue and legislation that appears to ignore or supersede local authority may face difficulties. In such situations, another option is to state that each local jurisdiction must adopt a policy “that has a definition of harassment and bullying no less inclusive

TRAINING & PREVENTION PROGRAMS

In order to ensure that school staff and teachers are actually aware of district policies enacted under this law to prevent bullying and harassment, it is advisable to have a requirement that they be trained about the policy. Generally, training requires resources, which may present a stumbling block to getting this legislation passed, particularly in a poor economic environment. At a minimum, however, the District Responsibilities section should include a requirement that information regarding the policy be incorporated into training programs for new employees. Because most districts require training for new employees anyway, this will present few resource implications. For example:

C. Information regarding a local school district policy against bullying and harassment shall be incorporated into a school’s employee training program.

Additionally, you may add a subsection encouraging but not requiring training and education programs to be developed at the district level. For example:

D. Schools and school districts are encouraged to establish programs designed to help eliminate bullying and harassment, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement, and community members.

Alternately, you may require training at the local level if resources are later appropriated. For example:

E. School districts are encouraged to; and to the extent funds are appropriated for these purposes, they are required to:

- (1) At least annually ensure that all schools provide training regarding the school district’s/ school’s bullying and harassment policies that conform to this legislation to school employees and volunteers that have significant contact with students; and*
- (2) Develop and implement a program for discussing bullying and harassment issues and related school policies with all students.*

SANCTIONS & CIVIL LIABILITY

MODEL LANGUAGE

Section 5. Sanctions and Civil Liability

- A. Any district or school not complying with the terms of this title shall be ineligible to receive state funds.
- B. This act is not intended to establish any private right of action.
- C. This act is not intended to limit the rights of any individual currently available under any other available law, civil or criminal.
- D. A school employee is immune from a cause of action for damages arising from any failure to remedy the reported incident, if they:
 - (1) Promptly report an incident of bullying or harassment to the appropriate official designated by the school district's policy; and
 - (2) Make this report in compliance with the procedures in the district's policy.
- E. A school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of bullying or harassment.

POLICY OBJECTIVES

- **Allow for administrative sanctions, such as denial of funds for noncompliance**
- **Ensure that the language does not limit current legal remedies**
- **Create a provision for immunity, so that the Act encourages teachers who witness bullying to report it**
- **Forbid reprisals or false accusations against those who bring complaints and witnesses**

MISCELLANEOUS

MODEL LANGUAGE

Section 6. Miscellaneous

- A. The provisions of this title shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence or provisions of this title to be invalid, or its applicability to any government agency, person or circumstance is declared invalid, the remainder of this article and its relevant applicability shall not be affected.
- B. The provisions of this article shall be liberally construed to give effect to the purposes thereof.
- C. Nothing in this title is intended to interfere with the First Amendment rights of free speech and expression of any person affected.

PRIVATE RIGHTS OF ACTION

You may decide to propose legislation that establishes a student's right to sue a school or district for failure to adhere to the requirements of this law. If you want the legislation to include such a private cause of action, it must be spelled out in the legislation. A court will typically not infer a private right of action where the legislation is not specific. Ideally, this provision should specify that monetary damages, injunctive relief, and any other appropriate relief may be awarded for a violation of the statute.

It is also important to make clear that any remedies specifically provided by the legislation do not waive one's right to pursue other legal remedies. For example, the California law provides that, "It is the intent of the Legislature that ... the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes." Cal. Educ. Code § 201(g).

It is important to note that a private cause of action may prove to be very controversial and may create larger challenges in getting your legislation passed. Creating a private right of action can be a very complex issue, and you should consult with an attorney familiar with this area of the law before proceeding. In addition, when considering whether to create a private right of action, you should be familiar with sovereign immunity principles in your state. Sovereign immunity is the principle that the government is generally immune to law suits unless it consents to be sued.

POLICY OBJECTIVES

- **Allow for severability so that provisions of the Act may remain in effect even if other sections are found unconstitutional**
- **State that the Act should be interpreted liberally in order for judges to consider the intent of the law, as laid out in Section 1**
- **Ensure that the Act is not intended to interfere with any individual's freedom of expression**



NATIONAL HEADQUARTERS

90 Broad Street, 2nd Floor
New York, NY 10004
P. 212.727.0135
F. 212.727.0254
glsen@glsen.org

PUBLIC POLICY OFFICE

1012 14th Street, NW, Suite 1105
Washington DC 20005
P. 202.347.7780
F. 202.347.7781
publicpolicy@glsen.org

MODEL SCHOOL DISTRICT POLICY ON TRANSGENDER AND GENDER NONCONFORMING STUDENTS

REVISED SEPTEMBER 2018

**Model Language,
Commentary, & Resources**

TABLE OF CONTENTS

INTRODUCTION	PAGE 1
PURPOSE	PAGE 1
A NOTE ON TERMINOLOGY.	PAGE 1
DEFINITIONS	PAGE 2
DETERMINING GENDER IDENTITY	PAGE 2
SCOPE	PAGE 3
BULLYING, HARASSMENT, AND DISCRIMINATION	PAGE 3
FEDERAL PROTECTIONS	PAGE 3
SAFE SCHOOLS LAWS	PAGE 4
PRIVACY/CONFIDENTIALITY	PAGE 4
STUDENT PRIVACY	PAGE 4
MEDIA AND COMMUNITY COMMUNICATION	PAGE 5
NAMES, PRONOUNS, AND SCHOOL RECORDS	PAGE 5
DEALING WITH MEDIA REQUESTS	PAGE 5
ACCESS TO GENDER-SEGREGATED ACTIVITIES AND FACILITIES	PAGE 6
CONSIDERATIONS FOR RESTROOMS, LOCKER ROOMS, OR CHANGING FACILITIES	PAGE 6
DRESS CODE	PAGE 7
STUDENT TRANSITIONS	PAGE 7
DRESS CODE ALTERNATIVES.	PAGE 7
MORE ON STUDENT TRANSITIONS.	PAGE 8
WORKING WITH PARENTS AND FAMILIES	PAGE 9
TRAINING AND PROFESSIONAL DEVELOPMENT	PAGE 10
PUBLICATION	PAGE 10
DISCRIMINATION AGAINST TRANSGENDER AND GENDER NONCONFORMING STUDENTS	PAGE 11
ADDITIONAL RESOURCES	PAGE 12

KEY

White: Model Policy Language
Yellow/Gray: Commentary

INTRODUCTION

This document presents our Model School District Policy on Transgender and Gender Nonconforming Students, which outlines best practices for schools to ensure that all students are safe, included, and respected in school, regardless of their gender identity or expression—including transgender and gender nonconforming students. The model presents some policy objectives, key points, and alternatives to consider. It is meant to be adaptable to the specific needs of your school district, while keeping the original intent of the policy intact. Depending on your school district, the policy language provided here may fit best in a district policy, an administrative regulation, or a combination of the two. Our model was developed by examining school district policies from various states, drawing from guidance provided by states and the federal government, and identifying best practices for a national context.

This model has been constructed so that you can easily copy model language in order to draft your own district policy.

Model Policy language is indicated by a white background and commentary language is indicated by a yellow background (or gray background if the model is printed in black and white).

While this document provides a starting place to create a policy pertaining to transgender and gender nonconforming students in your district, the language should be modified to comply with state laws and existing district policies. Policy experts at GLSEN and NCTE can provide technical assistance. Please contact GLSEN's Public Policy Department at 202-347-7780 or by email at publicpolicy@glsen.org or NCTE at 202-642-4542 or by email at ncte@transequality.org.

GLSEN is the leading national education organization focused on ensuring safe and affirming schools for all students.

Established in 1990, GLSEN envisions a world in which every child learns to respect and accept all people, regardless of sexual orientation or gender identity/expression. GLSEN seeks to develop school climates where difference is valued for the positive contribution it makes to creating a more vibrant and diverse community.

The National Center for Transgender Equality (NCTE) is a national social justice organization devoted to ending discrimination and violence against transgender people through education and advocacy on national issues of importance to transgender people. By empowering transgender people and our allies to educate and influence policymakers and others, NCTE facilitates a strong and clear voice for transgender equality in our nation's capital and around the country.

The purpose of this policy is:

- (1) to foster an educational environment that is safe, welcoming, and free from stigma and discrimination for all students, regardless of gender identity or expression,
- (2) to facilitate compliance with local, state and federal laws concerning bullying, harassment, privacy, and discrimination,
- (3) to ensure that all students have the opportunity to express themselves and live authentically.

A NOTE ON TERMINOLOGY

Transgender and gender nonconforming youth may use different words to describe their lives and experiences of gender. Terminology and language can differ based on region, language, race or ethnicity, age, culture, and many other factors. Some examples of terms used by some youth include trans, trans girl, trans boy, non-binary, genderqueer, gender fluid, and Two Spirit. These terms often mean different things or refer to different experiences of gender. School staff and educators should use the terms that students use to describe themselves and avoid terms that make these students uncomfortable.

Definitions

These definitions are provided not for the purpose of labeling students but rather to assist in understanding this policy and the legal obligations of school and district personnel. Students may or may not use these terms to describe themselves or their experiences.

BULLYING: Written, verbal, or physical conduct, including via electronic communication, that is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in, or benefit from, a program or activity of a public school or local educational agency; or to create a hostile or abusive educational environment, adversely affecting a student's education, including acts of verbal, nonverbal, or physical aggression or intimidation. This includes bullying that is based on a student's actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion, or another distinguishing characteristic. This also includes conduct that targets a student because of a characteristic of a friend, family member, or other person or group with whom a student associates. Bullying is frequently referred to as harassment when it pertains to a characteristic protected by non-discrimination laws.

GENDER EXPRESSION: The manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.

GENDER IDENTITY: A person's deeply held knowledge of their own gender, which can include being female, male, another gender, or no gender. Gender identity is an innate and largely inflexible part of a person's identity. One's gender identity can be the same or different than the gender assigned at birth. The responsibility for determining an individual's gender identity rests with the individual. Children typically begin to understand their own gender identity by age four, although the age at which individuals come to understand and express their gender identity may vary based on each person's social and familial development.

GENDER NONCONFORMING: A term sometimes used to describe people whose gender expression differs from stereotypical expectations, such as "feminine" boys, "masculine" girls, and people who are perceived as androgynous in some way. Most gender nonconforming people are not transgender. For example, a non-transgender girl who has short hair and likes sports might be considered gender nonconforming. The term "gender nonconforming" is also sometimes used to refer to people whose gender identity is not male or female.

NONBINARY/GENDERQUEER: These are terms often used to describe people whose gender is not exclusively male or female, including those who identify with a gender other than male or female, as more than one gender, or as no gender.

DETERMINING GENDER IDENTITY

Gender identity is a core aspect of personal identity. The model policy is based on the basic principle that only an individual can determine their own gender identity. This approach is consistent with current best practices and state and federal law.

Schools should avoid requiring medical, legal, or other "proof" in order to respect a student's gender identity. The decision to undergo a particular medical treatment as part of a transition is a very personal decision that must be left to the student, their family, and their healthcare provider. In addition to being overly invasive, such a requirement does not account for the many barriers transgender youth experience trying to access transition-related medical care. It is similarly inappropriate to require specific court orders or changes to government-issued identity documents. Additionally, some students do not want or need medical care. Due to varying state and federal policies, transgender youth very often are unable to change government-issued identity documents and other records to correspond to their chosen name and appropriate gender. In fact, some states do not allow correction of gender markers at all, and many allow individuals to change their gender marker on identity documents only upon the completion of medical procedures that are unavailable to youth.

Schools have found that in practice it is not difficult to verify that a student is really transgender, regardless of whether they can present medical or legal evidence. In rare cases where a school administrator suspects that a student is initiating a formal process to discuss a transition for an improper purpose, the administrator can seek additional clarification about the student's needs and objectives.

SEXUAL ORIENTATION: A person's romantic and/or physical attraction to people of the same and/or another gender, such as being straight, gay, bisexual, or asexual. Transgender and gender nonconforming people may have any sexual orientation.

TRANSGENDER: An adjective describing a person whose gender identity is different from that traditionally associated with the gender they were thought to be when they were born. A **transgender girl** is a girl who was thought to be male when she was born. A **transgender boy** is a boy who was thought to be female when he was born. Some transgender people have a gender that is neither male nor female, and may use terms like non-binary to describe their gender.

TRANSITION: The process in which a person begins to live according to their gender identity, rather than the gender they were thought to be at birth. Transition is a process that is different for everyone, and it may or may not involve social, legal, or physical changes. There is no one step or set of steps that an individual must undergo in order to have their gender identity affirmed and respected.

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 school computers, networks, forums, and mailing lists, as well as any electronic communication that is directed at a student and that 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 District staff, students, parents, and volunteers.

Bullying, Harassment, and Discrimination

Discrimination, bullying, and harassment on the basis of gender identity or expression is prohibited within the District. It is the responsibility of each school and all staff to ensure that all students, including transgender and gender nonconforming 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 supports. Enforcement of anti-bullying policies should focus on education and prevention rather than exclusionary discipline. Complaints alleging discrimination or

FEDERAL PROTECTIONS

Title IX is the federal education law that protects students from discrimination based on sex. While Title IX does not specifically use the terms "transgender" or "gender identity or expression," courts around the country agree that harassment and discrimination against transgender and gender nonconforming people constitutes illegal discrimination.

In 2017, the Department of Education rolled back a guidance document clarifying that Title IX protects transgender students from discrimination. While this step caused some confusion about schools' legal obligations, it did not change the meaning of Title IX. Indeed, even after the guidance document was rolled back, courts have continued to affirm that anti-transgender discrimination is banned under Title IX. Numerous courts have also held that transgender students are protected from discrimination under the Equal Protection Clause of the U.S. Constitution.

For more information on these protections, please see the Resources section.

harassment based on a student's actual or perceived gender identity or expression 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 transgender and gender nonconforming students at the original school site. Transfers shall not be a school's first or preferred response to harassment of transgender and gender nonconforming students and shall be considered only rarely, 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.

Privacy/Confidentiality

The District shall ensure that all personally identifiable and medical information relating to transgender and gender nonconforming students shall be kept confidential in accordance with applicable state, local, and federal privacy laws. School staff shall not disclose any information that may reveal a student's transgender status to others, including parents or guardians and other school staff, unless legally required to do so or unless the student has authorized such disclosure. In the rare instance that a school is legally required to disclose a student's transgender status, the school should provide the student an opportunity to make that disclosure themselves, where practicable. This would include providing the student with any support services the student would need to make the disclosure in a safe and supportive environment.

Transgender and gender nonconforming students have the right to discuss and express their gender identity and expression openly and to decide when, with whom, and how much to share private information. The fact that a student chooses to use a different name, to transition at school, or to disclose their transgender status to staff or other students does not authorize school staff to disclose a student's personally identifiable or medical information. Before contacting the parent or guardian of a transgender student, school staff should ask the student whether to use their chosen name and the pronouns that correspond to their gender identity, or whether to use their legal name. (See "Student Transitions" below.)

SAFE SCHOOLS LAWS

Many states and the District of Columbia have anti-bullying laws that specifically protect students on the basis of gender identity and expression. Many states also explicitly prohibit discrimination in education on the basis of gender identity and expression. In these states, 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 school districts pertaining to transgender and gender nonconforming students. Several examples are listed in the Resources section.

Regardless of whether state laws explicitly address gender identity and expression, transgender and gender nonconforming students are protected under Title IX and state sex discrimination laws and may also be protected under state laws regarding disability discrimination.

School districts should adopt explicit non-discrimination and anti-bullying policies to help ensure acceptance, respect, and safety for all students and compliance with all federal and state laws. The policy language included here regarding bullying, harassment, and discrimination is not comprehensive, and districts are encouraged to consult GLSEN's Model District Anti-Bullying and Harassment Policy for more comprehensive recommended policy language.

STUDENT PRIVACY

All persons, including students, have a right to privacy, and this includes the right to keep one's transgender status private at school. Information about a student's transgender status, legal name, or gender assigned at birth constitutes confidential personally identifiable and medical information. Disclosing this information to other students or parents or other third parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA), as well as constitutional privacy protections. Additionally, disclosure or misuse of this information may establish a hostile environment for a transgender or gender nonconforming student, potentially subjecting them to bullying and harassment by peers, discrimination by school staff, or family rejection.

Media and Community Communication

When communicating to the media or community about issues related to gender identity or expression, the school or District shall have a single spokesperson to address the issue. Rather than directly commenting on the issue, other District and school staff shall direct parents and the media to the designated spokesperson. Protecting the privacy of transgender and gender nonconforming 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.

Names, Pronouns, and School Records

Every student has the right to be addressed by a name and pronouns that correspond to the student's gender identity. Regardless of whether a transgender or gender nonconforming student has legally changed their name or gender, schools will allow such students to use a chosen name and gender pronouns that reflect their identity. It is recommended that school staff privately ask transgender or gender nonconforming students how they want to be addressed in class and in the school's communication with the student's parents or guardians. Some transgender and gender nonconforming youth may request to use "he" or "she" pronouns, while others may feel most comfortable being addressed by gender-neutral pronouns such as "they" or "ze" or just referred to by their names (without pronouns).

If the student has previously been known at school by a different name, the school administration will direct school personnel to use the student's chosen name and appropriate pronouns. To ensure consistency among administrators and staff, every effort will be made to immediately update student education records (such as attendance reports, class rosters for substitutes, school IDs, transcripts, electronic records, etc.) with the student's chosen name and appropriate gender markers.

In some circumstances, school administrators may be specifically required by law to record a student's name or gender as it appears on documents such as a current birth certificate. In those instances, school staff and administrators shall record this information in a separate, confidential file to avoid the inadvertent disclosure of the information. All records that are not specifically required by law to match government-issued documents shall be updated upon a student's request.

DEALING WITH MEDIA REQUESTS

Schools and districts may receive requests for information about transgender students or policies. These types of inquiries can occur when local media learns about a student transitioning or adoption of a policy regarding transgender and gender nonconforming students. In such cases, it is important that school and district staff respond appropriately in order to avoid undue and potentially harmful attention to individual students.

Organizations such as GLSEN and NCTE can provide assistance to advocates and school staff dealing with this type of media scrutiny. In general, if the school or district chooses to respond to press inquiries regarding the adoption of a new policy or the presence of transgender students, a designated spokesperson should provide information and talking points regarding the issue for use with the media. Schools and districts should not disclose the identity or personal information of individual students publicly.

To ensure the privacy of all students, the school or district should avoid raising issues relating to specific students through public hearings or communication to the media or community. Schools and districts 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.

Access to Gender-Segregated Activities and Facilities

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 separate restroom, locker room or changing facilities for male and female students, provided that they allow all students equal access to facilities that are consistent with their gender identity. Students, including nonbinary students, should determine which facilities are consistent with their gender identity.

Any student who is uncomfortable using a shared gender-segregated 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 or gender nonconforming student to use a separate space against their wishes threatens to stigmatize the student and disclose their transgender status to others. Under no circumstances may students be required to use gender-segregated 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 they are transgender or gender nonconforming. Schools are encouraged to incorporate single-user facilities and greater privacy into new construction or renovation, and to assess ways to increase privacy for all students in existing facilities.

Physical Education Classes and Intramural and Interscholastic Athletics

All students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity. Furthermore, all students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity, under the guidelines established by the state interscholastic association.

CONSIDERATIONS FOR RESTROOMS, LOCKER ROOMS, OR CHANGING FACILITIES

The model policy ensures equal access to all school facilities by making clear that all students have the right to be treated according to 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 students, students with disabilities or physical differences, students who are reluctant to use facilities alongside a transgender student, or other students. The model policy provides for accommodating students upon request by providing a safe and non-stigmatizing alternative.

Other Gender-Based Activities, Rules, Policies and Practices

As a general matter, schools should 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.

Dress Code

Schools may enforce dress codes pursuant to District policy, but any such dress codes may not be enforced based on gender or gender stereotypes. Students shall have the right to dress in accordance with their gender identity and expression, including maintaining a gender neutral appearance within the constraints of the dress codes adopted by the school. School staff shall not enforce a school's dress code more strictly against transgender and gender nonconforming students than other students.

Student Transitions

The school shall accept the gender identity that each student asserts. There is no medical or mental health diagnosis or treatment threshold that students must meet in order to have their gender identity recognized and respected. The assertion may be evidenced by an expressed desire to be consistently recognized as the sex consistent with their gender identity. Students ready to socially transition may initiate a process to change their name, pronoun, attire, and access to gender-related programs, activities, and facilities consistent with their gender identity. Each student has a unique process for transitioning. The school shall customize support to optimize each student's equal access to the District's educational programs and activities.

DRESS CODE ALTERNATIVES

Increasingly, school districts are adopting dress codes that do not have separate rules based on gender. Under these policies, all students have access to the same clothing options regardless of gender, and students cannot be disciplined for wearing clothes associated with a particular gender if those clothes otherwise comply with the dress codes. For example, a school's dress code might say, "Skirts or shorts may not end more than two inches above the knee" rather than "Girls may not wear skirts that end more than two inches above the knee." This approach minimizes the risk of liability under the First Amendment and laws prohibiting discrimination based on sex, gender identity, and gender expression.

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.

MORE ON STUDENT TRANSITIONS

A student's need to transition at school can come to the school's attention in a number of ways. Most commonly for younger students, a parent or guardian may approach a school or district administrator about their child's transition. In such a case, the administrator should meet with the parents and student to discuss the school's role in supporting the student's transition. This would include the timing of the transition, planning responses to questions from school staff and students, and correcting the student's information in the school records, among other issues. This meeting should be conducted without any additional school personnel, unless the family or student specifically requests or consents to their presence.

Students, even elementary-age students, can also be the ones to bring up their need to transition at school. In these instances, administrators and educators should find ways to create a safe and affirming learning environment for the student. As part of supporting the student, administrators and educators must be mindful of the fact that many transgender students experience significant levels of family rejection. Thus, in situations where a student brings up their transition without their parents, it is important to speak with the student prior to involving parents, guardians, or other family members to determine whether doing so would be safe and support the student's health and well-being. If the student believes that the family will be supportive, the administrator should, with the student's consent, arrange a meeting with the family to discuss the student's transition. Again, the planning for this meeting should involve the student to determine what role, if any, the student would like to play during the meeting. For example, in some instances a student may want to disclose their transgender status themselves, while in others the student may not want to be at the meeting at all. In either scenario, the administrator should be prepared to discuss how this issue is affecting the student in school and the importance of family acceptance to a student's short- and long-term well-being.

Schools must create safe and affirming school environments for transgender students, even if the student's family is unsupportive. In those instances, the administrator should meet with the student to discuss the ways that the school can support the student, such as providing access to the appropriate restroom or use of a chosen name. That discussion should also include what the school and district can do to support the student's safety at home, which could include providing the family with resources to better understand their child's needs and contingency planning for the possibility that the family inadvertently finds out the child's transgender status. Regardless, schools should respect a student's gender identity or expression regardless of whether or not a family is supportive.

WORKING WITH PARENTS AND FAMILIES

The parents and guardians of transgender and gender nonconforming students can play a critical role in establishing a safe and affirming school environment. Transgender students are coming out and transitioning at earlier ages. Schools should work with supportive parents and guardians whenever possible to establish healthy communication and ensure the needs of these often vulnerable students are fully met.

Unfortunately, however, some transgender and gender nonconforming 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. 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 determining a strategy for communicating with the student's siblings as well as staff and other students.

Schools can play an important role in providing a place of acceptance for transgender and gender nonconforming students. School may be the only safe space where a student feels comfortable fully expressing their gender. Therefore it is critical that parental/guardian approval is never a prerequisite for respecting a student's gender identity, including their chosen name and pronouns. 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 transgender and gender nonconforming students.

For more information about the importance of family acceptance of transgender and gender nonconforming and the role that schools can play, please see *Schools in Transition: A Guide to Supporting Transgender Students in K-12 Schools* and *A Practitioner's Resource Guide: Helping Families to Support Their LGBT Children* in the Resources section.

Training and Professional Development

The District shall conduct training for all staff members on their responsibilities under applicable laws and this policy, including teachers, administrators, counselors, social workers, and health staff. Information regarding this policy shall be incorporated into training for new school employees.

To the extent funding is available, the District shall implement ongoing professional development to build the skills of all staff members to prevent, identify and respond to bullying, harassment, and discrimination. The content of such professional development shall include, but not be limited to:

- (i) terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents;
- (ii) developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy;
- (iii) developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyberbullying;
- (iv) classroom-management practices, curriculum, and resources that educators can integrate into their classrooms to help foster a more gender-inclusive environment for all students;
- (v) school and District policies regarding bullying, harassment, discrimination, and suicide prevention and responsibilities of staff.

Publication

This policy will be distributed annually to students, parents/guardians, and staff, and it will also be included in any student codes of conduct, disciplinary policies, student handbooks, and school websites.

DISCRIMINATION AGAINST TRANSGENDER AND GENDER NONCONFORMING STUDENTS

Discrimination often affects transgender and gender nonconforming students in particular ways that prevent them from fully participating in the school environment and impact their ability to learn. Discrimination can take forms such as ignoring or failing to respond to ongoing bullying and harassment, holding the student to strict or unreasonable applications of a school dress code, disclosing confidential information, preventing students from using appropriate restrooms, subjecting students to harassment and discriminatory discipline by teachers and staff (including the repeated and intentional use of the wrong name and pronouns), and even suspending or expelling students for reasons related to being transgender. By adopting policies such as this model, school districts will have procedures in place for creating a welcoming environment for all students and avoiding these forms of discrimination.

Numerous studies demonstrate that the bullying, harassment, and discrimination faced by transgender and gender nonconforming students is often pervasive. According to GLSEN's National School Climate Survey (see Resources section), a large majority (76%) of transgender students feel unsafe at school because of their gender, 65% have experienced verbal harassment, 25% have been physically harassed, and 12% have been physically assaulted due to their gender expression. In addition to peer victimization, transgender students face high rates of discrimination by school officials: more than half (51%) of transgender students in the National School Climate Survey were prevented from using their chosen name and pronouns at school, 60% were required to use the bathroom or locker room corresponding to the gender on their government IDs, and 28% of transgender students were prevented from wearing clothes because they were considered inappropriate based on the gender on their government IDs. Similarly, the 2015 U.S. Transgender Survey, a survey of nearly 28,000 adults in the United States, found that 77% of those who were out or perceived as transgender in K-12 faced mistreatment because of being transgender, including 17% who left a school because of the severity of the mistreatment and 6% who were expelled.

A hostile school climate can negatively impact a student's life trajectory from education and employment to long-term achievement and well-being. For example, the U.S. Transgender Survey revealed that those who were mistreated in school were more likely to have experienced homelessness, attempted suicide, and reported other negative experiences. Research also indicates that negative school climate is associated with transgender students missing days of school, earning lower grades, and not planning to go to college.

Adopting a policy that protects transgender students from discrimination can help ensure that these students have the same access to educational opportunities as any other student. This kind of policy ensures that students, parents, teachers, and school staff know that transgender students should be treated with respect, and it ensures that these expectations are clear to everyone and applied consistently. Indeed, research has demonstrated that transgender students in schools or districts with official policies that support transgender students are less likely to experience gender-related discrimination like being prevented from dressing according to their gender identity, accessing restrooms on an equal basis as other students, and using the name and pronoun that matches their gender.

ADDITIONAL RESOURCES

Supportive Resources

American Civil Liberties Union, Gender Spectrum, Human Rights Campaign, National Center for Lesbian Rights, & National Educational Association. (2015). *Schools in Transition: A Guide for Supporting Transgender Students in K-12 Schools*. Available at: www.nclrights.org/schoolsintransition.

GLSEN. Changing the Game Resources. Available at: www.glsen.org/sports

Griffin, P. & Carroll, H.J. (2010). *On the Team: Equal Opportunities for Transgender Student Athletes*.

National Center for Lesbian Rights, Women's Sports Foundation, and It Takes a Team!. *On the Team: Equal Opportunity for Transgender Student Athletes*. Available at: www.nclrights.org/legal-help-resources/resource/on-the-team-equal-opportunities-for-transgender-student-athletes.

National Center for Transgender Equality. (2017). *Know Your Rights: Schools*. Available at: transequality.org/know-your-rights/schools.

National Center for Transgender Equality. (2017). *School Action Center*. Available at: transequality.org/schoolaction.

Substance Abuse and Mental Health Services Administration. (2014). *A Practitioner's Resource Guide: Helping Families to Support Their LGBT Students*. Available at: <https://store.samhsa.gov/shin/content/PEP14-LGBTKIDS/PEP14-LGBTKIDS.pdf>.

Sample and Model Policies

Arcadia Unified School District. (2015). *Transgender Students – Ensuring Equity and Nondiscrimination*. Available at: www.nclrights.org/wp-content/uploads/2015/07/Transgender-Policy-Bulletin-Approved-w-corrections-April-2015.pdf.

DC Public Schools. (2015). *Transgender and Gender Nonconforming Policy Guidance*. Available at: <https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20Transgender%20Gender%20Non%20Conforming%20Policy%20Guidance.pdf>.

GLSEN. *Model District Anti-Bullying and Harassment Policy*. Available at: www.glsen.org/sites/default/files/GLSEN%20model%20district%20policy.pdf.

GLSEN. *Transgender Inclusion in High School Athletics*. Available at: https://www.glsen.org/sites/default/files/Transgender%20Inclusion%20in%20High%20School%20Athletics_0.pdf.

Los Angeles Unified School District. *LGBTQ Student Resources/Supports: Related Policy and Resources*. Available at: achieve.lausd.net/Page/3651.

The Trevor Project, American Foundation for Suicide Prevention, National Association of School Psychologists, & the American School Counselor Association. *Model School District Policy on Suicide Prevention*. Available at: www.thetrevorproject.org/pages/modelschoolpolicy.

Selected State and Federal Guidance

Visit NCTE's School Action Center for a complete list of state-specific resources: www.transequality.org/schoolaction#StateGuidance.

California Department of Education. (2013). *Legal Advisory Regarding Application of California's Antidiscrimination Statutes to Transgender Youth in Schools*. Available at: www.cde.ca.gov/re/di/eo/legaladvisory.asp.

District of Columbia Public Schools. (2015). *Transgender and Gender-Nonconforming Policy Guidance*. Available at: <https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20Transgender%20Gender%20Non%20Conforming%20Policy%20Guidance.pdf>.

Hawaii Department of Education. (2016). *Guidance on Supports for Transgender Students*. Available at: www.hawaiipublicschools.org/DOE%20Forms/Civil%20Rights/TransgenderSupports.pdf.

Idaho School Board Association. (2015). *Gender Identity and Sexual Orientation*. Available at: www.idahoednews.org/wp-content/uploads/2016/05/ISBA-gender-identity-policy.pdf.

Iowa Association of School Boards. (2016). *Transgender Students in Iowa Schools: FAQs on the Law*. Available at: www.idahoednews.org/wp-content/uploads/2016/05/ISBA-gender-identity-policy.pdf.

Minnesota School Safety Technical Assistance Council. (2017). *A Toolkit for Ensuring Safe and Supportive Schools for Transgender and Gender Nonconforming Students*. Available at: <https://www.leg.state.mn.us/docs/2017/other/170928.pdf>.

New York State Education Department. (2015). *Guidance for Schools for Creating a Safe and Supportive Environment for Transgender and Gender Nonconforming Students*. Available at: www.p12.nysed.gov/dignityact/documents/Transg_GNCGuidanceFINAL.pdf.

Selected Federal Resources

U.S. Department of Education. (2016). *Examples of Policies and Emerging Practices for Supporting Transgender Students*. Available at: www2.ed.gov/about/offices/list/oese/osh/emergingpractices.pdf.

U.S. Department of Education. (2010). *Dear Colleague Letter: Harassment and Bullying*. Available at: www.transequality.org/sites/default/files/docs/sac/O6%20colleague-201010.pdf (includes information about bullying and harassment of LGBT students).

U.S. Department of Education. (2011). *Legal Guidelines Regarding the Equal Access Act and the Recognition of Student-Led Noncurricular Groups*. Available at: www2.ed.gov/policy/elsec/guid/secletter/groupsguide.doc (includes requirements regarding LGBT student groups).

U.S. Department of Education. (2014). *Questions and Answers on Title IX and Sexual Violence*. Available at: www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf (see page 5 for coverage of discrimination against transgender students).

U.S. Department of Education. (2014). *Questions and Answers on Title IX and Single-Sex Elementary and Second Classes and Extracurricular Activities*. Available at: www2.ed.gov/about/offices/list/ocr/docs/faqs-title-ix-single-sex-201412.pdf.

U.S. Department of Education. (2015). *Title IX Resource Guide*. Available at: www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf.

Research and Reports

James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality. Available at: www.ustranssurvey.org/report.

Greytak EA, Kosciw JG & Diaz EM. (2009). *Harsh Realities: The Experiences of Transgender Youth in Our Nation's Schools*. New York: GLSEN. Accessible at: <http://www.glsen.org/research>

Kosciw, J. G., Greytak, E. A., Giga, N. M., Villenas, C. & Danischewski, D. J. (2016). *The 2015 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in our Nation's Schools*. Available at: www.glsen.org/article/2015-national-school-climate-survey.



1133 19th Street NW, Suite 302
Washington, DC 20036
T: 202-642-4542
ncte@transequality.org



NATIONAL HEADQUARTERS

110 William Street, 30th Floor
New York, NY 10038
T: 212-727-0135
F: 212-727-0254
info@glsen.org

PUBLIC POLICY OFFICE

1001 Connecticut Ave. NW, Suite 206
Washington DC 20036
T: 202-347-7780
F: 202-347-7781
publicpolicy@glsen.org

School Culture Can Factor Into Bullying

By Rick Nauert PhD

Associate News Editor

Last updated: 8 Aug 2018

New research examines the complexity of bullying behavior and finds that the school climate plays a central role in its development, or elimination.

University of California - Riverside researchers believe school administrators must understand the importance of fostering an environment that promotes empathy and encourages appropriate interactions among and between teachers and students.

Researchers also comment on the necessity to develop reliable measures to evaluate the school climate.

Their findings are discussed in an article published in the journal *Theory Into Practice*. "Bullying is a very complex problem," said Cixin Wang, Ph.D., a co-author of the article.

"With this research, we're really trying to provide school personnel with some proven steps to address the problem."

In recent years, there has been an increased interest in reducing bullying behavior by school personnel, parents and students. But educators have had difficulty determining how to assess the factors that cause bullying and select evidence-based prevention and intervention programs.

Wang and her colleagues sought to address these issues by highlighting the importance of school climate in bullying prevention and reviewing school climate evaluations and intervention programs.

They found that positive relationships among students and teachers, and negative attitudes toward inappropriate behavior such as bullying are key elements of a positive school climate.

To create a positive school climate, school personnel need to promote and model appropriate attitudes and behaviors, such as caring, empathy, and appropriate interactions among and between teachers and students.

To foster attitudes against bullying, in addition to promoting knowledge and awareness of bullying, teachers need to take reports of any bullying incident seriously and intervene consistently according to school rules instead of ignoring or minimizing bullying behavior.

Adult behavior is also critical foundation for a healthy school climate. Adults should refrain from bullying students and other adults at school.

In addition, teachers need to incorporate school climate interventions into the curriculum and use teachable moments to openly discuss topics related to bullying, such as popularity, power and social ostracism.

Finally, bullying is not only a behavior problem, but also a mental health problem.

Research has shown that students involved in bullying experience more mental health difficulties and display higher levels of [cognitive distortions](#).

As a result, experts suggest educators should seek professional help from mental health practitioners for students involved in bullying and experiencing mental health difficulties.

Source: [University of California - Riverside](#)

TRANSGENDER INCLUSION IN HIGH SCHOOL ATHLETICS

The ability to participate fully in school life is critical for transgender students' wellbeing during adolescence. For students in general, having the opportunity to participate in sports results in positive outcomes—better grades, greater homework completion, higher educational and occupational aspirations, and improved self-esteem. For lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) students, GLSEN reports show that athletes have a GPA that is between 0.2 and 0.4 points higher on a 4.0 scale than students not participating in athletics. Furthermore, 56% of LGBTQ team members and 66% of team leaders competing in high school sports report feeling a positive sense of belonging at school. Despite this encouraging data, many states and school districts struggle with the issue of inclusion in athletics. Many states have policies that outline if, how, and when transgender students can participate in athletic programs, but 28 state high school athletic associations fail to address what students need to compete.



EQUAL ACCESS FOR TRANS ATHLETES

Across the nation, schools and policymakers are coming to understand the following precepts about transgender students' participation in sports:

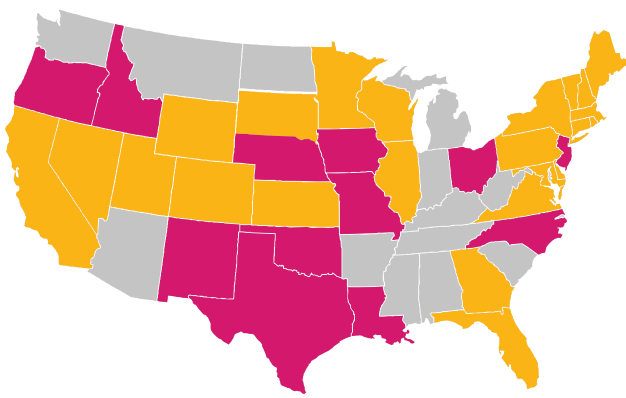
- The right of transgender students to participate in sports calls for the same considerations of fairness and equal access as their classmates;
- Not allowing transgender students to participate in sports violates their rights under Title IX, which has been interpreted under case law to include gender identity discrimination;
- Providing equal opportunities in all aspects of school programming is a core value in education;
- Athletics can provide a unique opportunity for inclusion for all students, regardless of race, religion, sexual orientation, gender identity, and/or gender expression.

For schools and districts, failure to be inclusive of transgender students in sports not only denies trans students the benefits of participating on a sports team, it may result in costly and divisive litigation. A growing number of states and localities are adopting specific legal protections for transgender students. In addition, state and federal courts are increasingly applying sex discrimination laws to prohibit discrimination against transgender people.

WHAT MAKES AN INCLUSIVE POLICY?

In 2016, GLSEN partnered with athletes and advocates for LGBTQ youth to create a [model high school athletics policy](#), highlighting how to best include transgender students. Key points in the policy include:

1. **The student has a right to participate in athletics in a manner consistent with their gender identity.**
Regardless of what their birth certificate or government records indicate, if a student's gender identity can be confirmed by the process outlined below, they should be able to compete with teams in line with that identity.
2. **When a student or parent comes to administrators with a request to compete consistent with their gender identity, the school district should work with the state association to help ensure eligibility.**
School districts should have a process in place to ensure transgender eligibility claims can be considered fairly within the district.
3. **The state association should promote a fair and affirming hearing to consider the participation of the particular athlete.**
The state should consider the athlete's case for fair participation by bringing together a committee of professionals familiar with both the student's case and trans athletics. The committee should include two medical professionals familiar with working with trans youth: the student's own physician and/or licensed mental health provider, if possible; a school administrator; a staff member from the association; and an advocate for the student of their own choosing. Ideally, this committee would also include a counselor or a teacher from the school that could speak to the manner in which the student expresses gender identity in and out of the classroom. This committee will also review all documents submitted by the athlete, including written testimony from friends, parents, and teachers. Once the committee affirms the eligibility of the student, it will be in effect for the duration of the student's school athletic eligibility.
4. **The student has a non-negotiable right to both privacy and confidentiality throughout this process.**
Trans athletes are also protected by HIPPA and FERPA, federal laws that protect the rights of students to keep medical and personal information private. No part of the process of applying for eligibility should infringe on the student's rights to privacy and the district and the state association have no legal right to share documents that were under consideration in the eligibility hearing or any part of the process.
5. **Transgender student athletes, once approved for play, have the right to access the same facilities as their teammates of the same gender.**
This includes access to locker rooms, restrooms, hotel rooms, etc. The student should also have access to uniforms that are in line with their gender identity and should be called by the proper name and pronouns.



COMMON CLAIMS ABOUT COMPETITIVE EQUITY

There are many myths and misconceptions about safety, fairness, and equity about including trans athletes in single-sex competition.

Claim: Transgender girls and women are not “real” girls or women and therefore not deserving of an equal competitive opportunity.

Reality: Transgender girls are not boys, as transgender boys are not girls. To align one's external gender presentation with one's internal sense of gender identity is a deeply significant and often difficult choice that is made only after careful consideration. Transgender girls are girls living in their realized gender identity and transgender boys are boys living in their realized gender identity.

Claim: Being born with a male body gives a transgender woman an unfair advantage when competing against cisgender (not transgender) women. Being assigned female at birth makes trans men weaker and more sensitive, making them a liability to teams.

Reality: It's easy to generalize, but it's not accurate. There is no research to support the claim that allowing trans athletes to play on the team that fits their gender identity will create a competitive imbalance. Trans children display the same variation in size, strength, and athletic ability as other youth.

Claim: Boys or men will pretend to be transgender in order to compete in competition with girls or women.

Reality: It isn't happening. There have been no reported instances of a boy pretending to be transgender and presenting as a girl in their high school to fraudulently join a sports team. Well-developed policies require that students who identify as transgender demonstrate a consistent gender identity in everyday life, verified by people in the student's life and/or health professionals.

LOCKER ROOM REALITIES

- For transgender boys or girls, the decision to transition to their true gender comes after careful consideration. Allowing them to access gender-segregated locker rooms affirms and validates students that are trying their best to succeed in their educational aspirations.
- Barring trans youth from using the locker room that aligns with their gender identity puts them at risk. Transgender people (and specifically trans women) are at high risk of being victims of violence throughout their lives, even before adolescence.^v
- Privacy is an important factor for all students in locker rooms. Facilities with privacy areas (such as restrooms with stalls or changing areas with curtains)—for all students, including transgender students—would meet student needs. Schools may also make other private changing rooms available to any student who requests additional privacy.

GETTING ON THE SAME PLAYING FIELD

Having the ability to work collaboratively with other young people in pursuit of athletic excellence has countless benefits for all young people. Transgender youth deserve access to the same opportunities. Allowing trans students to compete with teams that align with their gender identity is validating and shows that schools are invested in all their students. For more information about actions schools and teams can take to be inclusive of transgender students, check out the [*"All 50" model policy*](#) for trans athletic inclusion and [*GLSEN and NCTE's model transgender student policy*](#) for school districts more broadly. If you have questions or need help implementing an affirmative policy in your state or district, contact us at [*policy@glsen.org*](mailto:policy@glsen.org).

¹See: Marsh, H.W. & Kleitman, S. (2003). School athletic participation: Mostly gain with little pain. *Journal of Sport and Exercise Psychology*, 25(2), 205–228. Darling, N., Caldwell, L. L., & Smith, R. (2005). Participation in school-based extracurricular activities and adolescent adjustment. *Journal of Leisure Research*, 37(1), 51–76. Fredericks, J. A., & Eccles, J. S. (2006). Is extracurricular participation associated with beneficial outcomes? Concurrent and longitudinal relations. *Developmental Psychology*, 42(4), 698–713.

ⁱⁱGLSEN (2013). *The Experiences of LGBT Students in School Athletics* (Research Brief). New York: GLSEN.

¹¹See G.G. ex rel. Grimm v. Gloucester Cty. Sch. Bd., ___ F.3d ___, 2016 WL 1567467 (4th Cir. Apr. 19, 2016), Glenn v. Brumby, 663 F.3d 1312 (11th Cir. 2011) (“The nature of the discrimination is the same; it may differ in degree but not in kind.”); also Barnes v. City of Cincinnati, 401 F.3d 729 (6th Cir. 2005), Rosa v. Parks W. Bank & Trust Co., 214 F.3d 213 (1st Cir. 2000).

¹⁰Figure 1 was constructed utilizing information from State High School Athletic Association and is current as of July 2017. The evaluation of a policy as supportive, harmful, or non-existent was completed by examining existing policy alongside the All-50 Model Policy.

¹⁰Carroll, Helen and Pat Griffin. "On the Team: Equal Opportunity for Transgender Student Athletes" 4 Oct 2010, available at: http://media.wix.com/ugd/2bc3fc_250d5c5fe7222e08ca5feee85bae0750.pdf

James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality.