

# Education

## Legal Rights & Protections

### Federal Law Overview

Although there is no explicit protection for LGBTQ students under federal law, there are numerous instances where a more broadly defined protection or constitutional right can be implicated. Applying these protections to LGBTQ students has been successful in some contexts, but the U.S. Supreme Court has not made any specific, final determinations on how they should be applied in the context of sexual orientation, gender identity, and gender expression. While there is a brief discussion of the recent developments on these issues provided below, it is an area of law that is subject to rapid and unexpected changes. As a result, be sure to determine if any new guidance or policy has been issued before relying on these materials.

Title IX of the Education Amendments of 1972 is one of the primary sources of legal protection for LGBTQ students under federal law. In recent years, there have been significant changes in how Title IX is applied to discrimination related to sexual orientation, gender identity, and gender expression. Under Title IX, “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”<sup>1</sup> Simply put, Title IX prohibits sex discrimination in schools that receive federal funding, including in the areas of sex-based harassment, discipline, and athletics.<sup>2</sup>

In 2016, the U.S. Department of Education and Justice released historic guidance explaining how schools should treat transgender students under Title IX.<sup>3</sup> It summarized over ten years of case law and best practices and recommended that schools treat transgender students in accordance with their gender identity.<sup>4</sup> However, this guidance was withdrawn in September 2017.<sup>5</sup> While transgender students are still protected under Title IX, the removal of the 2016 guidance will likely make advocacy on their behalf much harder.<sup>6</sup> Students will still be able to bring cases in federal court, but the guidance withdrawal will make it challenging to succeed, as many courts look to the agency’s interpretation of the law.<sup>7</sup>

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<sup>1</sup> 20 U.S.C. § 1681 (1972), <https://www.justice.gov/crt/title-ix-education-amendments-1972>.

<sup>2</sup> See Title IX and Sex Discrimination, DEPT. OF EDUC., [https://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html) (last visited Jan. 16, 2018).

<sup>3</sup> “Dear Colleague” Letter from Catherine E. Lhamon, Assistant Sec’y for Civil Rights, U.S. Dep’t of Educ. and Vanita Gupta, Principal Deputy Assistant Attorney General, U.S. Dep’t of Justice, *Transgender Students* (May 13, 2016), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf> (revoked in September 2017).

<sup>4</sup> *Id.* See also Nat’l Center for Transgender Equality, Fact Sheet on U.S. Department of Education Policy Letter on Transgender Students (2016), <http://www.transequality.org/sites/default/files/ED-DCL-Fact-Sheet.pdf>.

<sup>5</sup> See Press Release, U.S. Dep’t of Educ., Dep’t of Educ. Issues New Interim Guidance on Campus Sexual Misconduct (Sept. 22, 2017), <https://www.ed.gov/news/press-releases/departments-education-issues-new-interim-guidance-campus-sexual-misconduct>.

<sup>6</sup> See Nat’l Center for Transgender Equality, FAQ on the Withdrawal of Federal Guidance on Transgender Students (2017), <http://bit.ly/2CGfYXf>.

<sup>7</sup> *Id.*

This is compounded by the fact that, in February 2018, DOE announced it would no longer investigate civil rights complaints from transgender students barred from using bathrooms that match their gender identity.<sup>8</sup> The legality of DOE’s decision is questionable, as multiple federal appeals courts have ruled that Title IX does allow transgender students the right to use public school restrooms matching their gender identity.<sup>9</sup>

Despite the reversal of previously implemented guidance, LGBTQ students are still protected under Title IX. In 2010 the DOE released a Dear Colleague letter on harassment and bullying that discussed the handling of gender-based and sexual harassment.<sup>10</sup> The guidance affirms that Title IX prohibits sexual harassment, including spreading sexual rumors and gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping.<sup>11</sup> As a result, sex discrimination includes “if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity and femininity.”<sup>12</sup> Title IX prohibits this kind of harassment, regardless of the actual or perceived sexual orientation or gender identity of the harasser or target.<sup>13</sup>

LGBTQ students are also protected more broadly under the U.S. Constitution. The Supreme Court has not explicitly ruled that there is a constitutional right protecting against unwanted disclosure of sexual orientation, but it has determined that the right to privacy extends to “the right to control the nature and extent of highly personal information released about that individual.”<sup>14</sup> There have been several lower court rulings, some of which are provided below, that implicate this right to informational privacy in the school setting with regards to sexual orientation.

## Federal Law Resources

### U.S. Code:

- ◆ Title IX of the Education Amendments of 1972
  - [20 U.S.C. §§ 1681-1688](#)

### Department of Education Guidance:

- ◆ [Dear Colleague Letter: Withdrawing Previous Guidance on Transgender Students](#)
- ◆ [Dear Colleague Letter: Harassment and Bullying](#)

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<sup>8</sup> Moriah Balingit, *Education Department no longer investigating transgender bathroom complaints*, THE WASHINGTON POST (Feb. 12, 2018), <http://wapo.st/2CEpEBF>.

<sup>9</sup> See *Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034 (7th Cir. 2017); *Dodds v. U.S. Dept. of Educ.*, 845 F.3d 217 (6th Cir. 2016).

<sup>10</sup> “Dear Colleague” Letter from Russlynn Ali, Assistant Sec’y for Civil Rights, Dep’t of Educ., *Harassment and Bullying* (Oct. 26, 2010), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Letter from James D. Esseks, Director of the American Civil Liberties Union LGBT & HIV Project, to School Principals and Superintendents (Dec. 7, 2015), [https://www.aclu.org/sites/default/files/field\\_document/privacy\\_open\\_letter\\_dec\\_2015\\_0.pdf](https://www.aclu.org/sites/default/files/field_document/privacy_open_letter_dec_2015_0.pdf).

## **Case Law:**

### *Disclosure of Sexual Orientation:*

- ◆ [C.N. v. Wolf](#), 410 F. Supp. 2d 894 (C.D. Cal. 2005) (holding that a gay student had a legally protected privacy interest in information about her sexual orientation).
- ◆ [Nguon v. Wolf](#), 517 F. Supp. 2d 1177 (C.D. Cal. 2007) (holding that a female high school student had a reasonable expectation that her sexual orientation would not be disclosed to her parents by school principal).

### *First Amendment:*

- ◆ [Fricke v. Lynch](#), 491 F. Supp. 381 (D.R.I. 1980) (holding it was a denial of the First Amendment right of a gay high school student for school officials to preclude him from bringing a male escort to the senior prom).
- ◆ [Henkle v. Gregory](#), 150 F.Supp.2d 1067 (D. Nev. 2001) (holding a gay high school student, claiming his freedom of speech rights were violated when school officials ignored his complaints of harassment and transferred him, could recover punitive damages from officials in their individual capacities).<sup>15</sup>
- ◆ [Logan v. Gary Cmty. Sch. Corp.](#), No. 2:07-CV-431 JVB, 2008 WL 4411518 (N.D. Ind. Jan. 23, 2009) (involving a transgender student's challenge to her school preventing her from wearing a dress to prom).<sup>16</sup>

### *Title IX:*

- ◆ [Dodds v. U.S. Dept. of Educ.](#), 845 F.3d 217 (6th Cir. 2016) (involving transgender girl's right to use the girls' restroom and otherwise be treated as a girl and school district's impermissible discrimination against her on the basis of sex in violation of Title IX).
- ◆ [Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.](#), 858 F.3d 1034 (7th Cir. 2017) (holding as a matter of first impression, transgender students may bring sex-discrimination claims under Title IX based upon a theory of sex-stereotyping).

## **Case Law & Statutory Resources:**

### *General:*

- ◆ Mudasar Khan et al., [Challenges Facing LGBTQ Youth](#), 18 Geo. J. Gender & L. 475 (2017) (providing an overview of federal protections, with case citations, based on sexual orientation and gender identity).<sup>17</sup>

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<sup>15</sup> This case also involves a claim under Title IX.

<sup>16</sup> Note that this opinion incorrectly identifies the plaintiff, Kevin Logan, as a "transgendered male." Transgender should never have an extraneous "-ed" tacked on the end. Additionally, a transgender man would refer to a person who was assigned female at birth but identifies and lives as a man. Kevin Logan, who was assigned male at birth, is a transgender woman. This opinion also incorrectly uses male pronouns to identify her. See GLAAD, GLAAD MEDIA REFERENCE GUIDE (10th ed. 2016), <http://www.glaad.org/sites/default/files/GLAAD-Media-Reference-Guide-Tenth-Edition.pdf>.

<sup>17</sup> This article is not freely available but is accessible through HeinOnline (link provided above), Georgetown Law's Journal of Gender and the Law (<http://www.law.georgetown.edu/academics/law-journals/subscribe/single-issues.cfm>), and other legal research services such as Westlaw and LexisNexis.

- ◆ *Legal Victories for Youth*, LAMBDA LEGAL, <https://www.lambdalegal.org/know-your-rights/article/youth-legal-victories>. (last visited Jan. 18, 2018) (detailing cases involving bullying, gay-straight alliances, proms and dances, and student expression, and more).

#### *Disclosure of Sexual Orientation:*

- ◆ Bari Nadworny, *Homosexuality in High School: Recognizing a Student's Right to Privacy*, 88 St. John's L. Rev. 1103 (2015) (providing detailed history, with case citations, of constitutional right to informational privacy as ruled by the Supreme Court and numerous lower federal courts).
- ◆ Evan Ettinghoff, *Outed at School: Student Privacy Rights and Preventing Unwanted Disclosures of Sexual Orientation*, 47 Loy. L. A. L. Rev. 579 (2014) (discussing in detail the legal landscape for unwanted disclosures of sexual orientation).
- ◆ [Letter from James D. Esseks](#), Director of the American Civil Liberties Union LGBT & HIV Project, to School Principals and Superintendents (Dec. 7, 2015) (detailing the legal basis for preventing disclosure of a student's sexual orientation or gender identity without consent).

#### *First Amendment:*

- ◆ *Reinforcing Related Rights: Advancing Equality for LGBT Youth by Safeguarding Student Freedom of Expression*, Lambda Legal, <https://www.lambdalegal.org/publications/reinforcing-related-rights>. (last visited Jan. 18, 2018) (detailing cases pursued by Lambda Legal on behalf of students and involving the right to freedom of expression).

#### *Title IX:*

- ◆ *The Application of Title IX to LGBT Students*, ABA SECTION OF CIVIL RIGHTS AND SOC. JUSTICE (Aug. 25, 2016) (containing extensive information on the U.S. Dept. of Education Office of Civil Rights guidance, enforcement under that guidance by OCR and Dept. of Justice, and challenges to OCR transgender guidance).
- ◆ *Overview of Title IX of the Education Amendments of 1972*, U.S. DEP'T OF JUSTICE (updated Aug. 7, 2015) (containing an overview of the Title IX statute, procedural requirements, other agency's Title IX regulations, additional materials, and complaint information).

### **Additional Resources:**

#### *General:*

#### [Know Your Rights: A Guide for LGBT High School Students](#)

- ◆ This guide is designed to provide LGBT students with basic information about their rights in the context of harassment, privacy, and freedom of speech. It discusses legal issues surrounding transgender students, gay-straight alliances, and prom and other school events. A similar guide, entitled "[Know Your Prom Night Rights: A Guide for LGBT High School Students](#)," is also available.

#### [Know Your Rights: Schools](#)

- ◆ This short fact sheet provides general information for transgender students about their rights at school and what can be done if they experience discrimination. Most of the information

provided focuses on a student's rights under Title IX., but other sources of legal protection are briefly discussed.

### [Separation and Stigma: Transgender Youth & School Facilities](#)

- ◆ This report focuses on the legal arguments and broader national context for transgender students and facilities access at school. It outlines the harm from excluding transgender students from using facilities that match their gender identity and discusses existing federal, state, and local landscape for transgender students and their ability access school facilities.

*Title IX:*

### [FAQ on the Withdrawal of Federal Guidance on Transgender Students](#)

- ◆ This fact sheet answers basic questions on the U.S Department of Education's revocation of Title IX guidance for transgender students. It discusses legal protections now that the guidance has been revoked, the effect on currently pending litigation, and the importance of school policies that support transgender students. Information on the withdrawn guidance can be found [here](#).

### [Know Your Title IX](#)

- ◆ Know Your Title IX, a project of [Advocates for Youth](#), is a survivor and youth led program that aims to empower students to end sexual and dating violence in their schools. The program's website contains information on [pursuing a claim under Title IX](#) and [under the Clery Act](#) and [finding a lawyer to represent you](#) in such action. It also has information on [anti-trans discrimination](#) and [Title IX protections for LGBTQ students](#).

## District of Columbia Law Overview

The DC Human Rights Law specifically provides anti-discrimination protections for LGBT students.<sup>18</sup> Under D.C. Code, educational institutions are prohibited from discriminating against any student on the basis of sexual orientation or gender identity and expression.<sup>19</sup> More information on the DC Human Rights Law and how to file a complaint with the DC Office of Human Rights is available in Chapter II, Section B of this Practice Kit.

### D.C. Code:

- ◆ [Prohibited Acts of Discrimination in Educational Institutions](#)
- ◆ [Youth Bullying Prevention](#)
- ◆ [Title IX Athletic Equity](#)

### D.C. Municipal Regulations:

- ◆ DC Mun. Reg., [Tit. 5, § 2408](#) (Dress Codes and Uniforms)
- ◆ DC Mun. Reg., [Tit. 5, § 2405](#) (Student Grievance Procedure)

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<sup>18</sup> D.C. Code §§ 2-1402.41 (1977).

<sup>19</sup> *Id.*

### **Policy Guidance:**

- ◆ D.C. Public Schools (DCPS)
  - [DCPS Transgender and Gender-Nonconforming Policy Guidance](#)
  - [DCPS District-Wide Bullying Prevention Policy](#)
  - [Keeping DC Schools Safe for All: Protocol for DC School Administrators](#)
  - [Keeping DC Schools Safe for All: Protocol for DC School Personnel](#)
- ◆ Charter Schools
  - [DC Public Charter School Board Open Enrollment Policy](#)

### **Maryland Law Overview**

Maryland Code § 7-424, requires incidents of bullying, harassment, or intimidation to be reported to the county board of education.<sup>20</sup> Under that section, bullying, harassment, or intimidation includes conduct “motivated by an actual or a perceived personal characteristic including . . . sex, sexual orientation, [and] gender identity.”<sup>21</sup>

Additionally, Maryland Regulations provide that “[a]ll students in Maryland’s public schools, without exception and regardless of . . . gender, sexual orientation . . . have the right to educational environments that are: (A) safe; (B) appropriate for academic achievement; and (C) free from any form of harassment.”<sup>22</sup>

### **M.D. Code:**

- ◆ Health and Safety of Students
  - MD. CODE ANN., EDUC., [§ 7-424](#) (West 2017). Reports relating to bullying, harassment and intimidation of students.

### **M.D. Regulations:**

- ◆ Public School Standards
  - MD. Code Regs. [13A.01.04](#) (2016). School Safety.

### **M.D. Department of Education Guidance:**

- ◆ [Providing Safe Spaces for Transgender and Gender Non-Conforming Youth: Guidelines for Gender Identity Non-Discrimination](#)
  - [Companion Document 1: Non-Discrimination Guidelines for Student Transitions](#)
  - [Companion Document 2: Working with Parents of Transgender Identifying Youth and Working with Community Members and Parents of Non-Transgender Youth](#)
- ◆ [Maryland Title IX Network \(list of coordinators\)](#)

### **Montgomery County Guidance:**

- ◆ [Guidelines Regarding Student Gender Identity Matters](#)

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<sup>20</sup> MD. Code Ann., Educ., [§ 7-424](#) (West 2017).

<sup>21</sup> *Id.*

<sup>22</sup> MD. Code Regs. [13A.01.04](#) (2016).

## Organizations, Offices, and Other Contacts

Name	Location	Type or Topic	Description
<a href="#">Lambda Legal Defense &amp; Education Fund</a>	National	Legal, Policy	Lambda Legal is a national organization committed to achieving full recognition of the civil rights of LGBT people and everyone living with HIV through impact litigation, education and public policy work.
<a href="#">MD State Dept. of Education Office of the Ombudsman</a>	MD	Government	The Maryland State Department of Education Office of the Ombudsman was established more than 20 years ago to help assist parents and other members of the public with their educational concerns. The Ombudsman works directly with Maryland's 24 public school systems to gather information & resolve issues.
<a href="#">National Center for Transgender Equality's School Action Center</a>	National	Legal/Policy	The National Center for Transgender Equality is a national social justice organization devoted to ending discrimination and violence against transgender people. The School Action Center provides information on how trans students can make a difference at their school following the recent repeal of Title IX guidance.
<a href="#">Office of the Ombudsman for Public Education (D.C.)</a>	D.C.	Government	The Office of the Ombudsman is responsible for helping students and parents resolve problems as they engage with the District of Columbia Public Schools and public charter schools. The Office offers conflict resolution services to parents, families, and students and is committed to resolving school related complaints, disputes and problems quickly and efficiently in all areas that affect student learning.
<a href="#">Office of the Student Advocate (D.C.)</a>	D.C.	Government	The mission of the Office of the Student Advocate is to support and empower DC residents to achieve equal access to public education through advocacy, outreach, and information services.
<a href="#">Transgender Legal Defense &amp; Education Fund</a>	National	Legal	Founded in 2003, Transgender Legal Defense & Education Fund is a 501(c) (3) nonprofit whose mission is to end discrimination and achieve equality for transgender people, particularly those in our most vulnerable communities. Its strategies include path-breaking trans rights cases and "friend of the court" briefs regarding the key issues of employment, health care, education and public accommodations.

# Education

## LGBTQ Youth in School

### Bullying, Harassment, and Discrimination

#### [Beyond Bullying: The LGBT Student Experience](#)

- ◆ This short article provides basic information and statistics on LGBT students and the effects of bullying. Using Michigan public schools as a snapshot, the article breaks down the types of harassment LGBT students frequently face.

#### [Educational Exclusion: Drop Out, Push Out, and the School-to-Prison Pipeline among LGBTQ Youth](#)

- ◆ This report examines potential pathways that push youth out of school and potentially into the criminal justice system in a national sample of LGBTQ middle and high school students.

### Resource Highlight

#### [GLSEN 2015 School Climate Survey](#)

- ◆ This survey examines the experiences of LGBTQ students with regard to indicators of negative school climate, including hearing biased and homophobic remarks in school; feeling unsafe in school because of personal characteristics, such as sexual orientation, gender expression, and race or ethnicity; and missing classes or days of school because of safety reasons. It also looks at the possible negative effects of a hostile school climate on LGBTQ students' academic achievement, educational aspirations, and psychological well-being.
- ◆ GLSEN is set to release the 2017 School Climate Survey sometime in 2018.

#### [Let Her Learn: Stopping School Pushout for LGBTQ Girls](#)

- ◆ This report discusses barriers to success in school for LGBTQ girls and includes statistics on how bullying affects their school experience. It also includes information on how schools can help them succeed in school based on what students' reported helping them the most.

#### [Playground and Prejudice: Elementary School Climate in the United States](#)

- ◆ This study evaluates the climate of various elementary schools through student and teacher surveys. Teachers were asked questions about school climate and attitudes and efforts toward students who may not conform to traditional gender norms.

#### [Shared Differences: The Experiences of Lesbian, Gay, Bisexual, and Transgender Students of Color in Our Nation's Schools](#)

- ◆ This report highlights the importance of remembering the differences among LGBT students, and to identify important variations in their school experiences. It discusses important distinctions among different communities of LGBT students of color and highlights areas where students of color face the same challenges as the overall LGBT student population.



## For Students

### [Bending the Mold: An Action Kit for Transgender Students](#)

- ◆ Whether a student is transgender or gender-nonconforming, questioning or an ally, this toolkit, created by Lambda Legal, is designed to help them make their school a safer place. It includes ideas and information to help students advocate for change and an extensive list of resources to help them connect with the transgender community and find support.

### [Campus Pride Index: National Listing of LGBTQ-Friendly Colleges & Universities](#)

- ◆ This free, online tool allows prospective college students, families and parents, and other advocates to search a database of LGBTQ-friendly campuses who have come out to improve the academic experience and quality of campus life. School profiles include reviews from LGBTQ students and an overall rating of the school based on a variety of LGBTQ-friendly factors. Information on how the index works can be found [here](#).
- ◆ Campus Pride also has an index of [LGBTQ-Friendly Colleges & Universities in Sports](#), which ranks schools based on their LGBTQ-friendly policies, programs and practices in sports.

### [Gender-Neutral Housing](#)

- ◆ Created by the Human Rights Campaign, this resource lists all of the colleges and universities in the United States that have gender-neutral housing available on campus for students.

### [LGBTQ Student Scholarship Database](#)

- ◆ Although not exhaustive, this database provides an extensive listing of scholarships, fellowships, and grants for LGBTQ and allied students at both the undergraduate and graduate-level. The database is searchable by state and individual school.

### [LGBTQ Friendly Colleges & Student Resources](#)

- ◆ This guide takes a look at colleges and universities leading the way in providing curricula and resources to support LGBTQ students throughout their college experience. It contains information on resources, curricula, and student organizations.

### [LGBTQ Resources and College Affordability](#)

- ◆ For some LGBTQ students, a lack of familial support can also lead to emotional and financial obstacles to attending college. The schools described in this resource have developed programs that address the unique needs of LGBTQ students, including scholarships, alternative housing, inclusive curricula, campus life presence, healthcare, counseling, and more. This guide to LGBTQ college's breaks down the individual components that make a campus LGBTQ-friendly and is intended to help students navigate potential schools.

### [Out, Safe & Respected: Your Rights at School](#)

- ◆ This kit is designed to help students know their rights at school and gives concrete ideas on how they can make a difference at school and in the community. It provides information on a variety of topics, including how to start a Gay-Straight Alliance, being an ally at their school, negotiating with adults, the laws that provide protection against harassment and discrimination, and student speech rights.

## For Caregivers, Educators, and Other Advocates

### [Best Practices—Creating an LGBT-Inclusive School Climate: A Teaching Tolerance Guide for School Leaders](#)

- ◆ This guide explores best practices designed to give school leaders the knowledge they need to create a climate in which their most vulnerable students feel safe and valued. Through inclusive policies and nurturing practices, administrators, counselors and teachers have the power to build an educational environment that is truly welcoming to all students.

### [Great Diverse Books for Your School, Library or Home](#)

- ◆ A simple way to let students and families know that a school welcomes everyone is to integrate books into the curriculum that reflect the diversity of a classroom and the world. This resource provides book lists for LGBTQ-inclusive schools, to embrace family diversity, to prevent bias-based bullying, and that support transgender and non-binary students.

### [Out, Safe & Respected: A Guide to LGBTQ Youth in Schools for Educators and Parents](#)

- ◆ Published by Lambda Legal, this booklet is designed to help parents and educators develop safe, nurturing school environments for LGBTQ students. Topics discussed include how to be an adult ally, protecting students from harassment and discrimination, making your school safe and your curriculum inclusive, and respecting student speech and expression.

### [Promoting Resiliency for Gender Diverse and Sexual Minority Students in Schools](#)

- ◆ Created by the American Psychological Association, this series of informational guides sets out best practices for educators, school counselors, administrators and personnel, based on the latest research on the needs of LGBTQ, queer, gender diverse, and intersex students. Topics include how educators can support families of LGBTQI youth, how school health personnel and administrators can specifically support transgender and gender diverse students, and school-based risk and protective factors for LGBTQI students.

### [Safe Space Kit: A Guide to Supporting Lesbian, Gay, Bisexual and Transgender Students in Your School](#)

- ◆ The Safe Space Kit is designed to help educators create a safe space for LGBT students. It includes the *Guide to Being an Ally*, a printable poster, and printable stickers. It discusses the experiences of LGBT students and anti-LGBT bias, specific actions you can take to be an effective support, ways to teach students and inform school staff about combating anti-LGBT bias and behavior, and strategies to promote change within your school.

## Resource Highlight

### [Some Considerations When Working with LGBT Students of Color](#)

- ◆ This guide poses a number of considerations educators should contemplate to help them think more deeply about the experiences of LGBT students of color and their needs. Each topic for consideration is laid out by explaining why it is needed, why it is challenging to deal with, and tips on how to reflectively consider the issue. Topics discussed include the multiple forms of oppression LGBT students of color may feel in their lives, how to affirm complex identities, supporting student resilience, and intervening and preventing discrimination.

### [Talking with Kids about LGBTQ Issues](#)

- ◆ The resources at the link above provide the language and information needed to discuss lesbian, gay, bisexual, transgender and queer people and issues in an age-appropriate way with children and youth.

## Organizations and Other Programs

Name	Location or Area of Operation	Type(s)	Description
<u><a href="#">Campus Pride</a></u>	National, Online	Youth Resource	Campus Pride is a non-profit organization for student leaders and campus groups working to create a safer college environment for LGBT students. Its primary objective is to develop necessary resources, programs, and services to support LGBT and ally students on college campuses across the United States.
<u><a href="#">GLSEN (Gay, Lesbian &amp; Straight Education Network)</a></u>	National	Policy, Advocacy, Training	GLSEN (pronounced "glisten") is the leading national education organization focused on ensuring safe and affirming schools for LGBTQ students.
<u><a href="#">Point Foundation</a></u>	National	Youth Resource	Point Foundation (Point) is the nation's largest scholarship-granting organization for lesbian, gay, bisexual, transgender, and queer (LGBTQ) students of merit. It promotes change through scholarship funding, mentorship, leadership development, and community service training.
<u><a href="#">Safe &amp; Supportive Schools Project</a></u>	National, Online	Training	Part of the American Psychological Association, the Safe and Supportive Schools Project promotes safe and supportive environments to prevent HIV and other sexually transmitted infections among adolescents. Education agencies may seek specific assistance for groups of youth at disproportionate risk, including LGBT youth.
<u><a href="#">Welcoming Schools</a></u>	National, Online	Training	The Human Rights Campaign Foundation's Welcoming Schools Project is a professional development program providing training and resources to elementary school educators to welcome diverse families, create LGBTQ and gender inclusive schools, prevent bias-based bullying, and support transgender and non-binary students.

# Education

## Unique Issues for Transgender & Gender Expansive Students

### Safety & Inclusivity

Research has shown that, while LGBT students overall experience high levels of harassment and assault in school, transgender students experience even higher levels than non-transgender students.<sup>1</sup>

In a survey conducted by the Gay, Lesbian and Straight Education Network (GLSEN), two-thirds of transgender students reported feeling unsafe in school because of their sexual orientation and how they expressed their gender.<sup>2</sup> Almost all transgender students surveyed had been verbally harassed in the past year at school because of their sexual orientation and gender expression, while over half had been physically harassed for the same reasons.<sup>3</sup> In another survey by the Human Rights Campaign (HRC), less than one-third of gender expansive youth reported “strongly agreeing” that most of their peers do not have a problem with their identity.<sup>4</sup> Almost forty percent reported being excluded “frequently or often” by their peers.<sup>5</sup>

As a result of these experiences, transgender students report regularly skipping class or missing school because they felt unsafe or uncomfortable and are far less likely to feel a part of their school community than their cisgender (or non-transgender) peers.<sup>6</sup>

In your advocacy, it is important to keep in mind:

- ◆ Transgender, genderqueer, and other non-cisgender students face more hostile school climates and experience heightened rates of harassment and discrimination than their LGBTQ cisgender peers.<sup>7</sup>
- ◆ There is a distinction between gender identity and sexual orientation: While a transgender student may be harassed using anti-gay slurs, it should not be assumed he or she identifies as LGB or with any particular sexual orientation.<sup>8</sup>
- ◆ Not all students who don’t conform to gender norms are transgender—some are gender expansive, non-binary, etc. Each of these poses its own set of unique challenges.

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<sup>1</sup> EMILY A. GREYTAK ET AL., HARSH REALITIES: THE EXPERIENCES OF TRANSGENDER YOUTH IN OUR NATION’S SCHOOLS xi (2009), <https://www.glsen.org/sites/default/files/Harsh%20Realities.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> HUMAN RIGHTS CAMPAIGN & GENDER SPECTRUM, SUPPORTING AND CARING FOR OUR GENDER EXPANSIVE YOUTH 12 (2012) [https://www.genderspectrum.org/staging/wp-content/uploads/2014/12/HRC\\_report.pdf](https://www.genderspectrum.org/staging/wp-content/uploads/2014/12/HRC_report.pdf).

<sup>5</sup> *Id.*

<sup>6</sup> GREYTAK, *supra* note 1, at 13-14.

<sup>7</sup> JOSEPH G. KOSCIW ET AL., THE 2015 NATIONAL SCHOOL CLIMATE SURVEY: THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER YOUTH IN OUR NATION’S SCHOOLS xxii (2016), [https://www.glsen.org/sites/default/files/2015%20National%20GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report\\_0.pdf](https://www.glsen.org/sites/default/files/2015%20National%20GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report_0.pdf).

<sup>8</sup> In a survey by the National Center for Transgender Equality, respondents were asked which term best described their sexual orientation. Respondents were most likely to identify as queer (21%), and they also identified as pansexual (18%), gay, lesbian, or same-gender-loving (16%), straight (15%), bisexual (14%), and asexual (10%). See SANDY E. JAMES ET AL., THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY 59 (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

## **Creating an Inclusive School**

### **Harsh Realities: The Experiences of Transgender Youth in Our Nation's Schools**

- ◆ This report explains that transgender students face much higher levels of harassment and violence than LGB students, and these high levels of victimization result in these students missing more school, receiving lower grades and feeling isolated and not part of the school community. It also includes a detailed section with recommendations for policy and practice.

### **Model District Policy on Transgender and Gender Nonconforming Students**

- ◆ This document outlines best practices for schools to ensure that all students are safe, included and respected in school, regardless of their gender identity or expression. The model presents some policy objectives, key points, and alternatives to consider.
- ◆ Both the District of Columbia and Maryland have existing policies on transgender and gender nonconforming students, which are available in the Legal Rights and Protections section of this chapter. Virginia does not currently have such a policy.

### **Gender-Expansive and Transgender Children: Books for Students**

- ◆ Compiled by the Welcoming Schools Project, this resource lists books discussing gender-expansive and transgender children for students at a wide range of range of reading levels. These books can be used to as a tool to talk with students about gender and help them understand what transgender means. The Welcoming Schools Project has also created book lists for [adults](#) and [elementary school students](#), along with [lesson plans](#) designed to help students understand gender and support transgender and non-binary children.
- ◆ Books and lesson plans can be an important tool, particularly for a younger child, during a social transition. They can be used as part of a transition plan to help other students understand what it means to be transgender and how to support their classmate.

## **Transitioning in School**

Below are a number of helpful resources to use when planning a social transition<sup>9</sup> in school. Additional resources on determining when and if a gender transition is appropriate, regardless of context, can be found in the health care section of this practice kit.

### **Gender Transition Planning Tools:**

#### **Gender Support Plan**

- ◆ Created by Gender Spectrum, this document is designed to create shared understandings about the ways in which the student's authentic gender will be accounted for and supported at school. Ideally, each will spend time completing the various sections to the best of their ability and then come together to review sections and confirm shared agreements about using the plan.

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<sup>9</sup> There are multiple aspects of gender transition, including social, medical/physical, and legal. A transgender person may transition in any combination, or none, of these aspects. Generally, a social transition would involve someone changing their name, pronouns, and the way they dress. It can also include the use of facilities, such as restrooms or changing rooms, consistent with their gender identity. See generally, LGBTQIA Resource Center Glossary, <https://lgbtqia.ucdavis.edu/educated/glossary.html> (last visited Jan. 11, 2018).

### [Resource Review: Gender Support Plan](#)

- ◆ To facilitate your use of the gender support plan, Gender Spectrum provides a detailed video on the best way to use that resource, available at the link above.

### [Initial School Meeting Agenda](#)

- ◆ A companion to the gender support plan provided above, this initial school meeting agenda can guide your discussions with school personnel and facilitate the implementation of a gender support plan.

### **Supporting a Gender Transition:**

#### [Affirming Gender in Elementary School: Social Transitioning](#)

- ◆ Designed for teachers and other education professionals, this guide provides an introduction to the gender spectrum and what it means to socially transition. It includes tips on planning and communication during a social transition, proactive and reactive strategies to handle bullying, and how to respect a student's affirmed gender.

#### [Ask the Expert—Transitioning in School](#)

- ◆ This short interview with the director of the Welcoming Schools Project provides answers to basic questions, including how to prepare for talking with a child's school about socially transitioning, issues that commonly arise, and advice on achieving a smooth social transition.

## Resource Highlight

### [Schools in Transition: A Guide for Supporting Transgender Students in K-12 Schools](#)

- ◆ This guide incorporates distinctions and recommendations based on specific ages and stages of students' development to support transgender students in K-12 schools. Topics explored include basic concepts of gender, the importance of supporting transgender students, general guidelines for meeting the needs of transgender students, specific issues facing transgender youth, and approaches for working with unsupportive parents. It also includes an overview of the legal landscape that administrators, educators, parents, and students should be aware of as they advocate.

### [Transgender Students and School Bathrooms: Frequently Asked Questions](#)

- ◆ This guide answers frequently asked questions about transgender students using bathrooms consistent with their gender identity. It frames the discussion of the issues that frequently arise in this area by examining what primary concerns a school or other parent's typically express.

## Additional Resources

### **General:**

#### [Gender Spectrum's Education Resources](#)

- ◆ Gender Spectrum, a non-profit dedicated to helping create gender sensitive and inclusive environments for all children and teens, has an excellent education resource page on their website. Some of the resources are included in this practice kit, but the site itself includes dozens of additional materials on creating gender inclusive schools, legal and policy issues, and supporting gender-expansive students.

## **Gender & Sports:**

### [Model Policy for Transgender Athletes on High School Teams](#)

- ◆ Developed by the LGBT Sports Foundation through “All 50”: The Transgender-Inclusive High School Sports and Activities Policy and Education Project, this resources serves as a universal standard model in policy and education for transgender inclusion in K-12 sport and activity associations for all 50 states.

### [Guidelines for Creating Policies for Transgender Children in Recreational Sports](#)

- ◆ Published by the Transgender Law & Policy Institute, this guide provides basic information about how athletic associations and teams can create policies that welcome all children, including transgender children. It specifically addresses policies appropriate for transgender children prior to adolescence.

### [Transathlete.com](#)

- ◆ Found by Chris Mosier, the first openly transgender man to make a Men's US National Team, this website's goal is to compile as many of the policies, guidelines, documents, and works of research regarding transgender participation and inclusion in sports. Policies are searchable by area (K-12, college, recreation, professional) or by state/organization.

## **Organizations and Websites**

<b>Name</b>	<b>Location or Area of Operation</b>	<b>Type(s)</b>	<b>Description</b>
<u><a href="#">Gender Spectrum</a></u>	National, Online	Professional, Advocate, and Youth Resource	Gender Spectrum's mission is to create a gender-inclusive world for all children and youth. To accomplish this, they help families, organizations, and institutions increase understandings of gender. The education section of their website is an incredible resource for any one advocating for a transgender student.
<u><a href="#">Transathelete.com</a></u>	National, Online	Professional, Advocate, and Youth Resource	Found by Chris Mosier, the first openly trans man to make a Men's US National Team, this website's goal is to compile as many of the policies, guidelines, documents, and works of research regarding transgender participation and inclusion in sports. Policies are searchable by area (K-12, college, recreation, professional) or by state/organization.
<u><a href="#">Trans Student Educational Resources</a></u>	National, Online	Youth Resource	Trans Student Educational Resources is a youth-led organization dedicated to transforming the educational environment for trans and gender nonconforming students through advocacy and empowerment.