



POSITION STATEMENT: TRANSGENDER STUDENTS



SUMMARY

To acknowledge concerns related to marginalization and institutional bias associated with transgender students; state the association's opposition to legislation and policies that discriminate against transgender students; and to provide recommendations for federal, state, and local policymakers and school leaders on how to better support transgender students in the K-12 education system.

ISSUE

According to the American Psychological Association, "transgender" is an umbrella term that incorporates differences in gender identity wherein one's assigned biological sex doesn't match their felt identity (American Psychological Association, 2015). While transgender students are a small percentage of the overall student population in middle and high schools, there seems to be an increasing number of children transitioning in this age group and a greater awareness of transgender issues among principals.

Unfortunately, a climate conducive to the educational success of transgender students remains elusive in many schools. In an annual survey of more than 7,000 students ages 13–21, the Gay, Lesbian & Straight Education Network (GLSEN) found that transgender students were more likely than any other students to have negative experiences at school and were more likely to have felt unsafe and to experience victimization based on



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their gender identity or expression. The survey also indicated that 42.2% of transgender students had been prevented from using their preferred name, 59.2% had been required to use a bathroom or locker room of their legal sex, and 31.6% had been prevented from wearing clothes considered inappropriate based on their legal sex.

Fourteen states and the District of Columbia have enacted laws to explicitly prohibit such discrimination in schools based on real or perceived gender identity or expression. While no such federal law exists, courts and the U.S. Department of Education's Office for Civil Rights (OCR), as well as the U.S. Department of Justice's Civil Rights Division, issued significant guidance in May 2016 asserting that Title IX prohibition against sex discrimination encompasses discrimination based on a student's gender identity, including discrimination based on a student's transgender status. The guidance addresses a school's responsibility to provide a safe and nondiscriminatory environment for all students and outlines a school's obligations regarding identification documents and pronouns, sex-segregated activities and facilities, and privacy and education records. In conjunction with the guidance, the Office of Elementary and Secondary Education released a document providing examples of policies and emerging practices for supporting transgender students. Many states have also adopted eligibility rules that explicitly permit transgender students to participate in school sports consistent with their gender identity.

Nonetheless, state legislatures are increasingly considering legislation that discriminates against transgender individuals with a particular focus on students in K-12 public schools. The Human Rights Campaign reported in February 2016 that 44 anti-transgender bills had been filed in 16 states; more than double the amount in 2015. Twenty-three of the bills are targeted specifically at children in schools, including legislation regarding school sports and public school facilities. In March 2016, North Carolina became the first state to pass a bill that requires transgender students to access restrooms, locker rooms, and shower rooms in accordance with the sex on their birth certificate. Similar bills reached the governor's desk in South Dakota and Georgia, but were eventually vetoed.

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GUIDING PRINCIPLE

The Professional Standards for Educational Leaders adopted in October 2015 state that effective educational leaders strive for equity of educational opportunity and culturally responsive practices to promote each student's academic success and well-being.

Students should be able to enter school free of judgment from school officials and their peers. Therefore, the principal must provide an affirming school environment where each student is treated fairly, respectfully, and with an understanding of each student's culture and context.



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Principals influence the school culture in profound ways, specifically in the values they emphasize and the behaviors they reinforce.

The principal's primary responsibility is to create and sustain a school environment in which each student is known, accepted and valued, trusted and respected, cared for and encouraged to be an active and responsible member of the school community.

The principal also must support a school environment where diversity is valued and accepted and where students from diverse backgrounds and identities are affirmed, supported, and assured equitable educational opportunities and access to school and community-based support services.



RECOMMENDATIONS FOR FEDERAL POLICYMAKERS

- Enact legislation to provide a comprehensive federal prohibition of discrimination in public schools based on actual or perceived sexual orientation and gender identity.
- Periodically review and update guidance that strongly affirms the protections transgender students are afforded under Title IX and provide schools with recommendations on best practices to ensure they are not discriminating against transgender youth and/or their parents or guardians.
- Fully fund Title IV, Part A of the Elementary and Secondary Education Act to improve school conditions for student learning through school based mental health services, bullying and harassment prevention programs, and schoolwide positive behavioral interventions and supports.
- Extend the Qualified School Construction Bond and Qualified Zone Academy Bond programs to continue their important financial support to build, renovate and modernize schools across America.
- Promote policies for student information records that respect transgender students' need for privacy throughout the P-20 education continuum.



RECOMMENDATIONS FOR STATE POLICYMAKERS

- Oppose any attempt to introduce or pass legislation aimed at discriminating against transgender students, including bills aimed at restricting the use of restrooms or locker rooms and participation in sports and other school activities that correspond with a student's gender identity.
- Provide for a sufficient number of school counselors, school psychologists, and school social workers to support safe and welcoming school environments, provide school-based interventions, and coordinate mental health and wellness services for students and their families.
- Provide funding for new school construction and maintenance that will help schools update their facilities to include gender-neutral restrooms, locker rooms and shower rooms.

Align and adjust records policies to eliminate provisions that prevent school leaders from respecting a student's gender identity on their formal record.



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RECOMMENDATIONS FOR DISTRICT POLICYMAKERS

- Ensure that district policies on bullying and harassment specifically protect students based on real or perceived gender or gender identity.
- Review the GLSEN Model District Policy on Transgender and Gender Nonconforming Students and revise district policies if needed.
- Develop policies and protocols for maintaining correct data for transgender students in the district student information system regardless of the student's legal name or gender marker.
- Provide support for the unique privacy needs of transgender students so they can comfortably participate in field trips, overnight trips, and other school activities.
- Provide ongoing professional development for principals, teachers, and other school staff to increase awareness of transgender issues in schools; create a school climate that avoids gender stereotyping and affirms the gender identity of all children; and to prevent, identify and respond to bullying, harassment and discrimination.
- Ensure that school counselors, school psychologists and school social workers receive specialized training on understanding and responding to the needs of transgender students.
- Assist schools to update their facilities to include gender-neutral restrooms, locker rooms and shower rooms.
- In the annual notices sent to all parents at the beginning of the school year, include a disclosure stating that the district allows students to participate in sex-segregated school programs and activities consistent with their gender identity or expression.
- Widely disseminate the district's nondiscrimination policy and also make it readily accessible to students and parents on the district and schools' websites and in policy manuals available in school offices.



RECOMMENDATIONS FOR SCHOOL LEADERS

- Familiarize yourself with the newly released Title IX guidance and state and district policies regarding transgender students and consult your school or district attorney should you have any questions or concerns.
- Advocate for school district policies that include protections for transgender students if those policies are not currently in place.
- Model and set expectations for students, staff, and parents about how to build a positive school culture where all students feel included and respected, regardless of their gender identity or gender expression.
- Provide training to student leaders so that they are able to communicate and model respect for the gender identity of all students.



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- Support student clubs that promote gender inclusiveness and display supportive signs and posters in the school.
- Regularly administer a school climate survey of students, parents, and school personnel, and use the data to improve school conditions for all stakeholders.
- Remind your staff, students, parents and community members of the need to support the rights of all students-including transgender students-and that diminishing those rights runs contrary to the values of the school. A student's gender identity or expression is one such right, which should be respected-regardless of whether the student has begun the medical process of gender transition-especially in:
 - Privacy: Unless the student chooses to disclose certain information, his or her transgender status, legal name or sex assigned at birth is confidential medical information and considered "personally identifiable information" under the Family Educational Rights Privacy Act (FERPA). Disclosure of that information to other school staff or parents could violate the school's obligations under FERPA or constitutional privacy protections.
 - Name and pronouns: All school staff should use the student's preferred name and pronoun, which is a sign of respect to the student and affirms his or her gender identity. Documents with the student's birth name should not be circulated, and principals should follow the lead of other school districts that have found solutions to comply with recordkeeping and reporting requirements while also meeting their obligations to safeguard the student's privacy.
 - Dress: Transgender students have the right to dress in a manner consistent with their gender identity or gender expression as long as it complies with the school or district dress code.
 - Restrooms and locker rooms: Unless the student has a preference for another option, transgender students have the right to use the restroom and locker room consistent with their gender identity or gender expression. School leaders should do their best to address the needs of their school community and should provide a private facility, such as a single-occupancy restroom or changing station, or privacy curtains for any student who feels uncomfortable in the restroom or locker room.
 - Physical education and interscholastic athletic activities: Unless your state athletics association has established other rules, transgender students should be allowed to participate in school sports, and health and physical education classes consistent with their gender identity. Enrolling them in the wrong class could disclose their transgender status and be a violation of their privacy.
 - Overnight field trips: Transgender students should have the opportunity to room with peers that match their gender identity, and schools should try to pair the transgender student with peers with whom there is a mutual level of comfort. The school should also honor requests for alternative sleeping arrangements if that is the transgender student's preference.
- School traditions: Transgender students should be allowed to participate in all school traditions, such as homecoming court, in the gender category that matches their gender identity or gender expression.

Ensure that all incidents of discrimination, harassment or violence are thoroughly investigated and that appropriate actions are taken.



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- If a student or his or her parent notifies the administration of the decision to transition during the school year, convene a meeting with the student and parents (if they are involved in the process) to discuss their preferences and any concerns to help find solutions that are in the best interest of the entire school community; develop a timeline for the transition in order to create conditions for a safe and supporting environment at the school; provide appropriate information and training for any educators that interact directly with the student on the transition plan, timelines for transition, and any relevant legal requirements; and develop a communications plan that outlines who needs to know what information, when, and how it will be communicated.
- Unless the student, parent, or guardian has specified otherwise, use the student's legal name and the pronoun corresponding to the student's gender assigned at birth when contacting the parent or guardian of a transgender student. While it would be ideal for the parents or guardian to be supported and included in the transition process, school leaders must be mindful of protecting the student's privacy and not creating an unsafe home climate for the student. Ensure that the student and his or her parents, if appropriate, have access to counseling and other mental health services as needed.