



Welcoming Schools

HUMAN RIGHTS CAMPAIGN FOUNDATION

FAQ on Supporting Transgender and Non-Binary Students in K-12 Schools

BACKGROUND

According to a memo obtained by [The New York Times](#), the Department of Health and Human Services is spearheading an effort to establish an anti-LGBTQ legal definition of sex under Title IX, the federal civil rights law that bans gender-based discrimination in education programs that receive government financial assistance. This proposal targets transgender people and would be especially harmful to transgender and non-binary students if adopted by the Department of Education, and it would have implications for discrimination on the basis of sexual orientation as well.

While this is alarming, it is important to note that no changes have been made at this time and that transgender and non-binary students continue to be protected in schools. Even if the new definition is ultimately adopted, the administration's position does not and cannot change the case law underpinning the protections for transgender students.

WHAT SCHOOLS NEED TO KNOW

Transgender and non-binary students are protected by federal laws and constitutional rights.

See HRC's Welcoming Schools resource list [Summary of Supportive Federal Laws and Constitutional Rights For Transgender Students](#).

The law is consistently being interpreted to affirm transgender and non-binary students' rights.

- + There is a robust body of case law in which federal courts have affirmed that transgender and non-binary students may not be discriminated against on the basis of their gender identity.
- + Even if the administration does adopt the anti-transgender definition of sex that has been reported, the administration's perspective does not change the underlying law. It could, however, impact administrative enforcement.

- + Courts are consistently interpreting Title IX to support the rights of transgender and non-binary students to have their gender identity respected in terms of access to school facilities — including restrooms and locker rooms — and the use of their affirmed name and pronouns by school staff.
- + HRC's memo, [Educational Institutions' Obligations to Transgender Students under Title IX](#) highlights such important cases as *Whitaker v. Kenosha Unified School District* (2017), *Evancho v. Pine-Richland School District* (2017), and *Grimm v. Gloucester County School Board* (2018)

Schools and school districts are encouraged to institute supportive policies and procedures.

- + HRC's [Schools In Transition: A Guide for Supporting Transgender Students in K-12 Schools](#) is written for administrators, teachers, parents and other adults who work with transgender youth. The guide covers topics ranging from basic concepts of gender and the importance of affirming gender identity, to best practices for restroom access and working with non-affirming parents.
- + It is critical for schools to enumerate gender, gender identity and gender expression in their anti-bullying, anti-harassment and non-discrimination policies.

PROFESSIONAL DEVELOPMENT

School districts often need help knowing how to best support transgender and non-binary students. HRC's [Welcoming Schools Program](#) offers [professional development trainings](#) and [free resources](#), including lesson plans and book lists to support schools in becoming gender inclusive and to directly support transgender and non-binary students.