

# Schools In Transition

A Guide for Supporting Transgender Students in K-12 Schools







For almost 100 years, the ACLU has worked to defend and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States. The ACLU LGBT & HIV Project helps protect young people's right to express themselves, start gay-straight alliance clubs, have their gender identity respected, and be taught in a safe environment.



Gender Spectrum provides education, training and support to help create a gender-sensitive and inclusive environment for all children and teens. We provide an array of services designed to help families, schools, professionals and organizations understand and address the concepts of gender identity and expression.

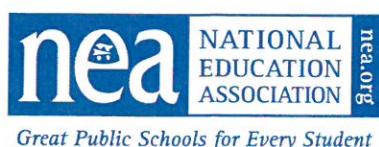


The Human Rights Campaign Foundation improves the lives of lesbian, gay, bisexual and transgender (LGBT) people. Through public education, research, and trainings and professional development, the HRC Foundation has an array of programs that encourage inclusive policies and practices, including Welcoming Schools, an evidence-based program that works to create inclusive elementary schools.



NATIONAL CENTER FOR LESBIAN RIGHTS

NCLR is a national legal organization committed to protecting lesbian, gay, bisexual and transgender people and their families through litigation, legislation, policy and public education. NCLR litigates precedent-setting cases, advocates for equitable public policies, provides free legal assistance and public education to LGBT people and their advocates.



The National Education Association (NEA), the nation's largest professional employee organization, is committed to advancing the cause of public education. NEA believes every student in America, regardless of family income or place of residence, deserves a quality education. NEA focuses the energy and resources of its 3 million members on improving the quality of teaching, increasing student achievement and making schools safer, better places to learn.





## Foreword

# A Letter from a Superintendent

One day about eight years ago, a mother came to me and asked what I could do to support her child who would be starting kindergarten in the fall. While I was accustomed to addressing the fears of worried parents, this family's situation was one I had never encountered — Toni was assigned male at birth, but her parents were considering letting her start school as a girl, which is how she had been identifying for some time.

I told Toni's mom that while I hadn't dealt with a situation like this before, I believed every child had the right to feel safe, welcomed and valued, and I would work with the family to make sure we supported her child. Our journey began that day.

Toni eventually transitioned to living openly and authentically as a girl in second grade. Her family, school staff, counselor and I worked together to support her throughout the process. This was a new experience for all of us and we had few models to follow, so we all learned as we went and the process evolved over time. We had a plan in place for those things we could predict, but other things caught us off guard and we had to make it up as we went along.

By far the easiest part of the process was the acceptance by Toni's classmates, who embraced her and affirmed her identity. As we worked to balance the need to educate and inform parents while protecting Toni's right to privacy, I met with a small number of concerned parents individually and attended a parent night facilitated by Gender Spectrum. We provided education regarding transgender children to the school's staff, our administrative team and the governing board. For the most part there was a compassionate response to do the right thing. There were people who struggled with changes we put in place, but we continually focused on supporting Toni and doing what was right.





## Introduction

# Supporting Transgender Students

Today's society is recognizing the experiences and needs of transgender people as never before. This trend is most evident in our nation's schools, where an increasing number of transgender and gender-expansive students live openly as their authentic selves. At the same time, parents, students, educators, administrators and other stakeholders are working together to determine the best ways to support these students.

**This guide highlights best practices while offering strategies for building upon and aligning them with each school's culture.**

Many are unfamiliar with the needs of transgender students, and attempts to meet those needs can be fraught with emotion for all involved. Educators may have concerns about their own capacity to support their transgender students, or hesitate to act because of personal feelings or fear of negative reactions from the larger community. Similarly, families and caregivers are sometimes uncertain about what support their child needs in school or question the school's commitment to the well-being of their child. This dynamic can create an adversarial relationship among the very individuals working to support the student. Finally, transgender students themselves may struggle with a variety of issues in seeking to be authentically seen, including the fear of social rejection and mistreatment or abuse from peers. As a result, many of these students hope to escape notice and to simply survive rather than flourish.



# Guiding Principles

Even though the needs of transgender students vary tremendously based on a range of factors, a number of guiding principles informed this document. These principles include that:

- Every student has the right to learn in a safe and accepting school environment. Supporting transgender students gives them the equal opportunity that all students need.
- All adults must act as protective agents committed to the safety and well-being of the youth they serve, including those who are transgender or gender-expansive, and should recognize that working as a team is in the best interest of individual students seeking support.
- There are often gaps in trust — grounded in past or current experiences between students, families and educational institutions. This document will also incorporate language, resources and suggestions for navigating these trust gaps and supporting the student's safety and well-being, including strategies for working in adversarial contexts.
- The expression of transgender identity, or any other form of gender-expansive behavior, is a healthy, appropriate and typical aspect of human development. A gender-expansive student should never be asked, encouraged or required to affirm a gender identity or to express their gender in a manner that is not consistent with their self-identification or expression. Any such attempts or requests are unethical and will likely cause significant emotional harm. It is irrelevant whether a person's objection to a student's identity or expression is based on sincerely held religious beliefs or the belief that the student lacks capacity or ability to assert their gender identity or expression (e.g., due to age, developmental disability or intellectual disability).
- Ongoing learning is a key element of this process. Educators and administrators need to engage in regular professional development and training to build a school climate that avoids gender stereotyping and affirms the gender of all children. Parents and caregivers must similarly continue to expand their understanding of the shifting concerns facing children as they get older. Professionals must also build their knowledge about the concerns facing educators and families alike.





# Chapter One

## Some Gender Basics

### Gender & Sex

One of the most prevalent misconceptions about gender is that it is based solely on a physical understanding of sex, and that everyone fits into one of two opposite categories, male or female. This misconception, in turn, leads many to incorrectly assume that the body one is born with determines an individual's gender. Though related to one another, both gender and sex are much more complex. Gender is comprised of a person's physical and genetic traits, their own sense of gender identity and their gender expression. Given the numerous combinations that these factors can create, gender is better understood as a spectrum.

While many people fall into strongly masculine or feminine categories, others fall somewhere in the middle and are more androgynous. Ultimately, each person is in the best position to define their own place on the gender spectrum.

### Gender Identity vs. Sexual Orientation

Despite the tendency to conflate sexual orientation and gender identity, the two are very different. Sexual orientation describes a person's sexual or romantic attraction, while gender identity refers to someone's own personal sense of being male, female, both or neither. Everyone has both a gender identity and a sexual orientation.

**"Because I am transgender, every moment I'm not who I should be is like having 10 pounds added to my shoulders."**

— Participant  
HRC Foundation 2012 Youth Survey





# DEFINITIONS

## Gender Expression:

How a person expresses their gender through outward presentation and behavior. This includes, for example, a person's name, clothing, hair style, body language and mannerisms.

## Gender Identity:

A personal, deeply-felt sense of being male, female, both or neither. Everyone has a gender identity.

## Gender Dysphoria:

An intense and persistent discomfort with the primary and secondary sex characteristics of one's assigned birth sex. Affirming and supporting a person's gender identity can help to significantly decrease their dysphoria. Conversely, rejecting or requiring a person to conceal their gender identity will exacerbate their level of dysphoria.

## Sexual Orientation:

Term that describes a person's romantic or sexual attraction to people of a specific gender or genders. "Lesbian," "gay," "bisexual" and "straight" are examples of sexual orientations. Our sexual orientation and our gender identity are separate, distinct parts of our overall identities.

## Transition:

The process through which transgender people begin to live as the gender with which they identify, rather than the one typically associated with their sex assigned at birth. **Social transition** may include things such as changing names, pronouns, hairstyle and clothing. **Medical transition** may include medical components like hormone therapy and gender affirming surgeries. Not all transgender individuals seek medical care as part of their transition or have access to such care. The decision about which steps to take as part of one's transition is a deeply personal and private choice. You should never ask someone if they have had any medical procedures, and you should respect the privacy of a student's transition process.

## Transphobia:

Irrational fear or hatred of, or violence, harassment or discrimination perpetrated against transgender people.





**Like all young people, transgender youth need support of the adults (i.e., caregivers and educators) in their lives in order develop a strong sense of self and thrive.**

With the goal of preventing or alleviating the distress that transgender youth often experience, typically referred to as Gender Dysphoria,<sup>3</sup> healthcare providers recommend that the child “socially transition” and live consistently with their gender identity. That includes dressing, interacting with peers and using names and pronouns in a manner consistent with their identified gender. For most transgender youth, social transition provides tremendous and immediate relief, allowing them to flourish socially, emotionally and academically.

#### Endnotes

<sup>2</sup> American Psychiatric Association (2013). *Diagnostic and Statistical of Mental Disorders* (5th ed.). Arlington, VA: American Psychiatric Publishing.

<sup>3</sup> Gender Dysphoria is a serious medical condition codified in the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* (DSM) and the World Health Organization’s *International Classification of Diseases*. People diagnosed with Gender Dysphoria have an intense and persistent discomfort with the primary and secondary sex characteristics of their assigned birth sex. Gender Dysphoria is not a mental illness, but rather refers to the severe and unremitting emotional pain resulting from this incongruity. Gender Dysphoria was previously referred to as “Gender Identity Disorder.” The American Psychiatric Association changed the name and diagnostic criteria for this condition to reflect that Gender Dysphoria “is more descriptive than the previous DSM-IV term gender identity disorder and focuses on dysphoria as the clinical problem, not identity per se.” DSM-5, *supra*, p.451.



**School is the place where our children should be exploring ideas and discovering new skills. No child should be prevented from pursuing their passions simply based on others' perceptions of their gender.**

The effects of a negative school environment are long-lasting and compounding. For example, a school climate survey recently released by the Gay, Lesbian and Straight Education Network (GLSEN) found that students who experienced higher levels of victimization based on gender expression were twice as likely to report that they did not plan to pursue post-secondary education.<sup>7</sup> Further, when targeted at school, gender-expansive youth perceived to be lesbian, gay, bisexual, transgender or questioning (LGBTQ) face long-term effects on their mental health and life satisfaction as young adults. In other words, mistreatment at school is not only difficult as it is occurring, but also has lasting negative effects.<sup>8</sup>

While many transgender youth are transitioning at young ages, many others are not. They're sitting quietly in classrooms feeling isolated and suffering harassment and bullying from peers for their gender expression. Creating an inclusive environment that is free of gender bias and welcoming of gender-expansive youth can make a positive difference in countless children's lives.

## **Creating a Safe and Supportive Environment Benefits All Students**

Gender-based bullying affects all children, not only those who identify themselves as LGBTQ or who have nonconforming gender identities or expressions. Creating school environments that respect and affirm gender diversity will empower all students rather than limit them. GLSEN's study on the impact of Gay-Straight Alliances, for example, suggests that such organizations create school environments where all students are less likely to hear homophobic slurs.<sup>9</sup> Gender-inclusive messages encourage greater acceptance of diversity and discourage children from expressing judgments about people based on factors like race, class, sexuality, gender, family structure, ethnicity and religion.

Beyond supporting these youth as individuals, we cannot afford to have any of our students cut off from interests, talents or intellectual pursuits that may ultimately contribute to our society. School is the place where our children should be exploring ideas and discovering new skills.





## Chapter Three

# Key Considerations

Every student who transitions at school is entitled to a safe and supportive environment in which to follow their unique path to being their authentic selves.

**“In preparing for battle, I have often found that plans are useless, but planning is indispensable.”**

— Dwight D. Eisenhower

## The Right Plan

Factors such as the student’s age, personality and emotional state, the level of family support, the school’s organizational design and even the time of year all can affect how the student’s transition unfolds. It is important to avoid seeking some universally “correct way,” and instead to focus on identifying which steps will create the necessary conditions to make this particular student’s experience as positive as possible. Creating a tailored Gender Transition Plan (see [Appendix D](#)) is the best way to ensure that the process is thoughtfully constructed and accounts for these various factors.





**A student's age and maturity — or that of their peers — should never be a basis for denying a transgender student an opportunity to transition in a safe and supportive environment.**

## **Age & Grade Level**

While it is important to include a student's age and grade level as factors to consider in the planning process, it should never be used to justify delaying or denying a student's gender transition. This factor becomes particularly relevant if the student's transition is taking place publicly. Should the student wish to discuss their transition with their peers or the school decides to incorporate lessons about gender into the curriculum, approaches for managing these actions should be developmentally appropriate.

Regardless of the age and grade level of the students, there are many activities and lessons that can effectively scaffold a student's gender transition. Educators, administrators, parents and the transgender student should work together to identify age-appropriate materials for those lessons. While some may assume that elementary students are too young to discuss these issues, experience from schools across the country say otherwise. In fact, in most cases younger students are much more flexible in their thinking and capacity for understanding a peer's assertion of their authentic gender.

The bottom line is this: Using appropriate materials with students at any grade level will support a student's gender transition while at the same time creating greater awareness and space for every child's gender identity and expression.

## **Privacy & Disclosure**

Far more than the age of the student, the degree to which others are aware of the student's gender transition will dictate what is necessary to make the transition go smoothly. If the student is transitioning in a school or community where they have been known as their assigned sex for a long time, options for privacy may be limited. In other situations, the student's move to a new school setting (i.e., starting middle school, transferring to a different school in the district) affords the opportunity to transition with more privacy. Regardless of the circumstances, the school should support the student's need for privacy to the best of its ability.

**Schools are uniquely positioned to serve as a buffer to protect students and their families.**



# Public Transitions

With a public transition, it is important to remember that the student is undergoing an incredibly personal experience; few youth want to be the center of attention, particularly for such a private matter. By working proactively, parents and caregivers, educators and school officials can help protect the student's right to feel safe from others' comments, questions or rumors and allow the student to preserve their dignity and privacy.

The school should be prepared for genuinely innocent confusion or uncertainty that may come up from members of the school community and set clear boundaries about what is appropriate to say to the student or their family. The school, student and family team must strike a delicate balance of providing education about gender diversity in general while still honoring the student's right to and need for privacy. Again, in schools that have proactively worked to be more gender inclusive, a student's transition will occur in a larger context of understanding and acceptance.

Schools must also be able to respond to negative reactions to a student's public gender transition. The larger community can subject these students and their families to ignorant intrusions and even outright hostility. But schools are uniquely positioned to serve as a buffer to protect students and their families.

Without speaking about the specific student, educators, administrators and other school staff can use these talking points to respond to questions or negative reactions from the school community:

- "I know this is new territory for many of us. Sometimes change is really challenging. Perhaps I can share some information with you about gender identity and transgender people?"
- "I can assure you that the safety, well-being and education of all students remain our highest priorities."
- "Of course I can't talk about any individual student, just as I would never talk about your child."
- "Schools have always worked to support the needs of individual students in a variety of ways. Like we have always done, we are committed to supporting all of our students."
- "Imagine if this was another type of student need that other people weren't comfortable with, how would you respond?"



Ultimately, it must be the student's (and when possible, the family's) decision about whether, when and to whom they will reveal this personal information.

Once that decision is made, administrators and educators should offer to assist the student or family in making any disclosures. For example, the family may want to make the disclosure themselves, but have the school administrator facilitate the meeting (i.e., invite the school staff person to the meeting or host the meeting in the administrator's office).

Even in circumstances where a student's transgender status appears to be completely private, with no conceivable way for others to find out, the school, family and student must anticipate that privacy may somehow be inadvertently compromised in a number of ways, including through social media or from a peer whom the transgender student knew prior to their transition. A transgender student might also choose to expand the circle of their friends who are aware of their transgender status, so it is important to plan as if every transition will have a public component. These realities underscore the importance of establishing a collaborative, intentional and ongoing process for supporting a transgender student throughout their transition.





**A school's recordkeeping and reporting requirements do not exempt it from its obligations to safeguard student privacy and create a safe and supportive environment. Those obligations co-exist and schools must find a way to harmonize them.**

Although a schools' recordkeeping and reporting requirements are often seen as a barrier to preventing those oversights, many school districts have found solutions that allow them comply with those requirements while meeting their obligations to safeguard a transgender student's privacy and right to learn in a safe and supportive school environment. The following are some examples of those solutions. This is by no means an exhaustive list and the viability of these solutions in any school depends on a variety of factors, including each state's legal requirements for recordkeeping and student information systems. Examples of solutions include:

- Maintain a copy of the student's birth certificate or other identity document that reflects the student's name and sex as assigned at birth under lock and key in the principal's office, while the student information system has the name and gender marker that correspond to the student's gender identity.
- Allow the student to re-enroll in the school using a passport with the correct name and gender marker, or change the name and gender marker in the student information system to be consistent with the passport. If a student is a U.S. citizen and their family can afford the passport application fees, obtaining a passport that reflects the student's gender identity is usually easier than changing that information on their birth certificate.
- Use the student's chosen name and gender in the student information system, but switch it to the student's legal name and gender just before uploading the information to the state department of education's database. Schools that choose this approach pull that student's testing booklet before it is distributed and correct the name and gender marker on the label to ensure that the student's privacy and identity are respected.
- Create a uniform and public procedure at the district level that connects all electronic student databases and allows a student or their parent to fill out one form indicating the name and pronoun the student wishes to use. Some school districts have established such procedures to streamline the process and reduce the common bureaucratic barriers.
- Work with the student information system provider to develop a field or screen that would allow the district to maintain the student's legal and chosen name, but that would use the chosen name to populate attendance sheets, report cards, and other school-related documents.



# Dress Codes

Transgender students have the right to dress in a manner consistent with their gender identity or gender expression as long as the student's attire complies with the school- or district-wide dress code. If the school or district has a specific dress code for boys and girls, a transgender student must be allowed to wear the clothing that corresponds to their gender identity, regardless of their assigned sex at birth, the gender designated on their birth certificate or other legal documents.



## Sex-Separated Facilities, Activities & Programs

**“I’ve had people try to throw me out of bathrooms or locker rooms and even had school authorities try to write me up for using a female restroom.”**

– Participant  
HRC Foundation 2012 Youth Survey

Another crucial element in supporting a transitioning student is giving them access to sex-separated facilities, activities or programs based on the student's gender identity. Restrooms, locker rooms, health and physical education classes, competitive athletics, overnight field trips, homecoming court and prom are just some of the explicitly gendered spaces that tend to be the most controversial because they require us to re-examine our beliefs about who belongs in those spaces. This can be challenging for everyone involved. The following discussion seeks to bring people beyond those initial visceral reactions, provide tools to help guide others through that same process and lead to the creation of a school culture that values gender diversity and respect for all students.





**Being prepared to effectively address the concerns raised in response to transgender students using sex-separated facilities that match their gender identity is an important part of maintaining a safe and supportive school environment through a student's gender transition.**

Although problems related to restroom and locker room use are unlikely to arise, parents, educators and school officials may raise concerns about some of the following "What ifs":

**What if a student who identifies as male claims to be female just so he can enter the girl's facilities?**

Restrooms and locker rooms can be a source of discomfort for everyone, not just transgender students, and it is incumbent on school officials to ensure that all students are safe in the school's facilities. In schools that provide transgender students access to the facilities that accord with their gender identity, this has not been an issue. If male students do enter female facilities without permission (e.g., on a dare from a classmate), such behavioral issues are unrelated to and likely existed long before schools gave transgender students access to the facilities that matched their gender identity. More importantly, providing transgender students with access to restrooms and locker rooms based on gender identity does not hinder the school's ability to address and prevent inappropriate student behavior.

**What if other students have privacy concerns about using a restroom with a transgender student?**

While this concern may seem understandable, it is often based on the false idea that a transgender boy is not a "real" boy, a transgender girl is not a "real" girl or that a transgender student wants access to those facilities for an improper purpose. Schools should attempt to address these and any other misconceptions that may be causing the student's discomfort. In those conversations, it is important to remind students that behaving in a way that makes others uncomfortable is unacceptable and a violation of the school's commitment to ensuring the safety of all students; but it must also be clear that a transgender student's mere presence does not constitute inappropriate behavior. Any student who feels uncomfortable sharing facilities with a transgender student should be allowed to use another more private facility like the bathroom in the nurse's office, but a transgender student should never be forced to use alternative facilities to make other students comfortable.



# Overnight Field Trips

Overnight field trips are not only educational endeavors, but also important opportunities for social engagement. Making sure that a transgender student has access to both components of field trips requires some planning for issues like room assignments, chaperones and showers.

Once again, the concerns that typically arise in these instances are issues the school needs to consider for all of its students. Schools have an obligation to set clear expectations about respecting one another's privacy and boundaries. Unlike the time they spend with one another in the hallways or classrooms, students share much closer quarters on field trips. Explicitly naming expectations about what it means to be in a communal environment is critically important and will improve all students' experiences.

A transgender student's comfort level with sleeping arrangements will largely dictate the manner in which related issues are addressed. If students are to be separated based on gender, then the transgender student should be allowed to room with peers that match their gender identity. As with any other students, the school should try to pair the transgender student with peers with whom the student feels comfortable. In some cases, a transgender student may want a room with fewer roommates or another alternative suggested by the student or their family. The school should honor these requests whenever possible and make adjustments to prevent the student from being marginalized because of those alternative arrangements. Regardless of whether those roommates know about the student's gender identity, the school has an obligation to maintain the student's privacy and cannot disclose or require disclosure of the student's transgender status to the other students or their parents.



If showering facilities are communal, the school should find out whether the venue has any single stall or more private shower facilities that students can use. Recognizing that a number of students would likely prefer more privacy while showering, the school should consider creating a schedule to allow those students to use the shower facilities one at a time.

A large part of the learning experience on these field trips is social — late night conversations with roommates, long hours on the bus and being with one another for an extended period of time. There is also a possibility that during those unscheduled times students will make poor choices like playing practical jokes on other students or engaging in hazing behaviors, but these behaviors are not created by the presence of a transgender student and the school should be prepared to address such incidents in any event.





**Transgender students frequently cite the lack of locker room access as a key factor in their inability to fully participate in physical education courses, which can create a barrier to meeting graduation requirements.**

Also, pursuing medical treatment is a very personal decision that should be made between the patient and their healthcare providers, without influence from the school. Thus, requiring medical treatment to participate in sports is inappropriate.

## **Health & Physical Education Classes**

For a variety of reasons, some schools maintain sex-separated health and physical education classes. Part of integrating a transgender student into the school environment is to place them in the classes that match their gender identity. Particularly in cases where a transgender student wants to transition privately, enrolling them in the wrong health or physical education classes would immediately disclose their transgender status to their peers, which could increase the likelihood that they will be harassed and bullied. Transgender students frequently cite the lack of locker room access as a key factor in their inability to fully participate in physical education courses, which can create a barrier to meeting graduation requirements.

**“I have been harassed and beaten at school. This whole high school thing would be much easier if I were cisgender and straight.”**

– Participant  
HRC Foundation 2012 Youth Survey

## **Homecoming, Prom & Other School Traditions**

School traditions are important to many students, and transgender students are no exception. Schools should allow transgender students to participate in all school traditions, including sex-separated traditions, in the gender category that matches their gender identity. For transgender students who want to be seen by peers as their authentic selves, participating in traditions like running for homecoming or prom king or queen can be very affirming. Educators need only look to the growing number of schools where students have elected their transgender classmates to fill those roles for proof of the positive impact on the whole school community. Allowing transgender students to participate in these traditions not only provides them validation from the school, but also from their peers.





## Chapter Five

### Complex Issues

This section offers guidance on some of the more complex circumstances that may arise around students transitioning in schools.

### Unsupportive Parents or Caregivers

Unfortunately, transgender youth experience high levels of family rejection. Lack of family support can have a detrimental effect on their short- and long-term mental health and well-being. Research on family rejection of lesbian, gay and bisexual youth has shown that “high levels of parental pressure to try to change an adolescent’s gender expression to enforce gender conformity is related to high levels of depression, a nearly four times greater likelihood of attempted suicide and illegal drug use, and being more than twice as likely to put oneself at high risk for HIV.”<sup>14</sup> These findings are also applicable to transgender youth who also experience high rates of family rejection for the same reasons families often reject lesbian, gay and bisexual youth — namely their inability to conform to stereotypes associated with their sex assigned at birth.

**“I am only out to people at school, because if I tell my family I won’t be accepted.”**

– Participant  
HRC Foundation 2012 Youth Survey

Schools can play a critical role in alleviating the psychological distress caused by family rejection. The school environment may be the only place a transgender student feels safe enough to be themselves. Having a safe place to learn is just as important, if not more so, for transgender students who do not have supportive parents as it is for those who do.



# Parents Who Disagree about Affirming Their Child's Gender Identity

The psychological distress caused by family rejection is compounded when parents disagree about affirming their child's gender identity, particularly if this conflict has come up in the context of a divorce or custody battle. As in cases with two unsupportive parents, this scenario does not mean that the school cannot make any efforts to help the student, but it does require balancing the student's short- and long-term needs.

A parent seeking a change in custody must at least demonstrate that their request is in the best interests of the child.<sup>15</sup> This standard is flexible and allows family court judges to craft custody arrangements that meet the needs of each child. Unfortunately, the dynamics sometimes created by custody disputes can obscure how to best achieve that goal. Moreover, the court's unfamiliarity with the needs of transgender youth can make this process even more difficult. By educating courts about transgender youth and the current standards of care, parents have been increasingly able to demonstrate to judges that supporting and affirming a child's gender identity is in the child's best interest.<sup>16</sup>

**School personnel can play a constructive role in these situations by helping to defuse the conflict and, if those efforts fail, to act as a voice for the student's needs.**

The emotional pain of the parents' breakup and a lack of trust between them often leads the non-affirming parent to believe the affirming parent is either not telling the truth about their child's needs, or using this issue to drive a wedge between them and their child. Even a parent who is not affirming of their child's gender identity is likely acting out of love for their child and wants what is best for them. Thus, it is best to allow neutral professionals like educators to assess and identify the child's needs and recommend a course of action to address them.<sup>17</sup>

The first step in the process of defusing these situations is to meet with the parents, either individually or together, and explain the effect this conflict is having on their child based on the observations of school personnel. For the non-affirming parent, this conversation is also an opportunity for them to discuss the reasons why they do not accept their child's gender identity. Any school personnel attending that meeting should listen to those reasons without judgment, calmly respond to the questions or concerns the parent may have and educate them on the harm caused by family rejection.





**Special education laws are not a replacement for strong, explicit school policies that affirm transgender students, but provide the added services and supports some transgender students may need to learn and thrive.**

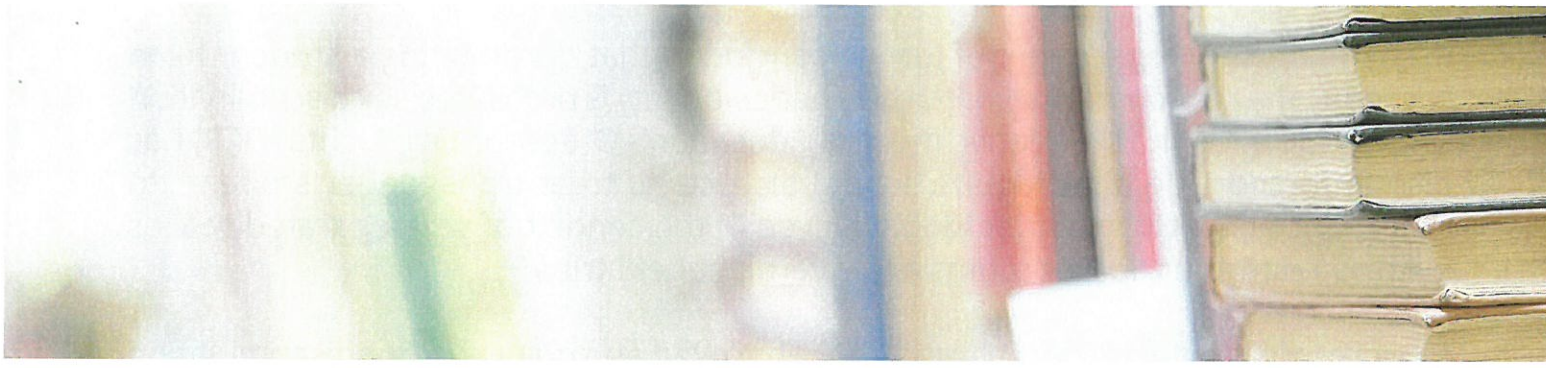
## **Developing an IEP or 504 Plan for a Transgender Student**

Special education laws create a mechanism for accommodating the needs of students who are experiencing difficulty in school. That difficulty does not have to be solely academic; it can include social and emotional well-being and development. Given the psychological distress that some transgender youth experience, these laws provide a potential tool for families and schools to address a transgender student's unique needs and create an environment where the student can succeed. It is important to note that while transgender students may be eligible for special education because of their gender dysphoria, many transgender students will qualify because of the anxiety, depression and other forms of psychological distress caused by not having their gender identities affirmed in all aspects of their lives.

The Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504) are the two main special education laws. IDEA governs the creation and implementation of Individualized Education Plans (IEPs), and Section 504 establishes the rules for Section 504 Plans. Although these laws serve similar purposes, the level of supports, services and accommodations a school must provide to meet its legal obligations under IDEA tend to be higher, which translates into more legal protections for students than under Section 504. A student also must be experiencing more significant difficulties in school to qualify for an IEP.

Parents and schools often shy away from invoking special education laws because of misconceptions like the belief that a student with an IEP must be placed in separate, specialized classes. In fact, special education laws require that a student be placed in general education classes unless there is a compelling reason to place that student in a different educational setting. These laws are designed to counteract the effects of social, emotional and academic difficulties that are hindering a student's progress. By providing supports, services and accommodations, special education laws expand transgender students' future opportunities and help them get back on the path to success.





## **Chapter Six**

# **The Legal Landscape**

As noted throughout this publication, there are many reasons for all of a school's stakeholders to collaborate and create a more gender-inclusive school environment. However, this publication would be incomplete without a discussion of the various federal and state laws that protect students in schools, including transgender students. Each of the different laws mentioned in this subsection provide transgender students with a layer of protection. Because of variations in state laws, students from some states may have more layers of protection than others. But regardless of which protections exist in a given school district, all students need to be able to attend school in a learning environment that is safe, supportive and free from discrimination.

**Schools will find it increasingly difficult to defend discrimination against transgender students.**

## **Title IX of the Education Amendments of 1972**

Title IX of the Education Amendments of 1972 (Title IX) is a federal law that prohibits discrimination based on sex in any educational program or activity receiving federal financial assistance.<sup>18</sup> Courts have recognized that Title IX's prohibition on sex discrimination encompasses protections against discrimination and harassment on the basis of failure to conform to sex stereotypes and gender identity.<sup>19</sup> Consistent with that interpretation,<sup>20</sup> the U.S. Department of Justice (DOJ) filed a Statement of Interest in *G.G. v. Gloucester County School Board*,<sup>21</sup> a lawsuit filed on behalf of a transgender student seeking to enforce his right to use the boys' facilities at school.



Transgender students have also been able to obtain protection through state anti-discrimination laws that prohibit discrimination on the basis of disability.<sup>29</sup> Courts have interpreted state anti-discrimination laws to require schools to respect and affirm students' gender identity in all aspects of the educational experience. The cases involved access to appropriate facilities as well as other issues that affect transgender students, including harassment and dress code enforcement.

## **Federal & State Constitutional Protections**

The final layers of protection are rooted in the United States Constitution's rights to free speech, privacy and equal protection, which are particularly important for transgender students. For example, a school cannot restrict a transgender student's appearance beyond the dress code unless the student's appearance causes a "substantial disruption" at school, which is a very high burden to meet.<sup>30</sup> Similarly, schools must evenhandedly apply school rules to transgender and cisgender students and cannot use sex stereotypes to justify treating transgender and cisgender students differently. Thus, schools cannot legally require a transgender girl to comply with the boys' dress code,<sup>31</sup> nor can a school ignore complaints of harassment reported by transgender students while investigating the complaints of other students or discipline a transgender student more harshly than a cisgender student for breaking the same school rule.<sup>32</sup>

Notably, many state constitutions have articles or sections that mirror federal constitutional protections. In certain cases, the courts in those states have interpreted those provisions to offer more protection than granted under the United States Constitution.<sup>33</sup>

Regardless of how many legal protections a particular student may have, courts look at best practices and the reasonableness of the school's conduct to determine whether a student's rights have been violated. As evidenced by the best practices outlined in this publication and data detailing the harm caused by refusing to affirm and respect a transgender student's gender identity, schools will find it increasingly difficult to defend discrimination against transgender students. Instead, schools should collaborate with students, parents and other stakeholders to create a safe and supportive school environment for all students. That approach is not only likely to be cost-efficient, but more importantly, is consistent with the mission of schools to foster social, emotional and academic growth and well-being.



<sup>29</sup> Doe v. Yunits, 15 Mass. L. Rptr. 278, at \*4-6 (Mass. Super. Ct. Feb. 26, 2001); see also Doe v. Bell, 754 N.Y.S.2d 846 (N.Y. Sup. Ct. 2003) (holding a foster home's refusal to affirm a transgender resident's gender identity constituted discrimination on the basis of disability).

<sup>30</sup> Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 509 (1969) (finding students protesting the Vietnam War by wearing black armbands did not meet that standard); Boyd Cnty. Gay Straight Alliance v. Bd. of Educ. of Boyd Cnty., 258 F. Supp. 2d 667 (E.D. Ky. 2003) (holding a student boycott protesting the formation of a GSA was not a substantial disruption and could not justify restricting First Amendment rights of students wanting to participate in the GSA); Chambers v. Babbitt, 145 F. Supp. 2d 1068 (D. Minn. 2001) (ruling an increase in physical fights caused by heightened tensions in the school were not a substantial disruption because the fights were unrelated to the student's speech).

<sup>31</sup> Doe v. Yunits, 15 Mass. L. Rptr. 278, at \*4-6.

<sup>32</sup> Flores v. Morgan Hill Unified Sch. Dist., 324 F.3d 1130 (9th Cir. 2003) (finding school district violated gay students' rights by treating discrimination against them differently from discrimination against straight students); Nabozny v. Podlesny, 92 F.3d 446, 453-58 (7th Cir. 1996) (finding school district violated a gay student's rights by failing to investigate his complaints of sexual harassment despite otherwise conducting investigations into complaints of sexual harassment by straight, cisgender students).

<sup>33</sup> See, e.g., State v. Veale, 972 A.2d 1009, 1014 (N.H. 2009); N.M. Right to Choose/NARAL v. Johnson, 975 P.2d 841, 851 (N.M. 1998); People v. Ellis, 57 Ill.2d 127, 132-33 (Ill. 1974). This is particularly true in the context of the right to privacy. See, e.g., State v. Ellis, 351 Mont. 95, 101 (Montana 2009); State v. J.P., 907 So.2d 1101, 1112 (Fla. 2004); Anchorage Police Dep't Employees Ass'n v. Municipality of Anchorage, 24 P.3d 547, 550 (Alaska 2001).



# **APPENDICES**





## Appendix B

### Gender & Pronouns

Many transgender students will adopt the gender pronouns associated with their gender identity, but a growing number are using gender-neutral pronouns. Below is a chart with a few examples of commonly used pronouns:

Type	Pronouns	Example
Feminine	She, her, hers	This is my friend Sam. <b>She</b> came to my house today. I borrowed a book from <b>her</b> . This book is <b>hers</b> .
Masculine	He, him, his	This is my friend Sam. <b>He</b> came to my house today. I borrowed a book from <b>him</b> . This book is <b>his</b> .
Gender Neutral	They, them, their	This is my friend Sam. <b>They</b> came to my house today. I borrowed a book from <b>them</b> . This book is <b>theirs</b> .
Gender Neutral	Ze, hir, hirs (pronounced zee, hear, hears)	This is my friend Sam. <b>Ze</b> came to my house today. I borrowed a book from <b>hir</b> . This book is <b>hirs</b> .



## Responding to Concerns: Supporting Transgender Students

*Why is the school making such a big deal about this? How many of these kids are there anyway?*

- Of course I can't talk about any individual students, just as I would never talk about your child. Personal information about our students, including their gender identity is private. But is there something we can do to help you or your child better understand gender-related issues?
- Many people don't realize that gender-based discrimination is illegal under Title IX, and that gender is a protected class in many states and cities (just like race, religion or disability). Unfortunately, these protections are necessary because transgender and other gender-expansive students frequently face a great deal of discrimination from other students, staff and community members.
- Organizations such as the PTA, the NEA, the California School Board Association and many other associations for administrators, counselors, and other educational professionals have written clear guidelines about the need to make sure that transgender and other gender-expansive students are safe at school.
- I know this is new territory for many of us. Sometimes change is really challenging. Perhaps I can share some information with you about this issue?

*Who is protecting my child?*

- What are the specific behaviors of another person that are making your child feel unsafe?
- I can assure you that the safety of all of the students at this school remains my highest priority. If your child is feeling unsafe, we need to know about it. Can you tell me about specific situations or occurrences that have taken place in which your child's safety was at risk?
- Our expectation for all of our students is that they respect the privacy and physical boundaries of other students. If the behaviors of one student are making another student feel unsafe, that is an issue we take very seriously. Is something or someone behaving in a way that makes your child feel unsafe?
- How can we help your child to feel more comfortable? If for any reason your student needs additional support, such as a private space to change or use the restroom, we will work with you and your child to provide these.

*So who decides if a student is transgender? What is to prevent a boy from coming to school one day and simply declaring that he is a girl and changing in the girl's locker room?*

- Schools have always worked to support the needs of individual students in a variety of ways. For any student who requires support related to gender, the school works very deliberately to provide the necessary services. This does not take place without a great deal of care and planning.
- Schools all over the country are supporting transgender students in these ways and this issue simply does not come up.
- A transgender student is very different from a young person who is claiming to be a different gender for some improper purpose. Transgender students are not trying to get away with something or make this up; why would they? Conversely, any student pretending to be transgender would be easily identified in the planning processes we have established.
- Our policy of treating transgender students consistent with their gender identity does not permit a student of the opposite sex to enter into the wrong facilities.



*Ideas about gender diversity go against the values we are instilling in my child at home. Are you trying to teach my child to reject these values?*

- Absolutely not. Our children encounter people with different beliefs when they join any community. While one aim for learning about diversity is to become more accepting of those around us, not everyone is going to be best friends. That does not mean that they can't get along and learn together. The purpose of learning about gender diversity is to demonstrate that children are unique and that there is no single way to be a boy or a girl. If a child does not agree with or understand another student's gender identity or expression, they do not have to change how they feel inside about it. However, they also do not get to make fun of, harass, or harm other students whose gender identity they don't understand or support. Gender diversity education is about teaching students to live and work with others. It comes down to the simple agreement that all children must be treated with kindness and respect.

*Won't my child get confused if we speak about more than two gender options?*

- Experience shows that, with enough information, children of any age are able to understand that there are more than the two gender categories currently recognized by our society. When it is explained to them in a simple, age appropriate manner, gender diversity is an easy concept for children to grasp.
- When you discuss gender with your child, you may hear them exploring where they fit on the gender spectrum and why. This shows that they understand that everyone may have some variation of gender expression that fits outside of stereotypical norms. Their use of language or their personal placements along this spectrum may surprise you. We encourage all parents to approach these discussions with an air of openness and inquiry.

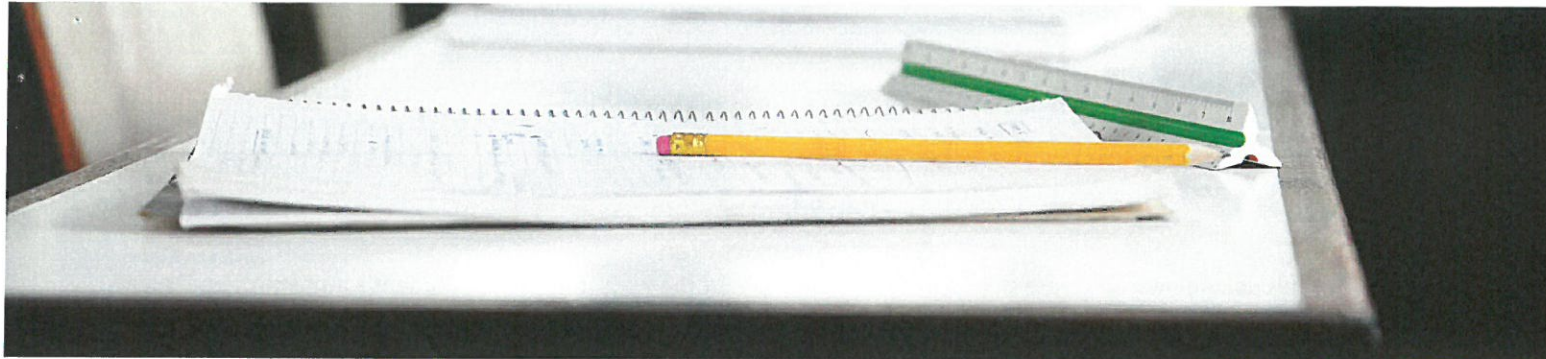
*Don't gender-expansive kids have lots of problems? Is gender nonconformity a product of abuse, emotional problems, neglect, divorce, or detached, or over-involved parents?*

- No. While it is true that some transgender and gender-expansive people do experience a tremendous amount of societal abuse and parental rejection, this is not the cause of their gender identity or expression. As a result, when not supported, children whose gender expression or identity is considered atypical often suffer from loneliness, lower self-esteem, and other negative feelings. Statistics reveal the devastating impact these youth face when placed into a non-supportive or hostile setting.
- A gender-expansive child's emotional distress is a response to the mistreatment they have likely faced from those around them. It is not at all uncommon to see a gender-expansive or transgender child's distress greatly reduce or disappear when they're provided with a more positive environment.

*Won't allowing children to express non-traditional genders cause them to be teased or harassed?*

- While there is a great deal of data suggesting that gender-expansive youth do face teasing, there is a growing body of knowledge that points to the impact gender-expansive education can have on reducing that treatment. If children are being treated badly because of who they are, the answer is not to try and prevent them from being themselves. Rather, we should instead ask what needs to be done to address the teasing. Providing educational programming and training that expands students' understanding about stereotypes and limitations of self-expression can go a long way to preventing teasing.





## Appendix D

# Gender Support Plan & Gender Transition Plan

On the following pages you will find printable forms you can use to plan the process of supporting transgender students. The Student Gender Support Plan is a broad tool can be used to systematically address various aspects of a transgender or gender-expansive student's experiences at school. It is designed to ensure that the school, student and parents (when appropriate) are all on the same page and have shared expectations about how the specific, gender-based needs of the student will be met. The Student Gender Transition Plan focuses specifically on the process a student will use to undergo a gender transition at school. It seeks to identify the various steps that will be taken as the student explicitly declares a shift in the manner in which they wish others to understand and recognize their gender.



Staff members? \_\_\_\_\_

Parents/community? \_\_\_\_\_

### STUDENT SAFETY

Who will be the student's "go to adult" on campus? \_\_\_\_\_

If this person is not available, what should student do? \_\_\_\_\_

What, if any, will be the process for periodically checking in with the student and/or family? \_\_\_\_\_

What are expectations in the event the student is feeling unsafe and how will student signal need for help:

During class \_\_\_\_\_

On the yard \_\_\_\_\_

In the halls \_\_\_\_\_

Other \_\_\_\_\_

Other Safety concerns/Questions: \_\_\_\_\_

### NAMES, PRONOUNS AND STUDENT RECORDS

Name/gender marker entered into the Student Information System \_\_\_\_\_

Name to be used when referring to the student \_\_\_\_\_ Pronouns \_\_\_\_\_

Can the student's preferred name and gender marker be reflected in the SIS? \_\_\_\_\_ If so, how? \_\_\_\_\_

If not, what adjustments can be made to protect this student's privacy? \_\_\_\_\_

Who will be the point person for ensuring these adjustments are made and communicated as needed? \_\_\_\_\_

How will instances be handled in which the incorrect name or pronoun are used? \_\_\_\_\_

How will the student's privacy be accounted for and maintained in the following situations or contexts:

During registration \_\_\_\_\_

Completing enrollment \_\_\_\_\_

With substitute teachers \_\_\_\_\_

Standardized tests \_\_\_\_\_

School photos \_\_\_\_\_

IEPs/Other Services \_\_\_\_\_

Student cumulative file \_\_\_\_\_

After-school programs \_\_\_\_\_

Lunch lines \_\_\_\_\_



**OTHER CONSIDERATIONS**

Are there any specific social dynamics with other students, families or staff members that need to be discussed or accounted for? \_\_\_\_\_

Does the student have any sibling(s) at school? \_\_\_\_\_ Factors to be considered regarding sibling's needs? \_\_\_\_\_

Does the school have a dress code? \_\_\_\_\_ How will this be handled? \_\_\_\_\_

Are there lessons, units, content or other activities coming up this year to consider (growth and development, social justice units, name projects, dance instruction, Pride events, school dances etc.)? \_\_\_\_\_

What training(s) will the school engage in to build capacity for working with gender-expansive students? \_\_\_\_\_

Are there any other questions, concerns or issues to discuss? \_\_\_\_\_

**SUPPORT PLAN REVIEW AND REVISION**

How will this plan be monitored over time? \_\_\_\_\_

What will be the process should the student, family, or school wish to revisit any aspects of the plan (or seek additions to the plan)? \_\_\_\_\_

What are specific follow-ups or action items emerging from this meeting and who is responsible for them?

Action Item	Who?	When?

Date/Time of next meeting or check-in \_\_\_\_\_ Location \_\_\_\_\_



With whom and when will this information be shared?

☐ With peers in the transitioning student's class only

Date: \_\_\_\_\_

☐ With peers in the student's grade level

Date: \_\_\_\_\_

☐ With some/all students at school (specify) \_\_\_\_\_

Date: \_\_\_\_\_

☐ Other (specify) \_\_\_\_\_

Who will lead the lessons/activities framing the student's announcement? \_\_\_\_\_

What will the lesson/activities be? \_\_\_\_\_

Will the student be present for the lesson/sharing of info about the transition? \_\_\_\_\_

If yes, what if any role does the student want to play in the process? \_\_\_\_\_

Once the information is shared, what parameters/expectations will be set regarding approaching the student?

Other notes, considerations or questions \_\_\_\_\_

#### KEY DECISIONS PRIOR TO STUDENT'S TRANSITION

##### Communications with Other Families

Will any sort of information be shared with other families about the student's transition? \_\_\_\_\_

With whom: \_\_\_\_\_ Families in child's grade \_\_\_\_\_ Whole School \_\_\_\_\_ Other (specify) \_\_\_\_\_

Who will be responsible for creating this? \_\_\_\_\_ When will it be sent? \_\_\_\_\_

How will it be distributed? \_\_\_\_\_

What specific information will be shared\*? \_\_\_\_\_

Questions/Notes: \_\_\_\_\_

\* see sample letters

##### Training for School Staff

Will there be specific training about this student's transition with school staff? \_\_\_\_\_ When? \_\_\_\_\_

Who will be conducting the training? \_\_\_\_\_ What will be the content of the training?

Questions/Notes: \_\_\_\_\_

<u>Activity</u>	<u>Date</u>	<u>Lead</u>
<input type="checkbox"/> Initial Planning Meeting	_____	_____
<input type="checkbox"/> Lessons/Activities with Other Students	_____	_____
<input type="checkbox"/> Communications with Other Families	_____	_____
<input type="checkbox"/> Training for School Staff	_____	_____
<input type="checkbox"/> Parent Information Night About Gender Diversity	_____	_____
<input type="checkbox"/> Class Meeting with Parents	_____	_____
<input type="checkbox"/> Identifying and Enlisting Parent Allies	_____	_____
<input type="checkbox"/> Identifying and Enlisting Peer Allies	_____	_____

[illegible]



The IEP or Section 504 Plan created by the team must be tailored to the transgender student's unique needs, which may include any of the modifications and accommodations mentioned in this publication, as well as others. Incorporating those modifications and accommodations into the IEP or Section 504 Plan also ensures that the transgender student is in the "least restrictive environment," a legal obligation that requires schools to educate students in general education to the greatest extent possible. Without the psychological distress associated with not having their gender identity affirmed, transgender students are just as capable as their peers to participate in and benefit from general education.

These same principles apply to transgender students who already have an IEP or Section 504 Plan. Regardless of the student's other educational needs, respecting and affirming a transgender student's gender identity is critical to their ability to learn and develop in school. Not including the modifications and accommodations needed to respect and affirm the student's gender identity guarantees that the educational program created by the IEP or Section 504 team will fail to meet the school's legal obligations to that student.

## Endnotes

<sup>34</sup> Programs or treatments intended to change someone's sexual orientation or gender identity, commonly referred to as "conversion therapy" or "reparative therapy," have been universally discredited by leading medical and psychological associations. See, e.g., American School Counselor Association, *The Professional School Counselor and LGBTQ Youth* (2014) ("Professional school counselors do not support efforts by licensed mental health professionals to change a student's sexual orientation or gender as these practices have been proven ineffective and harmful."); American Psychoanalytic Association, *Position Statement on Attempts to Change Sexual Orientation, Gender Identity, or Gender Expression* (2012) ("Psychoanalytic technique does not encompass purposeful attempts to 'convert,' 'repair,' change or shift an individual's sexual orientation, gender identity or gender expression. Such directed efforts are against fundamental principles of psychoanalytic treatment and often result in substantial psychological pain by reinforcing damaging internalized attitudes."); Lesbian, Gay, Bisexual, and Transgender Health Disparities: Executive Summary of a Policy Position Paper from the American College of Physicians (2015) ("The College opposes the use of 'conversion,' 'reorientation,' or 'reparative' therapy for the treatment of LGBT persons. . . . Available research does not support the use of reparative therapy as an effective method in the treatment of LGBT persons. Evidence shows that the practice may actually cause emotional or physical harm to LGBT individuals, particularly adolescents or young persons."). As a result, a growing number of states have banned the practice of conversion therapy on minors. See CAL. BUS. & PROF. CODE § 865 (2013); N.J. STAT. ANN. §§ 45:1-54 & 45:1-55 (2013); D.C. CODE §§ 7-123.01 & 7-123.14a (2015).