SUMMARY OF SUPPORTIVE FEDERAL LAWS AND CONSTITUTIONAL RIGHTS FOR TRANSGENDER STUDENTS

First Amendment
- The First Amendment protects both freedom of speech and expression.
- Schools may not restrain student speech unless it will reasonably substantially disrupt the school environment or harm others.¹
- Schools cannot prevent students from expressing their identity or discussing same-sex families.
- Based on a Supreme Court decision, the First Amendment prevents school districts from censoring or removing books from school libraries “because they dislike the ideas contained in [the] books.”²

Equal Protection Clause of the 14th Amendment
- This clause guarantees every citizen equal protection under the law.
- This clause is frequently used to protect LGBTQ youth in schools who have faced unfair or discriminatory school actions.³
- This clause was also used in Brown vs. the Board of Education to strike down state-sponsored racial segregation in schools.⁴

Title IX of the Education Amendments of 1972
- Title IX prohibits schools that receive federal financial assistance from limiting or denying a student’s participation in any school program on the basis of sex.
- Based on court cases, this can be understood to prohibit discrimination, including sexual harassment, based on sex stereotypes, sexual orientation and gender identity or transgender status.
- For example, courts in Kansas, Connecticut, and New York have ruled that Title IX applies to gender identity.⁵

Family Educational Rights and Privacy Act (FERPA)
- The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student educational records.
- FERPA specifically prohibits the improper disclosure of personally identifiable information (PII) from students’ records.
- With regard to LGBTQ students, information relating to gender identity or sexual orientation may constitute personally identifiable information (PII) as an indirect identifier.⁶ Therefore, school officials should use caution and follow FERPA disclosure guidelines when considering the release of such information.
- Disclosure by school staff has the potential to create a hostile environment at school and can negatively impact a student’s life at home if the family is not supportive.

³ Nabozny v. Podlesny, 92 F.3d 446 (7th Cir. 1996).
⁶ 34 C.F.R. § 99.3.