



[Image description: Court gavel on rainbow flag colored pages of the United States Constitution.]



Equity by Design:

Using Title IX and Other Policies to Support and Affirm LGBTQIA+ Students

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Schools are meant to be safe places for students to learn, grow, socialize, and become independent young adults. School staff are imbued with authority to act as guardians of students during the school day in loco parentis, in the place of a parent. Unfortunately, for a distressing number of LGBTQIA+ students, schools can be hostile, traumatizing environments. In a national survey of over 16,000 LGBTQIA+ youth, aged 13-21, more than half reported feeling unsafe in school because of their sexual orientation or gender identity, and

nearly 90% reported experiencing some kind of harassment (including verbal, physical, cyber, and sexual) at school. LGBTQIA+ students who experience higher levels of victimization are more likely to be disciplined at school, miss school, or drop out of school entirely; to have lower GPAs; are less likely to go to college; and have lower self-esteem and higher levels of depression¹. According to the Trevor Project, more than 25% of LGBTQIA+ youth ages 13-24 in the U.S. reported attempting suicide in the past year; that translates to one youth approximately every 45 seconds². There are a handful of Federal legislative protections for LGBTQIA+ students, yet it often seems as though educators, administrators, and other youth-serving professionals are either unaware of the protections for LGBTQIA+ students, or they are confused about the specifics of them. One of the most often cited policies for protecting the rights of LGBTQIA+ students is Title IX of the Education Amendments of 1972.

The Purposes of this Teaching Tool are:

- * To educate school employees about Title IX and other policies that protect the rights of LGBTQIA+ students;
- * To articulate the definitions of both “sex” and “harassment” as they are conceptualized in Title IX in relation to LGBTQIA+ students;
- * To provide educators and administrators with guidance about LGBTQIA+ students’ rights in order to help them navigate backlash from parents, colleagues, and other stakeholders;
- * To guide school employees in caring for themselves as they engage in the often-challenging work of supporting LGBTQIA+ students.

What is Title IX?

In 1970, House Rep. Martha Griffiths (D-MI), Rep. Edith Green (D-OH), and Senator Birch Bayh (D-IN) began focusing their efforts on improving discrimination against

¹Joseph Kosciw et al., The 2019 National School Climate Survey - The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation’s Schools, (New York: GLSEN, 2020). https://www.glsen.org/sites/default/files/2021-04/NSCS19-FullReport-032421-Web_0.pdf

²The Trevor Project, "Estimate of How Often LGBTQ Youth Attempt Suicide in the U.S.," The Trevor Project, last modified September 30, 2021, <https://www.thetrevorproject.org/research-briefs/estimate-of-how-often-lgbtq-youth-attempt-suicide-in-the-u-s/>

women in higher education; Green proposed amendments to Title VI and VII of the Civil Rights Act of 1964 and the Equal Pay Act to include prohibitions on and sanctions for sex discrimination. Unable to reconcile the House and Senate revisions, a new policy was created: Title IX of the Education Amendments³. President Nixon signed Title IX into law on June 23, 1972. Title IX states, “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance⁴.”

seemed to solely rest in the rescinding of federal funds for the violating institution or program. In 1979, the Supreme Court admitted that the policy contained an “implied right of action” – that is, the ability for sex discrimination victims to take legal action against the discriminating institution, via *Cannon v. University of Chicago*, granting a woman the right to sue the institution that denied her admission to medical school⁵.

In 1984, via *Grove City College v. Bell*, the Supreme Court ruled that - despite the college’s refusal to accept federal and state financial assistance and insistence that they

“All students should be able to learn in a safe environment, free from discrimination and harassment. The Civil Rights Division stands with LGBTQI+ students and will fight to protect their right to an education regardless of who they are or whom they love.”

- Kristen Clarke, Assistant Attorney General for Civil Rights, Department of Justice

Title IX has been subject to much debate regarding interpretation in the fifty years of its existence. The initial scope of the policy focused mainly on discrimination and prejudice, as opposed to harassment, which is defined as aggressive pressure or intimidation and often looks like ongoing and threatening discrimination. Moreover, the initial repercussions for Title IX violations

be exempt from Title IX compliance - schools are indirect recipients of federal financial assistance through student financial aid and are, therefore, covered by Title IX⁶. That said, it was not until 1988, when Congress, overturning President Reagan’s veto, passed the Civil Rights Restoration Act, which elucidated that if any part of an institution receives federal funding, that

³American Association of University Professors (AAUP), "AAUP Report on the Uses and Abuses of Title IX," *Women in Higher Education* 102 (July/August 2016): 70-71, <https://www.jstor.org/stable/44648664>

⁴Title IX of The Education Amendments of 1972, 20 U.S.C. §1681 et seq.

⁵AAUP, 72.

⁶*Grove City Coll. v. Bell*, 465 U.S. 555 (1984); AAUP, 72.



every part of the institution is covered by Title IX⁷. Additionally, as of the year 2000, many more institutions and activities receiving federal financial assistance have been included under Title IX protections, including police academies, vocational training for prison inmates, and other educational programs operated by those that receive federal funding.

It is worth noting that Title IX also protects all participants in an educational program, including students, parents, and employees.

In 1980, Title IX was reviewed by the National Advisory Council on Women's Educational Programs, and they recognized that Title IX needed an additional explicit prohibition of sexual harassment, specifically for protecting students, as academic employees were already protected under Title VII of the Civil Rights Act of 1964. In 1981, the Office of Civil Rights (OCR) issued a policy memorandum that stated, "sexual harassment consists of verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or agent of a recipient that denies, limits, provides different, or conditions the provision of aid, benefits, services, or treatment protected under Title IX⁸." However, it was not until 2020 that the OCR and the U.S. Department of Education (USDE) issued final regulations specifying exactly how recipients of federal assistance

covered by Title IX – including elementary and secondary schools - must respond to allegations of sexual harassment as a form of sex discrimination prohibited by Title IX⁹.

How Does the Law Define "Sex"?

The origins of Title IX rest in the movement for equitable treatment for women in educational spaces. However, Title IX has gained more and more traction in the 21st century as a policy for also protecting LGBTQIA+ students. The policy's language that bars discrimination "on the basis of sex" has been subject to much legal debate regarding the interpretation of the meaning of "sex". On March 8, 2021, President Joseph Biden issued Executive Order 14021, stating that:

...all students should be guaranteed an educational environment free from discrimination on the basis of sex, including discrimination in the form of sexual harassment, which encompasses sexual violence, and including discrimination on the basis of sexual orientation or gender identity. For students attending schools and other educational institutions that receive Federal financial assistance, this guarantee is codified, in part, in Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*¹⁰

⁷Ibid., 73.

⁸Ibid., 74;

⁹OCR, USDE 34 CFR 30026

¹⁰Joseph A. Biden, Exec. Order No. 14021, "Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity," 3 C.F.R. (2021): 1-2.

The definition of “sex” as explicated by President Biden above was first put forth by the Supreme Court in June 2020 in the landmark case, *Bostock v. Clayton County*, where, with a 6-3 decision, they held that “an employer who fires an individual merely for being gay or transgender violates Title VII” of the Civil Rights Act of 1964. Title VII, much like Title IX, provides protections against discrimination because of or on the basis of “sex.” The majority opinion, written by Justice Neil Gorsuch, states, “homosexuality and transgender status are inextricably bound up with sex” and that to discriminate against employees for being homosexual or transgender, the employer must intentionally discriminate...in part because of sex...[which] has always been prohibited by Title VII’s plain terms...”¹¹

As a result of the Supreme Court’s 2020 decision, one year later in June 2021, the USDE issued the “Federal Register Notice of Interpretation: Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*”. In this notice, the OCR has given official guidance to interpret “Title IX’s prohibition on discrimination ‘on the basis of sex’ to encompass discrimination on the basis of sexual orientation and gender identity” and that to address this kind of discrimination “fits squarely within OCR’s responsibility to enforce Title IX’s prohibition on sex discrimination”¹².

How Does the Law Define “Sexual Harassment”?

Under Title IX, schools are legally obligated to protect all students from sex-based harassment on school property, including the school bus, as well as on field trips and any school-sponsored events. If a student feels that they are being harassed by anyone at school (e.g., peers, teachers, other adult staff, etc.) to the extent that it is interfering with their education and that the harassment is being encouraged, tolerated, inadequately addressed, or outright ignored by school employees, that school may be in violation of Title IX. Much of the conduct that might be considered “bullying” may be



[Image description: Photo of a person holding their hand out, with the word “no” written on their palm.]

legally considered harassment, and may be considered sex-based harassment, especially if the student is a member of the LGBTQIA+ community. Harassment is multi-

¹¹*Bostock v. Clayton County*, 590 US 140 S. Ct. 1731, 1731-2(2020)

¹²86 FR 32637

faceted. It can be verbal and include name-calling. It can include images and graphics. It can be text-based and include written statements. It can be any act that may be physically threatening, harmful, or humiliating¹³.

According to the OCR in January 2020, Title IX protects students from two kinds of sex-based harassment: sexual harassment (which includes sexual violence) and gender-based harassment. Sexual harassment is “unwelcome conduct of a sexual nature,” including “sexual advances, requests for sexual favors, other verbal, non-verbal, or physical conduct of a sexual nature,” as well as “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent¹⁴.” Gender-based harassment is defined as “unwelcome conduct based on a student’s sex, harassing conduct based on a student’s failure to conform to sex stereotypes¹⁵.” It is worth noting here that the OCR seems to be conflating sex and gender as synonymous at the same time that they are making a distinction between sex-based harassment and gender-based harassment. More accurate wording would delineate between sex assigned at birth (what sex someone, usually a doctor, decides by looking at a person when they

are born), gender identity (the gender that a person knows and feels themselves to be inside), and gender expression (how someone expresses their gender identity externally, including appearance, name, pronouns, etc.). Nevertheless, any kind of sex-based harassment can be perpetrated by school employees, other students, and third parties. All students are subject to experiencing sex-based harassment, “including male and female students, LGBT students, students with disabilities, and students of different races, national origins, and ages¹⁶.”

The USDE and the OCR made clear in June 2021 that “lesbian, gay, bisexual, transgender, queer, intersex, nonbinary, or otherwise gender non-conforming” students may experience harassment for how they look, dress, act, or for “simply being who they are” and that discrimination based on their sexual orientation or gender identity is a form of sex discrimination that schools must investigate and address¹⁷. When schools fail to respond in an appropriate manner, the Educational Opportunities Section of the Civil Rights Division at the U.S. Department of Justice and the USDE’s OCR can help both by enforcing federal laws and by providing resources and support for schools.

¹³National Women's Law Center, Title IX Protections from Bullying and Harassment in Schools: FAQs for LGBT or Gender Nonconforming Students and Their Families, (Washington, D.C.: National Women's Law Center, 2012), https://nwlc.org/wp-content/uploads/2015/08/lgbt_bullying_title_ix_fact_sheet.pdf

¹⁴Office of Civil Rights, *Sex-based Harassment*, (Washington, D.C.: United States Department of Education, 2020), <https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issue01.html>.

¹⁵Ibid.

¹⁶Ibid.

¹⁷U.S. Department of Justice Civil Rights Division and U.S. Department of Education Office for Civil Rights, *Confronting Anti-LGBTQI+ Harassment in Schools: A Resource for Students and Families*, (Washington, D.C.: U.S. Department of Education, 2021).

Examples of Harassment that the Civil Rights Division and the OCR Can Investigate¹⁸:

- A lesbian student wants to bring her girlfriend to a school event where students can bring a date. School staff refuse to sell her tickets, tell her that bringing a girl as her date is “not school appropriate” and that she should attend alone or bring a boy as her date.
- A transgender student begins middle school with a new name and pronouns. Former elementary school classmates “out” the student to others and call them transphobic slurs, push them, and call them by their former name. When the student reports this harassment to school officials, they dismiss it and gaslight the student saying, “you can’t expect everyone to agree with your choices.”
- An elementary school student dresses in a gender-neutral way, identifies as non-binary, and uses they/them pronouns. The student’s teacher laughs when other students ask if they are a boy or a girl and says to the class, “there are only boys or girls, anyone who thinks otherwise has something wrong with them.” When the student tells an administrator, they are told that they need to be able to laugh at themselves sometimes.
- A female student with short hair who dresses in masculine clothing is repeatedly texted and tweeted about by other students calling her anti-LGBTQ slurs and other sexually discriminatory names.
- Students maliciously using “she” and “her” pronouns for a transgender student who identifies as a boy and school officials suggesting that he should “just act like a girl.”
- A school principal bars a transgender high school girl from using the girls’ restroom and tells her to use the boys’ restroom or the one in the nurse’s office, because the school records list her as “male.” She is also barred from trying out for the cheerleading squad because she is transgender. When she complains, the principal tells her, “Those are district policies.”

[Image description: Graphic of a group of people representing the LGBTQ+ community, of varying racial/ethnic and gender expressions, being berated by a separate group of people of indiscernible racial/gender expressions.]

¹⁸Ibid.; National Women's Law Center, "Title IX Protections."

Are There any Other Policies that Protect LGBTQIA+ Students?

Yes! Title IX is not the only legal protection that LGBTQIA+ students have.

The 14th Amendment

The 14th Amendment of the U.S. Constitution includes the Equal Protection Clause, which states that “no State shall...deny to any person within its jurisdiction the equal protection within the laws¹⁹.” This clause applies to “all persons born or naturalized in the United States” as they are considered “citizens of the United States and of the State wherein they reside²⁰.” The Equal Protection Clause protects **all** citizens and applies to public schools and universities. Therefore, public schools are legally obligated to protect LGBTQIA+ students on an equal basis as they protect other students. The 14th Amendment also includes the Due Process clause, which prohibits any State from depriving “any person of life, liberty, or property, without due process of law²¹.” As an example of one way that the Due Process clause can be used to protect students is if a state gives students a right to public education, but says nothing about discipline, then the state cannot take away that right from a student – through expulsion for misbehavior – without providing fair procedures, in other words, “due process²²”. The Supreme Court case responsible for clarifying this protection is *Nabozny v. Podlesny*, circa 1996, when a middle school student in WI, who was mercilessly bullied at school, filed suit against several school officials and his school district; he alleged that his 14th Amendment right to equal protection was violated by discriminating against him on the basis of both his gender and his sexual orientation, and that his 14th Amendment right to due process was violated by exacerbating his risk of being harmed by fellow students and by supporting and encouraging an environment that might be harmful to him²³.



[Image description: Photo of a statue of the blindfolded goddess of justice Themis against the rainbow flag.]

19U.S. Const. Amend. XIV §1.

20Ibid.

21Ibid.

22Legal Information Institute, "Due Process," Cornell Law School: Legal Information Institute, accessed March 15, 2022, https://www.law.cornell.edu/wex/due_process.

²³92 F.3d 446 (7th Cir. 1996)

The 1st Amendment

The 1st Amendment of the U.S. Constitution states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble...²⁴”

This amendment guarantees the right of free speech and peaceful assembly to all people, including students. In 1968, in *Tinker v. Des Moines*, the Supreme Court ruled that students (and teachers) **do not** lose their First Amendment rights when they step onto school property, provided they do not “materially and substantially interfere” with the regular operation of the school²⁵. Therefore, students have a right to be “out,” to speak their opinions about LGBTQIA+ issues, to have and participate in peaceful protests (such as a Day of Silence), to bring a “same-sex” date to the prom, and to dress/express themselves in a way that they feel best matches their gender identity²⁶.

The Equal Access Act of 1984

Initially lobbied for by Christian groups who wanted to ensure that students could conduct Bible study groups during lunch and after school, the federal law known as the Equal Access Act passed in 1984. The law states that:

It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings²⁷.

Despite its religious origins, The Equal Access Act has more often been cited as the legislation that protects students’ ability to create and have LGBTQIA+ student clubs, such as GSAs (Gender & Sexuality Alliances). This law applies to all secondary schools (grades 7-12) that receive Federal funding and that allow an offering or opportunity to one or more non-curriculum related student groups to meet on school premises during non-instructional time (before or after school and during lunch). Therefore, if a public middle or high school allows for any student clubs that are not directly related to curriculum to exist, then they must allow a GSA club to exist, and they also must treat **all** clubs equally.

²³92 F.3d 446 (7th Cir. 1996)

²⁴U.S. Const. Amend. I §1.

²⁵393 U.S. 503

²⁶GSAFEWI, "Know Your Rights: Federal Laws Protecting GSAs and LGBTQ+ Students," GSAFEWI, last modified 2022, <https://www.gsafewi.org/wp-content/uploads/Know-Your-Rights-Federal-Laws-1.pdf>.

²⁷20 U.S. Code § 4071

Title IX, the 1st and 14th Amendments, and the Equal Access Act are all Federal policies that protect LGBTQIA+ students in schools. There are a small number of states that have non-discrimination laws or anti-bullying laws in place as an additional layer of protection for students. To see if your state has any policies which might protect LGBTQIA+ students, go to: <https://www.glsen.org/policy-maps>.

LGBTQIA+ Students' Rights

Laws and policies are not often written in language that is easy to parse or understand, and some youth-serving adults may not be fully aware of how these policies can apply to the treatment of LGBTQIA+ students. So, to break it down plainly, here is a summary of the rights of LGBTQIA+ students as afforded to them by Federal policy:

“The Department of Education strives to ensure that all students—including LGBTQIA+ students—have access to supportive, inclusive school environments that allow them to learn and thrive in all aspects of their educational experience. Federal law prohibits discrimination based on sexual orientation and gender identity, and we are here to help schools, students, and families ensure that these protections are in full force.”

- Suzanne B. Goldberg, Acting Assistant Secretary for Civil Rights, Department of Education

The best way to combat backlash from other stakeholders about supporting LGBTQIA+ students is to remind them that as a youth-serving professional you are bound not only to protect all of your students, but that you are also bound to uphold the laws of the nation. Knowing what legal protections exist for LGBTQIA+ students can help you in your efforts to support these students and can help to silence opposition.

*LGBTQIA+ Students have the right to...*²⁸

- not be disciplined or treated differently because of their sexual orientation or gender identity;
- be treated with respect and not harassed or bullied for their sexual orientation or gender identity;
- equal educational opportunities, including the right to use locker rooms and restrooms that are consistent with their gender identity, and to participate equally in athletic or extra-curricular activities and other school events;

²⁸Ibid.

- transition at school and express their transitioned gender at school;
- be called by their preferred names and correct pronouns;
- dress according to their gender identity, as long as they follow school/district dress rules which apply to all students;
- not be compelled to provide personal and medical information to school officials;
- not have their personal information regarding their sexual orientation or gender identity disclosed to anyone by school officials without their consent;
- voice their opinions about LGBTQIA+ issues;
- take a same-sex date to the prom;
- organize peaceful protests, such as the Day of Silence;
- create and participate in a GSA or other kind of LGBTQIA+ student club, if the school allows any extracurricular clubs and activities, and the school may not impose special rules or restrictions on said club that are not imposed on any other clubs, including parental permission forms.

What Can I Do to Help Support and Affirm LGBTQIA+ Students?

LGBTQIA+ students may not have supportive and affirming adults in their homes, which is why it is imperative for schools to be safe places for these students. The adults they interact with in their school environment need to be active allies; they need to be supportive and affirming²⁹. Below are some ways that educators and

administrators can help protect and support LGBTQIA+ students.

Policies

As a school staff member, advocate for school and district policies to explicitly prohibit discrimination based on gender identity and sexual orientation. Specificity in these policies is important, as it leaves less room for interpretation, which will help better protect LGBTQIA+ students. GLSEN's survey of LGBTQIA+ youth found that nearly 60% reported personally experiencing LGBTQIA+-related discriminatory policies or practices at their school³⁰.

Questions to Think About When Considering Inclusive Policies:

- ⇒ Are dress code rules written in a gender-neutral way?
- ⇒ Are dress code rules being enforced equitably?
- ⇒ Can trans and non-binary students use bathrooms and locker rooms that best match with their gender identity?
- ⇒ Are trans and non-binary youth welcome to join athletic teams that best match with their gender identity?
- ⇒ Are there policies in place that protect the privacy of LGBTQIA+ students, especially those students whose gender identity or sexual orientation may not be public knowledge?
- ⇒ Are there written guidelines in place which uphold affirming the use of students' correct pronouns?

²⁹Robin G. Jackson et al., "Ally & Accomplice: Two Sides of the Same Coin," Equity Dispatch 4, no. 3 (January 2020): <https://greatlakesequity.org/resource/ally-accomplice-two-sides-same-coin>.

³⁰Kosciw, "2019 School Climate Survey."

Professional Development

According to GLSEN, more than 50% of surveyed LGBTQIA+ youth reported hearing homophobic and transphobic remarks from the teachers and staff at their schools. More than 60% of these students who reported an incidence of assault or harassment to school staff members said that the staff did nothing in response or told them to ignore it³¹. Most teacher training programs in the U.S. do not include LGBTQIA+ issues as required material, and there are no states that require LGBTQIA+ multicultural competence as a qualification for teaching certification³². Teachers and school staff members have a legal, moral, and ethical obligation to protect LGBTQIA+ youth from victimization. If you are an administrator, consider including training for your staff in how to create safer and more affirming spaces for LGBTQIA+ students as professional development. When youth-serving professionals know better, they do better. In-service training in LGBTQIA+ issues is associated with more positive attitudes toward LGBTQIA+ students and an improved school climate overall³³.

There are a multitude of organizations that have Professional Learning and Training courses, especially for educators and school staff members. Here are a few examples:

⇒ ***The Safe Schools Project*** – Based in Santa Cruz, they offer a variety of professional development training

- opportunities including Teaching LGBTQ History, School Safe Environment, LGBT 101, Supporting Trans Youth, and much more. <https://safeschoolsproject.org/services/>
- ⇒ ***Welcoming Schools*** – A comprehensive bullying prevention program from the Human Rights Campaign that is based in an intersectional and anti-racist lens and provides LGBTQ+ and gender inclusive training to K-12 educators and other youth-serving professionals. <https://welcomingschools.org/resources/training>
- ⇒ ***Understanding LGBTQ+ Identity*** – Sponsored by PBS, this site features video and print resources, as well as webinars and a shareable presentation for creating a professional development training for teachers and staff. <https://wosu.pbslearningmedia.org/collection/lgbtq-identity/t/p-d/>
- ⇒ ***GLSEN*** – This long-standing national organization that advocates for LGBTQIA+ students has a robust Professional Development department and a multitude of resources for educators and youth-serving professionals. <https://www.glsen.org/professional-development>
- ⇒ ***Kaleidoscope Youth Center*** – Based in Columbus, Ohio, this state-wide organization offers online and in-person training courses for educators and youth-serving professionals. <https://www.kycoho.org/education.html>

³¹bid.

³²Corbin A. Robinson, "Bridging the Gap: Professional Development and LGBTQ Youth," National School Boards Association, last modified February 1, 2021, <https://www.nsba.org/ASBJ/2021/February/Professional-Development-LGBTQ>.

³³bid.

GSA Clubs

Students who attend schools that have a GSA or similar LGBTQIA+ student club experience lower levels of victimization due to their gender identity or sexual orientation, are less likely to hear anti-LGBTQIA+ slurs and remarks in school or to miss school because of safety concerns, and are more likely to feel a greater sense of belonging to their school community³⁴. The simple presence of a GSA creates a better school climate for LGBTQIA+ students. For more information about GSAs, check out GLSEN (<https://www.glsen.org/support-student-gsas>) and the GSA Network (<https://gsanetwork.org/>).

Language and Pronouns

Use inclusive language in your classrooms and when dealing with students³⁵. Normalize using your own pronouns when you introduce yourself and put your pronouns in your email signature and on your teleconferencing screen name. Avoid gender-specific language; try addressing students as “folks”, “friends”, “people”, or any other gender-neutral term, as opposed to “ladies and gentlemen” or “boys and girls”. Use students’ preferred names if they have one and write their preferred names on rosters for substitute teachers. Avoid categorizing students by gender (e.g., dividing students into teams of boys versus girls).

Call Out Negative Behavior

If you see any instance of a student being bullied by peers for their sexual orientation or gender identity, address the situation immediately, name the behavior, use it as a teachable moment, support the targeted person, and hold aggressors accountable. Also, encourage your students to hold one another accountable.



[Image description: Photo of a masked feminine-presenting person of Color playing a drum, with a sleeveless t-shirt on that says “free-ish,” with the “ish” in multicolors, representing the intersection of race and LGBTQ.]

³⁴Kosciw, "2019 School Climate Survey."

³⁵K. N. Broughton et al., "Critical Language Style Guide," Great Lakes Equity Center, last modified October 11, 2021, <https://greatlakesequity.org/resource/critical-language-style-guide>.

Privacy

If a student comes out to you, that means that you are a trusted adult to them. The first thing you can do in response is to thank them for their trust. If they tell you that you are the first person they have come out to, keep that information confidential! It is imperative that youth-serving professionals trust youth in their decisions about to whom and when to give what information. If a student tells you about their sexual orientation, gender identity, preferred name, and/or correct pronouns, ask them if this is something that you can talk to others about. Find out whether or not they would like you to use their preferred name and correct pronouns when talking with their caregivers or family members. If you are not explicitly aware of their family dynamics, you may be putting them in harm's way if you talk to their family members about their identity without their consent. Finally, ask them what support they need and how you can support them. We can never truly understand the experiences of another person, thus, it is incredibly important to trust that LGBTQIA+ youth know themselves better than anyone else does and to respect their decisions without judgement.

Recognize Diversity

Understand that there is a vast array of diversity within the LGBTQIA+ community and that not all Queer and Trans students experience their gender identity or sexual orientation in the same ways. Do not expect

an LGBTQIA+ student to be the spokesperson for the entire community. Approach all students with an understanding that, as humans, "we are all the same, we are all different, and we are all normal³⁶."

Don't Forget About Self-care!

Supporting LGBTQIA+ students can sometimes feel like challenging, lonesome, and/or frustrating work, like an uphill battle. Bearing witness to the needless suffering of LGBTQIA+ youth and working to create safer spaces in schools can take a heavy toll on our souls. Advocating for and supporting these youth can also be empowering and uplifting, and still, the emotional labor can be overwhelming at times. We are all human, and we all have limits. Education professionals, especially, already experience burnout at alarming rates. It is important to remember that 1. this work is incredibly necessary for ensuring the dignity, respect, and safety of all students, and 2. you need to take care of yourself (this is especially true for educators and administrators who themselves have minoritized identities). Below are some suggestions for self-care.

Ways to Care for Yourself so You can Better Care for Others³⁷

⇒ Set healthy boundaries for yourself (and stick to them). Recognize your limits and say "no" when you need to. Give yourself permission to unplug for a little while.

³⁶Emily Nagoski, *Come as You Are: the bestselling guide to the new science that will transform your sex life* (New York: Simon & Schuster, 2015)

³⁷Lindsay Thompson, "Importance of Self-Care As a Teacher," National Education Association | NEA, last modified January 20, 2019, <https://www.nea.org/professional-excellence/student-engagement/tools-tips/importance-self-care-teacher>

- ⇒ Ask for help. No one can do this work alone. It takes a community to create change. Find your allies and get support when you need it.
- ⇒ Find things that relieve stress for you and bring you joy. Engage in them regularly. If it helps, plan them ahead of time.
- ⇒ Take care of your physical health. Eat nourishing foods, move your body, get enough sleep and rest, and stay hydrated.
- ⇒ Breathe. Meditation and mindfulness can do wonders for preventing burnout. Even occasionally taking a minute or two to concentrate on your breathing can help reset your mood and focus.
- ⇒ Engage in self-reflection. It is difficult to know how best to take care of yourself if you do not know what you need.
- ⇒ Lean on your support system and community outside of work. Engage with friends, family, and loved ones. Let them know how you are doing and what you need.

What About Rights and Protections for Educators?

The U.S. Supreme Court has ruled that anti-LGBTQIA+ discrimination is illegal. Period. The same policies that protect students' rights, also protect the rights of school employees. It is important to remember that Federal civil rights protections legally bear more weight than any state or district policy. Several states have currently proposed or instituted legislation that directly violates the civil rights guaranteed to LGBTQIA+ youth and adults by Federal policy. You have the right to file civil rights violation complaints

against any agency that receives Federal financial assistance. For more information, go to the OCR page on the USDE website: <https://www2.ed.gov/about/offices/list/ocr/index.html>

If You are an LGBTQIA+ Educator, You Have the Right to³⁸:

- ⇒ Be out at work;
- ⇒ Be open about your relationships and family;
- ⇒ Live as your true gender;
- ⇒ Not to be misgendered or harassed.
- ⇒ Express who you are and what you believe – schools can limit how educators express their personal opinions in the classroom, but cannot discriminate against LGBTQIA+ staff or LGBTQIA+ affirming view points;
- ⇒ Support a GSA or other LGBTQIA+ student club; and
- ⇒ Report discrimination and harassment.

If you report an incident to a school administrator and they do not take action, you can file a civil rights claim at the federal, state, or local level. You can file a complaint about workplace discrimination for yourself - if you have experienced harassment or discrimination at work, or for a colleague – if you witnessed or heard about workplace discrimination happening to a coworker. You can file a report in several places, including your local school district, a state or local human rights agency, or the U.S. Equal Employment Opportunity Commission.

³⁸GLSEN, "LGBTQ+ Educator Rights," GLSEN, last modified 2021, <https://www.glsen.org/activity/lgbtq-educator-rights>.

If you saw or heard about discrimination against a student, you can file a complaint with your local school district, the state education agency, or the U.S. Department of Education. A workplace discrimination complaint can be filed based on “race, color, national origin, age, disability, sex, sexual orientation, gender identity, transgender status, or sex characteristics³⁹.”

To file a complaint with the Office of Civil Rights at the USDE, go to: <https://ocrcas.ed.gov/content/ocr-complaint-assessment-system>, or find your regional equity assistance center here: <https://www2.ed.gov/programs/equitycenters/contacts.html>.

Please remember that LGBTQIA+ youth are going through a lot. Not only are they trying to figure out who they are and where they belong in the world, as are all youth, but LGBTQIA+ youth are doing so while being at the forefront of the Queer rights movement – envisioning a world in which all people can live freely as their whole and truest selves – while also being the pinpointed target of discrimination and harassment in nearly every aspect of their lives. Many do not find safety in their own homes, families, communities, or faith practices. Many do not find safety in their schools, classrooms, locker rooms, district policies, or even state legislation. Many have had some form of suicidal ideations before the age of 24, some as young as 6. LGBTQIA+ youth desperately need supportive and affirming adults and spaces in their lives. Schools, at least, must be these places. When schools become safe places for LGBTQIA+ students, lives are saved.

³⁹ibid.

About the Authors

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About the Midwest & Plains Equity Assistance Center

The mission of the Midwest & Plains Equity Assistance Center is to ensure equity in student access to and participation in high quality, research-based education by expanding states' and school systems' capacity to provide robust, effective opportunities to learn for all students, regardless of and responsive to race, sex, and national origin, and to reduce disparities in educational outcomes among and between groups. The Equity by Design briefs series is intended to provide vital background information and action steps to support educators and other equity advocates as they work to create positive educational environments for all children. For more information, visit <http://www.greatlakesequity.org>.

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Disclaimer

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