**[DATE]**

Dear **[School Official]**:

Many school officials and educators have expressed questions about the rights of transgender students in light of the recent withdrawal of federal guidance interpreting Title IX and the decision of the Supreme Court to return a case involving transgender students to a lower court. Schools continue to have a legal and moral obligation to protect the welfare of all students, regardless of transgender status, and to prevent discrimination against them. We write to share the following information so that your school system is fully informed when making decisions about how best to treat all students with dignity and respect.

Transgender students—students who know themselves to be a gender that is different than the one they were thought to be at birth—live in every part of the United States. The Williams Institute at UCLA estimates that 150,000 youth between the ages of 13 and 17 are transgender.[[1]](#endnote-1) It is the overwhelming consensus of child health and education experts that treating transgender students according to their gender identity—their deeply held knowledge of their gender—is critical to protecting their health and wellbeing.[[2]](#endnote-2) In the educational context, doing so includes using the name and pronouns the student indicates are appropriate, permitting the student to dress according to their gender identity, and giving them the same access to the restrooms and locker rooms consistent with their gender that any other student has.

For years, policies supporting transgender students have been successfully implemented in schools across the country. Additionally, 17 states and the District of Columbia,[[3]](#endnote-3) along with numerous local governments,[[4]](#endnote-4) have clear laws, regulations, or policies requiring school officials to treat transgender students according to their gender identity. In fact, we estimate that over 20 million students in the United States (more than 40% of all K–12 students) currently attend schools that are subject to laws or policies explicitly protecting these rights.

**Discrimination against transgender students harms students and undermines the educational mission of schools**

Research shows that transgender children and adolescents thrive when they are supported and treated equally, but that persistent discrimination against these students is profoundly harmful.[[5]](#endnote-5) Transgender students already experience high rates of mistreatment and harassment by peers and adults.

* Across the country, most transgender students (85%) had heard negative remarks about transgender people, and 60% reported being prohibited from using the restroom that aligned with their gender identity[[6]](#endnote-6).
* In a recent study of 27,715 transgender adults, more than three-quarters (77%) of those who were out as transgender in K–12 or who said that classmates, teachers, or school staff thought or knew they were transgender reported facing some form of mistreatment —including verbal harassment and physical and sexual assault—based on their transgender status.
* Nearly one in five (17%) faced such severe mistreatment that they left a K–12 school.[[7]](#endnote-7)

The stress of harassment and discrimination can lead to lower attendance and grades, as well as depression, anxiety, and suicidality for transgender youth, and is correlated with higher rates of lifetime homelessness and other indicators of economic instability.[[8]](#endnote-8) School policies that do not allow transgender students to dress according to their gender identity, use restrooms appropriate for their gender, by addressed by the correct pronouns, or update their school identification documents to reflect their name and gender only decrease students’ academic attainment and weaken self-esteem. Further, forcing a transgender student to use a segregated restroom away from their classmates frequently imposes unacceptable burdens on that students and sends a message to that student and all the student’s peers that there is something wrong with them and that they are not entitled to the same dignity as other students. On the other hand, school policies and practices that support transgender students can significantly improve their wellbeing, safety, and educational success.[[9]](#endnote-9)

Meanwhile, there is no evidence that supportive policies jeopardize the privacy or safety of other students. Schools serving millions of students have had such policies in place for years, sometimes decades, without incident. Administrators and educators at schools with these policies have consistently made clear that in the years when these policies have been in place, safety concerns have simply not materialized into real problems.[[10]](#endnote-10) There are already laws and school policies against harassing or invading others’ privacy in restrooms, and treating transgender students like everyone else does not erode a school’s ability to enforce those rules. To the extent that any student, transgender or not, feels uncomfortable using a restroom with another student or wants additional privacy for any reason, private facilities may be made available upon the student’s request, so long as no student is *forced* into separate facilities.

**Education and child health experts back policies supporting transgender youth**

The overwhelming consensus among education and child health experts is that transgender students should be treated according to their gender identity. For example, this approach has been endorsed and promoted by the National Association of Secondary School Principals, the National Association of Elementary School Principals, the American Academy of Pediatrics, the National Association of School Psychologists, the American School Counselor Association, the National PTA, the National Education Association, the American Federation of Teachers, the American Psychiatric Association, and the American Academy of Family Physicians.[[11]](#endnote-11)

**Transgender students continue to be protected from discrimination under Title IX and the U.S. Constitution**

Under Title IX of the Education Amendments of 1972 and the Equal Protection Clause of the U.S. Constitution, schools receiving federal funding must treat students according to their gender identity. This continues to be the case even after the rescission of a May 13, 2016 federal guidance that provided advice to schools on the law.

Title IX prohibits sex discrimination in federally funded education programs.[[12]](#endnote-12) The majority of courts to have considered this issue have stated repeatedly that sex discrimination laws such as Title IX and the Equal Protection Clause of the U.S. Constitution prohibit discrimination based on gender identity, including practices that bar students from using school restrooms and changing rooms consistent with their gender identity.[[13]](#endnote-13) While Title IX permits schools to maintain gender-segregated facilities, it requires schools to give students access to those facilities on the basis of their gender identity, regardless of whether or not they are transgender. Discrimination against transgender students therefore creates serious legal and fiscal risks for school districts.

Schools’ legal obligations remain unchanged even after the withdrawal of the May 13, 2016 guidance from federal agencies. This guidance did not change the law or create new legal protections, and it did not change the meaning of Title IX. Rather, it was simply a clarifying document that advised schools on what the law already required, summarizing over a decade of case law and best practices from schools around the country. This means that rescinding the guidance did not alter transgender students’ legal rights under Title IX and the Equal Protection Clause of the Constitution to attend school free from discrimination. Federal law continues to require schools to treat transgender students according to their gender identity, including when it comes to restroom access. Similarly, the recent action by the U.S. Supreme Court to send a Title IX case involving a transgender student back to a lower court for review does not change the law.[[14]](#endnote-14)

If you have any questions, please feel free to contact **Harper Jean Tobin at** **hjtobin@transequality.org** **and (202) 642-4542** or **Nathan Smith at** **nathan.smith@glsen.org** **and (202) 621-5815**. We also encourage you to consult the following additional resources for more information and answers to common questions about policies supporting transgender students:

* Examples compiled by the U.S. Department of Education of supportive practices and policies from schools across the country: <https://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf>
* *Schools in Transition*, a practical guide to help school officials address issues affecting transgender students:<https://www.genderspectrum.org/staging/wp-content/uploads/2015/08/Schools-in-Transition-2015.pdf>
* GLSEN and the National Center for Transgender Equality’s Model District Policy on Transgender and Gender Nonconforming Students: <http://www.transequality.org/sites/default/files/GLSEN%20Trans%20Model%20Policy%202016.pdf>
* *Transgender Students and School Bathrooms: Frequently Asked Questions*, a resource endorsed and supported by the American School Counselor Association, the National Association of Elementary School Principals, the National Association of School Psychologists, and the National Association of Secondary School Principals: <https://www.genderspectrum.org/BathroomFAQ>

Thank you for the work you do every day to ensure quality education for all.

Sincerely,

**[signatures]**

1. Herman, J. L., Flores, A. R., Brown, T. N. T., Wilson, B. D. M., & Conron, K. J. (2017). *Age of Individuals Who Identify as Transgender in the United States.* Los Angeles, CA: Williams Institute. For estimates on the population of transgender adults and teenagers in your state, see <http://williamsinstitute.law.ucla.edu/wp-content/uploads/TransAgeReport.pdf>. [↑](#endnote-ref-1)
2. *See*, *e.g.*, American Psychological Association & National Association of School Psychologists. (2015). *Resolution on Gender and Sexual Orientation Diversity in Children and Adolescents in Schools*. Available at: http://www.apa.org/about/policy/ orientation-diversity.aspx. [↑](#endnote-ref-2)
3. Statewide guidelines, regulations, or statutes that explicitly protect transgender students, including in access to school facilities, exist in:

**Alaska** (<http://www.skagwayschool.org/UserFiles/Servers/Server_973386/File/Board%20Meetings/2015-16%20Year/Committee%20Meeting/AASB%20BPAR%205145.3%20Transgender%20Students%20and%20Employees.pdf>)

**California** (<http://www.cde.ca.gov/re/di/eo/legaladvisory.asp>)

**Colorado** (<https://www.cde.state.co.us/cde_english/titleix-transgenderstudents>)

**Connecticut** (<http://www.ct.gov/chro/lib/chro/Guidelines_for_Schools_on_Gender_Identity_and_Expression_final_4-24-12.pdf>)

**District of Columbia** (<http://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20Transgender%20Gender%20Non%20Conforming%20Policy%20Guidance.pdf>)

**Hawaii** (<http://www.hawaiipublicschools.org/DOE%20Forms/Civil%20Rights/TransgenderSupports.pdf>)

**Idaho** (<http://www.idahoednews.org/wp-content/uploads/2016/05/ISBA-gender-identity-policy.pdf>)

**Iowa** (<https://www.ia-sb.org/Main/Downloads/news/TransgenderStudents_July_2016.pdf>)

**Maine** (<http://www.state.me.us/mhrc/guidance/CCmemo.education.so.pdf>)

**Maryland** (<http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/ProvidingSafeSpacesTransgendergenderNonConformingYouth012016.pdf>)

**Massachusetts** (<http://www.doe.mass.edu/sfs/lgbtq/GenderIdentity.pdf>)

**Michigan** (<http://www.michigan.gov/documents/mde/SBEStatementonLGBTQYouth_534576_7.pdf>)

**New Jersey** (<https://www.njsba.org/news-publications/school-leader/novemberdecember-2015-volume-46-3/gender-identity-and-school-law/>)

**New York** (<http://www.p12.nysed.gov/dignityact/documents/Transg_GNCGuidanceFINAL.pdf>)

**Oregon** (<http://www.ode.state.or.us/groups/supportstaff/hklb/schoolnurses/transgenderstudentguidance.pdf>)

**Rhode Island** (<http://www.thriveri.org/documents/Guidance.for.RhodeIsland.Schools.on.Transgender.and.Gender.Nonconforming.Students-2016.pdf>)

**Washington State** (<http://www.k12.wa.us/Equity/GenderIdentity/default.aspx>)

**Vermont** (<http://hrc.vermont.gov/sites/hrc/files/publications/2016%20AOE%20Best%20Practices%20for%20Schools%20re%20Transgender%20Students.pdf>) [↑](#endnote-ref-3)
4. Among the largest districts with explicit guidelines supporting transgender students are Albuquerque, Anchorage, Chicago, Fort Worth, Kansas City, Madison, Minneapolis, Philadelphia, Pittsburgh, Topeka, and Washoe County (Reno). *See* Brief of *Amici Curiae* School Administrators from Thirty-One States and the District of Columbia in Support of Respondent, Gloucester Cty. Sch. Bd. v. G.G. *ex rel.* Grimm,Case No. 16-273, U.S. Sup. Ct. (filed Mar. 2, 2017). [↑](#endnote-ref-4)
5. *See, e.g.*, Olson, K. R., Durwood, L., DeMeules, M., & McLaughlin, K. A. (2016). Mental health of transgender children who are supported in their identities. *Pediatrics 137*(3). doi: 10.1542/peds.2015-3223. [↑](#endnote-ref-5)
6. Kosciw, J. G., Greytak, E. A., Giga, N. M., Villenas, C., & Danischewski, D. J. (2016). *The 2015 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, and Transgender Youth in Our Nation’s Schools*. New York, NY: GLSEN. [↑](#endnote-ref-6)
7. James, S. E., Herman, J. L, Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey* (p. 132). Washington, DC: National Center for Transgender Equality. [↑](#endnote-ref-7)
8. James et al.; Kosciw et al. [↑](#endnote-ref-8)
9. Kosciw et al. [↑](#endnote-ref-9)
10. *E.g.*, Brief of *Amici Curiae* School Administrators from Thirty-One States and the District of Columbia in Support of Respondent, Case No. 16-273, U.S. Sup. Ct. (filed Mar. 2, 2017). This and other *amicus* briefs in the *G.G.* case are available at: <http://www.scotusblog.com/case-files/cases/gloucester-county-school-board-v-g-g/>. [↑](#endnote-ref-10)
11. *E.g., Brief of Amici Curiae* American Academy of Pediatrics, American Psychiatric Association, American College of Physicians, and 17 Additional Medical and Mental Health Organizations in Support of Respondent, Gloucester Cty. Sch. Bd. v. G.G. *ex rel.* Grimm, Case No. 16-273, U.S. Sup. Ct. (filed Mar. 2, 2017); *Amici Curiae* Brief of National PTA, GLSEN, and Other Education Organizations in Support of Respondent, Case No. 16-273, U.S. Sup. Ct. (filed Feb. 28, 2017). [↑](#endnote-ref-11)
12. 20 U.S.C. § 1681. [↑](#endnote-ref-12)
13. A large number of courts have concluded that sex nondiscrimination protections, such as under Title IX, Title VII (prohibiting workplace discrimination), and the Affordable Care Act (prohibiting health care discrimination), as well as the Equal Protection of the U.S. Constitution, prohibit discrimination against transgender people. *See*, *e.g.*, Glenn v. Brumby, 663 F.3d 1312 (11th Cir. 2011) (Equal Protection Clause); Barnes v. City of Cincinnati, 401 F.3d 729 (6th Cir. 2005) (Title VII); Smith v. City of Salem, 378 F.3d 566 (6th Cir. 2004) (Title VII); Rosa v. Park West Bank & Trust Co., 214 F.3d 213 (1st Cir. 2000) (Equal Credit Opportunity Act); Schwenk v. Hartford, 204 F.3d 1187 (9th Cir. 2000) (Gender Motivated Violence Act); Evancho v. Pine-Richland Sch. Dist., --- F.Supp.3d ---, 2017 WL 770619 (W.D. Pa. Feb. 27, 2017) (Equal Protection Clause); Mickens v. Gen. Elec. Co. , No. 16-603, 2016 WL 7015665 (W.D. Ky. Nov. 29, 2016) (Title VII); Students & Parents for Privacy v. U.S. Dep’t of Educ., No. 16-cv-4945, 2016 WL 6134121 (N.D. Ill. Oct. 18, 2016) (Title IX); Roberts v. Clark Cty. Sch. Dist., No. 2:15-cv-00388, 2016 WL 5843046 (D. Nev. Oct. 4, 2016) (Title VII); Bd. of Ed. of Highland Local Sch. Dist. v. U.S. Dep’t of Educ., 2016 WL 5372349, --- F.Supp.3d --- (S.D. Ohio Sept. 26, 2016), *stay pending appeal denied sub nom*, Dodds v. U.S. Dep’t of Educ., 845 F.3d 217 (6th Cir. 2016) (Title IX, Equal Protection Clause); Whitaker v. Kenosha Unified Sch. Dist., No. 16-CV-943-PP, 2016 WL 5239829 (E.D. Wis. Sept. 22, 2016) (Title IX); Cruz v. Zucker, 195 F.Supp.3d 554 (S.D.N.Y. Jul. 5, 2016) (Affordable Care Act); Fabian v. Hosp. of Cent. Conn., 172 F.Supp.3d 509 (D. Conn. Mar. 18, 2016) (Title VII); Doe v. Ariz., No. CV-15-02399-PHX-DGC, 2016 WL 1089743 (D. Ariz. Mar. 31, 2016) (Title VII); Dawson v. H&H Elec., Inc., No. 4:14CV00583 SWW, 2015 WL 5437101 (E.D. Ark. Sept. 15, 2015) (Title VII); U.S. v. S.E. Okla. State Univ., No. CIV–15–324–C, 2015 WL 4606079 (Title VII); E.E.O.C. v. R.G. & G.R. Harris Funeral Homes, Inc., 100 F.Supp.3d 594 (E.D. Mich. 2015) (Title VII); Rumble v. Fairview Health Servs., No. 14–cv–2037, 2015 WL 1197415 (D. Minn. Mar. 16, 2015) (Affordable Care Act); Finkle v. Howard Cty., 12 F.Supp.3d 780 (D. Md. 2014) (Title VII); Schroer v. Billington, 577 F. Supp. 2d 293 (D.D.C. 2008) (Title VII); Lopez v. River Oaks Imaging & Diagnostic Group, Inc., 542 F.Supp.2d 653 (S.D. Tex. 2008) (Title VII) Mitchell v. Axcan Scandipharm, Inc., No. Civ.A. 05-243, 2006 WL 456173 (W.D. Pa. 2006) (Title VII); Tronetti v. Healthnet Lakeshore Hosp., No. 03–CV–0375E, 2003 WL 22757935 (W.D.N.Y. Sept. 26, 2003) (Title VII). *But see* Etsitty v. Utah Transit Auth., 502 F.3d 1215 (10th Cir. 2007) (Title VII); Texas v. United States, 201 F.Supp.3d 810 (N.D. Tex. Aug. 21, 2016) (Title IX); Johnston v. Univ. of Pittsburgh, 97 F.Supp.3d 657 (W.D. Pa. Mar. 31, 2015) (Title IX) (settled, appeal withdrawn). [↑](#endnote-ref-13)
14. Gloucester Cty. Sch. Bd. v. G. G. *ex rel.* Grimm, --- S.Ct. ---, 2017 WL 855755 (Mar. 6, 2017) (remanding for further consideration by the U.S. Court of Appeals for the Fourth Circuit). [↑](#endnote-ref-14)