



---

## SAMPLE LETTER

[DATE]

Dear [NAME OF PRINCIPAL OR SUPERINTENDENT],

The North Carolina General Assembly recently passed House Bill 2, a bill that says that schools cannot let transgender students use restrooms and locker rooms that are consistent with their gender identity. These requirements, however, violate federal law and could subject the school district to federal lawsuits, investigations and loss of federal funding. We share the following information so that your school system is fully informed when making important decisions about how best to treat students and employees with dignity and respect. Allowing transgender students and employees to access restrooms and other facilities consistent with their gender identity is not only in the best interest of students, it is also required by federal law.

Unequal treatment of transgender students is harmful and counter to the educational mission of schools

Excluding transgender students from facilities that correspond to their gender identity sends a message to transgender students and their peers that there is something wrong with them and that they are not entitled to the same dignity as other students. Transgender students are at heightened risk of bullying by peers and adults, and the stress of harassment and discrimination can lead to lower attendance and grades as well as health problems.<sup>i</sup>

We all care about privacy and safety in restrooms. Allowing transgender students to use restrooms appropriate for their gender identity does not jeopardize anyone's privacy and safety. North Carolina already has laws against harassing or invading others' privacy in restrooms. If any student, transgender or not, feels uncomfortable using a restroom with another student or needs additional privacy for any reason, private facilities may be made available upon request, so long as no student is *forced* into separate facilities.

Refusing to allow transgender students to use restrooms consistent with their gender identity violates federal anti-discrimination law and risks litigation and loss of federal funds

House Bill 2 requires school districts to discriminate against transgender students, as well as transgender staff. Compliance with House Bill 2 creates serious legal and fiscal risks for public health care entities, however, because it conflicts with federal laws, including Title IX of the Education Amendments of 1972. Title IX prohibits sex discrimination in federally-funded education programs.<sup>ii</sup> The U.S. Departments of Justice and Education have stated repeatedly in guidance and court briefs that Title IX prohibits discrimination based on gender identity, including practices that bar students from using school restrooms and changing rooms consistent with their gender identity.<sup>iii</sup> Many courts have also held that sex discrimination laws like Title IX protect transgender people.<sup>iv</sup> School districts that have excluded students from facilities consistent with their gender identity have faced lawsuits in

federal court and investigations by the Departments of Justice and Education.<sup>v</sup> 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 the gender they were assigned at birth.

Thus, school districts in North Carolina that engage in discriminatory practices pursuant to House Bill 2 would violate federal law. While House Bill 2 include no enforcement mechanisms, violations of Title IX could result in federal litigation by students, employees, or the US Department of Education or Department of Justice, as well as federal administrative investigations and potential loss of federal funding.

We hope this letter is helpful in addressing some of the questions and concerns raised by House Bill 2. You may wish to consult *Schools in Transition: A Guide for Supporting Transgender Students in K-12 Schools*<sup>vi</sup> or the Model District Policy on Transgender and Gender Nonconforming Students<sup>vii</sup> for information about how to provide a safe and supportive environment for all students and ensure compliance with federal laws and regulations. If you have any questions, please feel free to contact Harper Jean Tobin at the National Center for Transgender Equality at [hjtobin@transequality.org](mailto:hjtobin@transequality.org) or (202) 745-2303.

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

<sup>i</sup> E.g., Sari L. Reisner et al., *Mental Health of Transgender Youth in Care at an Adolescent Urban Community Health Center*, 56 J. Adolescent Health 274 (Mar. 2015),

<http://www.jahonline.org/pb/assets/raw/Health%20Advance/journals/jah/feature.pdf>.

<sup>ii</sup> 20 U.S.C. § 1681.

<sup>iii</sup> E.g., Brief for the United States as *Amicus Curiae*, *G.G. v. Gloucester Cty. Sch. Bd.*, No. 15-2056 (4th Cir. Oct. 28, 2015); *Tooley v. Van Buren Public Schools*, No. 2:14-cv-13466 (E.D. Mich.), Statement of Interest of the USA (Feb. 24, 2015); U.S. Dept. of Education, Office for Civil Rights, *Title IX Coordinators Guide* 15, 19, 21-22 (April 2015).

<sup>iv</sup> E.g., *Glenn v. Brumby*, 663 F.3d 1312, 1316 (11th Cir. 2011); *Smith v. City of Salem*, 378 F.3d 566, 572-75 (6th Cir. 2004); *Rosa v. Park W. Bank & Trust Co.*, 214 F.3d 213, 215-16 (1st Cir. 2000); *Schwenk v. Hartford*, 204 F.3d 1187 (9th Cir. 2000); *Rumble v. Fairview Health Serv.*, No. 14-cv-2037, 2015 WL 1197415 (D. Minn. Mar. 16, 2015); *Fabian v. Hospital of Central Conn.*, No. 3:12-cv-1154, 2016 WL 1089178 (D. Conn. Mar. 18, 2016); *Schroer v. Billington*, 577 F. Supp. 2d 293 (D.D.C. 2008); *Finkle v. Howard Cty., Md.*, 12 F.Supp. 3d 780 (D. Md. 2014).

<sup>v</sup> E.g., Finding Letter from Adele Rapport, Office for Civil Rights of U.S. Department of Educ., to Daniel E. Cates, Township High School District 211 (Nov. 2, 2015); Resolution Letter from Anurima Bhargava, U.S. Dept. of Justice, & Arthur Zeidman, Office for Civil Rights of U.S. Dept. of Educ., to Joel Shawn, Arcadia Unified Sch. Dist. (July 24, 2013); Resolution Letter from Arthur Zeidman, Office for Civil Rights of U.S. Dept. of Educ., to John A. Garcia, Downey Unified Sch. Dist. (Oct. 14, 2013).

<sup>vi</sup> Asaf Orr & Joel Baum, *Schools in Transition: A Guide To Supporting Transgender Students in K-12 Schools* (2015), [https://www.nea.org/assets/docs/Schools\\_in\\_Transition\\_2015.pdf](https://www.nea.org/assets/docs/Schools_in_Transition_2015.pdf).

<sup>vii</sup> Model District School Policy on Transgender and Gender Nonconforming Students (2016), <http://www.transequality.org/sites/default/files/GLSEN%20Trans%20Model%20Policy%202016.pdf>.