



## Transgender and Gender Non-Conforming Students: Your Rights at School

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Bullying, harassment, or discrimination against transgender or gender nonconforming students is covered by Title IX, a federal law that prohibits sex discrimination in schools. This resource outlines the rights trans and gender nonconforming students have in schools and how to file formal complaints. While NCTE does not provide legal services, we encourage anyone who cannot resolve issues through the complaint processes discussed here to seek legal counsel.

### **What Are My Rights at School?**

The federal Title IX law, which bans sex discrimination in schools, has been interpreted by courts and the US Justice and Education Departments to prohibit discrimination against transgender and gender non-conforming students.

- You have the right to be treated according to the gender you identify with. Your school cannot require you to provide legal or medical evidence in order to have your gender respected.
- You have the right to be called by the name and pronouns consistent with your gender identity.
- You have the right not to be bullied or harassed because you are transgender or gender non-conforming. If school administrators become aware of bullying or harassment they must take action to end it.
- You have the right to equal educational opportunities regardless of your gender, including your gender identity or expression, or your race, nationality, or disability. This includes not being punished or excluded from school activities or events because you are transgender or gender non-conforming.
- You have the right to dress and present yourself in a way that is consistent with your gender identity, so long as you follow rules for how to dress that apply to all students. This includes how you dress at school every day as well as for dances, graduation, and other school events.
- You have the right to use restrooms, locker rooms, and other facilities that are consistent with your gender identity, and can't be forced to use separate facilities.
- You have the right to privacy concerning your transgender status and gender transition. Any such information kept in school records must be kept private and not shared without your permission unless the school has a legitimate reason that it not based on gender bias.

- You have the right not to be harassed or discriminated against based on gender stereotypes, including stereotypes about sexual orientation.
- You have the right to join or start a Gay-Straight Alliance or Pride Alliance, and to have your group treated like other student groups.

### **What Can I Do About Discrimination at School?**

If you or someone close to you has experienced bullying or discrimination, you can start by bringing your concerns to school and district officials. Contact your school district, find out about its nondiscrimination and anti-bullying policies, and try to resolve the issue. Sharing copies of the Department of Education documents listed below (see Resources) may help. If you cannot resolve the issue at the school or district level, you may decide to file a formal complaint.

The U.S. Department of Education, through its Office for Civil Rights (OCR), is charged with enforcing Title IX, a federal law that prohibits sex discrimination in schools. If you have a complaint about gender-based bullying, harassment, or discrimination at school, you can file it directly with OCR. Besides addressing individual complaints, OCR's offices also engage in a variety of activities to help schools deal with and end bullying, harassment, and discrimination. Parents, students, and community organizations can contact OCR field offices to see how they can work with you to improve your local schools' ability to prevent and respond to bullying, harassment, and discrimination.

### **How Do I File a Complaint?**

You can file a complaint with OCR by filling out a complaint form online [here](#). You can also download a complaint form to submit by mail or email [here](#).

There are a few important things to know about filing a complaint:

- File as soon as possible. A complaint must be filed within 180 days of when the discrimination or bullying and harassment occurred. If you file a complaint late, explain why and request an exception to the deadline.
- Report it as "sex discrimination." In order for the claim to be covered under Title IX, it is important to report "sex" as the basis of the discrimination.
- Complete the entire form. Incomplete complaints won't be investigated. If OCR needs more information in order to process the complaint, it may contact you for more information.
- Provide details. Include in your complaint as many details as you can about the people and events involved, and when and where events occurred.
- Complaints are confidential. Information about your complaint will not be shared without permission. Family, friends, school staff, or other supporters can file a complaint. Complaints do not need to be filed by the person(s) experiencing the bullying, harassment, or discrimination.

- The school can't take action against you because you filed or participated in a complaint.

### **What Happens After I File a Complaint?**

The Office for Civil Rights will investigate and attempt to resolve the complaint if it involves some form of harassment or discrimination based on sex, race, color, national origin, or disability. If OCR finds that discrimination has occurred, it will work with the school to develop a voluntary agreement to resolve the problem. This can include changing policies, training staff, and taking other steps to protect students. In the rare event that it cannot get a voluntary agreement, OCR has the power to cut off federal funding for the school, or to refer the case to the Department of Justice for legal action.

In some situations where OCR dismisses a complaint, state or local laws or policies may offer greater protection. If your state explicitly prohibits gender identity and sexual orientation discrimination in schools, you can file a complaint with your state's human or civil rights enforcement agency on that ground. The U.S. Department of Justice keeps a list of contact information for state human rights agencies.

### **Who Else Can Help Me?**

For questions regarding the OCR complaint process or for help with crafting a complaint, we strongly encourage you to contact the national offices of [GLSEN](#) or your [local or state ACLU chapter](#), which have assisted many students with filing complaints.

You may choose to file a discrimination claim in federal or state court, regardless of OCR's findings. You can file a lawsuit before filing a complaint with OCR, but filing a lawsuit first means you cannot use the OCR complaint process. This type of lawsuit is complex and you will probably need to hire a lawyer to help you. If you are considering filing a lawsuit, we strongly encourage you to seek legal counsel. While NCTE does not provide legal services or referrals, there are many other groups that may give you referrals or maintain lists of local lawyers (please see the items in "[Additional Resources](#)" below).

### **How Else Can I Help?**

Share your story. If you are facing or have resolved an issue of discrimination, consider sharing your story with NCTE so we can use it in our efforts to change policies and improve school environments for transgender people.

### **What Laws Protect Me at School?**

The following laws offer protection for trans and gender non-conforming students:

- **Title IX** is a federal law prohibiting sex discrimination in schools. Courts and the U.S. Departments of Justice and Education have concluded that discrimination because a person is transgender or gender non-conforming is illegal sex discrimination. Title IX applies to all schools (K-12 and post-secondary) that accept federal funds, including nearly all public schools. Complaints of discrimination or harassment can be filed with the U.S. Department of Education.
- **State laws and school district policies** in many jurisdictions also explicitly prohibit discrimination in schools based on gender identity or expression as well as sexual orientation. California, Colorado, Connecticut, the District of Columbia, Illinois, Iowa, Maine, Massachusetts, Minnesota, New Jersey, Oregon, Vermont and Washington State have such laws, which are enforced by state civil or human rights agencies. Hundreds of school districts around the country also have policies clearly prohibiting discrimination based on gender identity or expression or sexual orientation.
- **The Equal Access Act** requires all school-affiliated student organizations, such as a Gay- Straight Alliance or Pride Alliance, to be treated equally. This means that schools cannot ban certain types of groups or single them out for worse treatment.
- **The Family Educational Rights and Privacy Act** protects personal information about students in school records, and in most circumstances prohibits release of this information without consent.
- **The First Amendment** of the U.S. Constitution protects the right of students to free speech and freedom of expression, including expression of one's gender identity.

### **Additional Resources**

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/ocr>

OCR "Dear Colleague" Letter on Transgender Students:

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>

OCR Examples of Policies and Emerging Practices for Supporting Transgender Students:

<http://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf>

OCR "Dear Colleague" Letter to Schools on Bullying:

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>

NCTE/GLSEN Model School District Policy:

<http://www.transequality.org/sites/default/files/GLSEN%20Trans%20Model%20Policy%202016.pdf>

Schools in Transition: A Guide for Supporting Transgender Students in K-12 Schools:  
<https://www.genderspectrum.org/staging/wp-content/uploads/2015/08/Schools-in-Transition-2015.pdf>

Claim Your Rights resources from PFLAG and GLSEN:  
<http://community.pflag.org/claimyourrights>

Gender Spectrum:  
<http://www.genderspectrum.org>

Trans Youth Family Allies:  
<http://www.imatyfa.org>

Links to Trans and LGBT Legal Organizations:  
<http://www.transequality.org/additional-help#legal>