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KNOW YOUR RIGHTS

**A Guide for
Transgender
and Gender
Nonconforming
Students**



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THE BASICS

Public schools are legally required to protect all students from harassment. Under the U.S. Constitution, schools must address any harassment against you the same way they would for any other student. Under a federal law called Title IX, which bans sex discrimination in schools that receive federal funding, public schools can't ignore discrimination or harassment based on gender identity and expression. Many states also ban schools from discriminating based on gender identity and expression. However, for Title IX to apply, the harassment has to be severe, and the school has to have been told about it and then have not done enough to address it. For this reason, it is very important to report harassment every time it happens if you feel safe doing so. If you're being harassed or bullied or see it happening to someone else, you should report it immediately to an administrator, counselor, or other school official. They have a legal responsibility to respond.

Everyone has the right to be themselves in school—including you! Public schools are required to respect your gender identity and expression.

- The First Amendment to the U.S. Constitution gives all public school students the right to free speech and expression. This means you can talk and write about who you are and about issues relating to gender identity, gender expression, and being transgender. Your right to free speech doesn't mean that you can say whatever you want at any time; your speech is not protected if it disrupts class time, is meant

to encourage other students to break school rules, is obscene, or is a lie about someone and could damage their reputation. Your school can put some limits on where and when certain kinds of speech are allowed, but those limits must be

appropriate for your gender identity or talking about LGBT issues between classes or at lunchtime wouldn't keep anyone else from getting an education and are therefore not "disruptions." The fact that someone else might not like how you express yourself doesn't mean you're keeping other students from learning. Anytime someone gets upset or makes a scene about your gender identity or expression, the school can't punish you for responding to someone else's discomfort or bad behavior. So if your school censors you and says it's because you're disruptive, don't just take their word for it.

Your right to be yourself in school includes the right to be transgender or to transition your gender in school. Unfortunately, there aren't yet clear rules in most places about how schools should accommodate students when they transition. There are often many obstacles to deal with, including your name and what pronouns to use when talking to

■ Your school should assess your needs on an individual basis, and you and your school should create a plan that works for you. In all cases, your school's goals should be to ensure your safety and support your emotional well-being so that you can learn and achieve your full potential. They can do this by acting to prevent harassment or bullying, making accommodations with respect to restrooms and lockers, and protecting your privacy by not revealing that you are transgender to others unless you have given them permission to do so. Your school should not be outing you to anyone.

■ Schools often claim that they can't honor the names or pronouns that correspond with a student's gender identity because they can only use students' legal names. This simply isn't true. There is no law that says schools can only use students' legal names. Your legal name probably has to appear on your transcript, but your school can use your chosen name and pronouns on just about everything else: class attendance rosters, your student ID, yearbook, report cards, etc. If you get a legal name change, your school should also update all your official records to match your new legal name.

■ Your transgender status, legal name, and gender assigned at birth are all confidential information. If your school reveals that information to anyone without your permission, it could be violating federal law. For example, if you talk to the school nurse about your gender identity, the school has to keep that information private. Don't count on school officials to understand that. If you don't want them revealing your private information to others, tell them very clearly that you want your information kept private and that they shouldn't out you to other students, parents, or anyone else without your consent.

■ There are many states that allow transgender high school students to compete in sports in accordance with their gender identity, including California, Colorado, Connecticut, District of Columbia, Florida, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming. The remaining states have a variety of eligibility requirements. Some states require that trans students are prescribed hormone therapy in order to participate consistent with their gender identity, and other states have no guidelines at all. Excluding boys and girls from playing on the same teams as other boys and girls may also constitute sex discrimination under Title IX.

■ Many states explicitly protect the rights of transgender students to use common restrooms and locker rooms consistent with their gender identity. Several courts have held that excluding transgender boys and girls from using the same restrooms as other boys and girls violates Title IX. However, this is an area of the law that is rapidly evolving and there is still more work to be done.

■ Students who are transgender sometimes have an easier time getting accommodations from their schools when they have an official gender dysphoria diagnosis from a doctor or therapist, especially if that doctor or therapist is willing to write a letter or talk to the school to say that recognizing a student's gender identity is medically necessary. However, you are not required to get such a diagnosis, and a diagnosis can be difficult to get particularly for students who are gender nonconforming or agender and don't identify as transgender.

If you are experiencing issues in any of the areas mentioned above or areas not mentioned in this

guide, we strongly encourage students to contact the ACLU or GLSEN for support.

THE DETAILS

There are federal and state laws that protect you from discrimination and harassment based on your gender identity and expression. This isn't a complete list—there might be other laws out there that also protect you—but it's a good start.

- **The U.S. Constitution** and most State Constitutions guarantee you equal protection under the law, the right to freedom of speech and expression, and the right to privacy.

- **Title IX** This federal law bans sex discrimination in schools that receive federal funding: all public schools, and certain private schools (usually colleges). Title IX protects trans and gender nonconforming students from discrimination, harassment, and bullying.

- **FERPA** This is a federal law that says your educational records must be kept private. If your official transcript lists your legal name when you use a chosen name, or if your gender is different from what's listed in your official records, the school can't reveal that information to anyone but your parents/guardians (if you're under 18) or you (if you're over 18 or are enrolled in college). FERPA also says that if you've had your name or gender marker legally changed, you have a right to ask your school to correct that information on your records, even after you've graduated. The school has to have a hearing to discuss your request, and if they turn you down you can have a note explaining your objection permanently added to your record.

■ () This federal law says that healthcare and mental healthcare providers are required to keep people's medical records private. What that means for students is that if you are talking about your gender identity with a school nurse or other healthcare provider who works for the school, they have to keep that information private.

■ () Under these two federal laws, some transgender and gender nonconforming students who meet certain eligib

discrimination and harassment. For an explanation about how to file a complaint, check out

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aclu.org/safeschools

The Project is a special division of the ACLU that leads the organization's nationwide advocacy to secure the rights of lesbian, gay, bisexual and transgender people. We won't ever talk to your school or anyone else without your approval, and any communication between you and the ACLU will be kept private.

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glsen.org

GLSEN the leading national education organization focused on ensuring safe and affirming schools for all students. ~~Especially for GLSEN I just want to top~~

