

REVIEW OF NATIONAL TRANSGENDER SCHOOL INFORMATION¹

COUNTRY/ STATE	SCHOOL DISTRICT/Court /Agency	TRANS- GENDER SCHOOL LAW/ <i>Case Law</i> / Policies/ Guidelines/ Complaint/ Settlements /Position Statements ²	ANTI- DISCRIMINATION LAW PROTECTING TRANSGENDER INDIVIDUALS	PROVISIONS/ <i>Holdings</i>	OTHER CONSIDERATIONS	COMMENTS/ FOLLOW-UP
United States						
	Dept. of Ed./OCR	Q&A on Title IX and Sexual Violence	Title IX (as interpreted)	“Title IX’s sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation.” Q&A On Title IX and Sexual Violence (USDOE/OCR, April 29, 2014).		OCR has entered into two resolution agreements with the Acadia School District and Downey School District concerning transgender students. <i>See</i> discussion under California below.
	Ninth Circuit Court of Appeals	<i>Kastl v. Maricopa County Community College District, 325 Fed.Appx. 492(9th Cir. 2009)</i>		Community college instructor brought gender discrimination claims against community college, after college banned transsexual instructor from using the women's restroom until she could prove completion of sex reassignment surgery. <i>The court dismissing the case found that the plaintiff failed to meet her burden by failing to</i>		

¹ This is a working document that contains representative policies, regulations, and guidance from various jurisdictions.

² Font indicates source of law, regulation, policy or guideline.

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				<i>demonstrate that defendant's defense of safety was pretextual.</i>		
Arizona	TUCSON UNIFIED SCHOOL DISTRICT (TUSD)	NO Policy	NO	Anti-discrimination policy amended to include gender identity or expression. “The change gives TUSD the ability to craft a regulation that will ‘honor, respect, and protect’ transgender students.” www.azstarnet.com	5/1/2014 letter from Alliance Defending Freedom, citing 9 th Circuit, Title VII and Title IX case law stating no law prohibits TUSD from banning the use of opposite sex bathrooms and changing areas.	
California		YES	YES	“A pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil’s records.” Cal. Educ. Code § 221.5 (West).		

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	<p align="center">ACADIA UNIFIED SCHOOL DISTRICT(OCR/ DOJ)</p>	<p>Resolution Agreement</p>		<p>DOJ/OCR Agreement Transgender male was prohibited from use of male facilities during school & extracurricular activities including male cabins used during an overnight academic camp. Agreement: 1. Definitions (transgender etc.) 2. Access to sex specific facilities at all school sponsored activities. Student may request private facilities based on privacy, safety or other concerns. 3. Treatment of student the same as all other males. 4. School records containing Student birth name or birth sex are not to be disclosed to any District employees or students without express written consent. 5. Upon notification, establishment of a support team for students undertaking, planning or completed gender transition. 6. Training of all administrators</p>		

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				and students on gender discrimination.		
	DOWNEY UNIFIED SCHOOL DISTRICT			<p>OCR Resolution Agreement Transgender girl diagnosed with gender dysphoria prior to kindergarten was harassed, disciplined for gender nonconformity, questioned about her anatomy, and denied equal treatment.</p> <p>Agreement:</p> <ol style="list-style-type: none"> 1. Student shall be treated like all other girls including access to sex segregated facilities including restrooms, locker rooms, overnight events, try outs etc. 2. If activities run by third parties violate student's rights, District must provide notice and cease contracting or provide support to third party. 3. Student may not be disciplined for nonconformance with stereotypical notions of masculinity or femininity. 		

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				<ol style="list-style-type: none"> 4. Student may request at any point a SSP (Student Success Plan).³ 5. Professional Development. 6. Hire a Consultant. 7. Incorporate age-appropriate instruction into its curriculum and activities for all students on gender identity, gender-based discrimination and examples of prohibited conduct, including harassment, in all school-related contexts. 		
	<p align="center">LOS ANGELES UNIFIED SCHOOL DISTRICT</p>	<p align="center">YES</p>	<p align="center">YES</p>	<p>Guidance</p> <ol style="list-style-type: none"> 1. Definitions (transgender etc.). 2. Privacy. 3. Rt. to openly address and express gen. expression. 4. Names: <ol style="list-style-type: none"> a. Permanent records state legal standard. 		

³ A Student Success Plan (SSP) ensures the Student has equal access and equal opportunity to participate in all programs and activities, and is otherwise protected from gender-based discrimination at school. Student Success Plans are developed by a team comprised of an advocate of student’s choice, a medical professional (that are not funded by the school district) and district personnel familiar with the student.

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				<ul style="list-style-type: none"> b. Preference OK. c. Parent may determine preference. d. Student consulted concerning meetings with parent. e. Parent or guardian may request an unofficial change of name of minor, which can be reflected in computer system. <ol style="list-style-type: none"> 5. Restroom accessibility based on gender identification. 6. Increased privacy is the choice of the student. 7. Locker room accessibility determined by student. 8. Access to sports and PE. 9. Dress code consistent with gender identity asserted at school. 10. Anti-Discrimination and references to already established processes. 11. Processes included in Reference Guide. 		

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	SAN FRANCISCO UNIFIED SCHOOL DISTRICT	Policy/ Guidance	YES	Policy/Guidance If gender identity is exclusively and consistently asserted at school then: 1. Rt. to be addressed by a name or pronoun consistent with their gender identity. 2. Rt. to name change consistent with Cal. Law. 3. Rt. to restroom accessibility. 4. Rt. not to be forced to use biological restroom. 5. Rt. to participate in sports and P.E. 6. Rt. to dress consistent with gender identity within the constraints of the school based dress codes. 7. Rt. to participate in gender separated activities consistent with gender identity.		
Colorado	Colorado Division of Civil Rights	<i>Agency Decision</i>	YES	1. By not permitting the [transgender girl] to use the restroom with which she identifies, as non-transgender		

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Florida	DADE COUNTY	NO	NO Yes	<p>students are permitted to do the [school district] treated the student less favorably than other students seeking the same service.</p> <p>2. [E]vidence demonstrated that transgender girl's use of the girls' restroom was not disruptive to the school environment and permitted her to gain full acceptance from her peers.</p>		
				<p>School Board Policy --- 1362, 3362, 5517 – ANTI--- DISCRIMINATION/ HARASSMENT</p> <p>The Board will vigorously enforce its prohibition against discrimination/harassment based on sex, race, color, ethnic or national origin, religion, marital status, disability, genetic information, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, pregnancy, and any other legally</p>		

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Illinois			YES	prohibited basis. Retaliation against an employee or student for engaging in a protected activity is prohibited.		
	CHICAGO PUBLIC SCHOOLS (CPS)	Guidelines	NO	Internal Guidelines (protocol) <ol style="list-style-type: none"> 1. Definition of terms. 2. Nondiscrimination /Harassment statement. 3. Privacy. 4. Names and Pronouns. 5. Permanent Records only changed as per Illinois law. 6. Locker room accessibility case-by-case basis (transgender student has option for more privacy). 7. Participation in PE, sex segregated activities consistent with gender identity” exclusively and consistently asserted at school.” 8. Dress Code consistent with gender identity or expression within overall dress code for all students. 9. Overnight trips – participation 		Issues are addressed on a case-by-case basis.

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Maine	TOWNSHIP HIGH SCHOOL DISTRICT 211	OCR Complaint	YES	YES	<p>may not be denied based on transgender status. Principal should work with student, family, office of counseling and Law Department to devise plan dependent on the circumstances of the trip.</p> <p>The school board notes the particular vulnerability of transgender students in the CPS Student Code of Conduct.⁴</p> <p>OCR issued a finding that the district violated Title IX by not providing a transgender student with equal access to the girls' locker rooms.</p>	First state court of highest appeal to render
	Maine Supreme Court (Regional)	<i>Doe v. Regional</i>		<i>Held:</i> 1. <i>Each school is left with the</i>		

⁴ “This policy protects CPS students against bullying and harassment on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic. The Board recognizes the particular vulnerability of students with actual or perceived disabilities and those who identify as or are perceived to be lesbian, gay, bisexual or transgender.” Chicago Public Schools, Student Code of Conduct, Section 3 Anti-Bullying Policy.

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	School Unit 26)	<i>Sch. Unit 26</i>		<p><i>responsibility of creating its own policies concerning how public accommodations are to be used.</i></p> <p>2. <i>Discrimination based solely on student status as a transgender girl is forbidden by Maine law.</i></p>		a decision concerning the rights of transgender students.
Mass.		YES ⁵ Dept. Ed. Guidance	YES	<p>LAW</p> <p>“No person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin or sexual orientation.” Mass Gen. Law, Chapter 76 §5.</p> <p>Dept. Ed. Guidance:</p> <ol style="list-style-type: none"> 1. Definitions (transgender etc.). 2. Students should be safe and supported. 		

⁵ “No person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin or sexual orientation.” Mass Gen. Law, Chapter 76 §5

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				<ol style="list-style-type: none"> 3. Case by case approach. 4. Self identification but other evidence that identity is sincerely held. 5. Whether support is provided in the home. 6. Student records. 7. Privacy and Confidentiality 8. Gender Markers. 9. Amendment after graduation. 10. Restrooms, locker rooms and changing facilities. 11. PE/Intramural/ and Interscholastic Activities. 12. Review and amendment (if appropriate of all gender based policies). 		
Michigan	VAN BUREN PUBLIC SCHOOLS/	<i>Tooley v. Van Buren Public Schools et.al.,</i>		<p>School District requires transgender male to use female bathroom or “the staff ladies’ room” or a unisex restroom.</p> <p>A transgender male filed suit under Title IX and the Equal Protection Clause alleging harassment and</p>		<p>The United States has submitted a statement of interest opposing defendant school district’s motion to dismiss on behalf of plaintiff, a transgender boy, arguing that the</p>

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Minnesota	ST. PAUL PUBLIC SCHOOLS	Policy		<p>I. Respectful inclusive environment that values students' gender identity and gender expression.</p> <p>II. [P]olicy addresses the inequities some students, including intersex, transgender, and gender nonconforming students, confront as they navigate a system designed using a gender binary model.</p> <ol style="list-style-type: none"> 1. Definitions. 2. Preferred name and pronouns. 3. No separation of students based on gender unless for compelling pedagogical tool. 4. Allow participation in co-curricular and extracurricular activities in a manner consistent with their gender identity, including but not limited to intramural and 	discrimination against four entities and their employees. Defendants' motion to dismiss, on information and belief, is still pending.	plaintiff stated a valid claim under Title IX and the Equal Protection Clause of the United States Constitution.

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				interscholastic athletics. 5. Provide all students with access to facilities that best align with students' gender identity.		
Nevada		YES. NRS 651.050(K) (PUBLIC ACCOMMODATION) (2011)	YES (NRS 233.010(2)) ⁶⁷	See, Footnote 6.		
	NEVADA LEGISLATURE 2015	A.B. 375 (Not Passed)		This bill required that any school facility in a public school, including a restroom, locker room, or shower which is designated for use by persons of one biological sex must only be used by persons of that biological sex, as determined at birth. The bill required a public school to provide		The ACLU of Nevada along with numerous commenters vigorously opposed AB 375 in its entirety and the harm it would

⁶ It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek and be granted services in places of public accommodation without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, national origin, ancestry or gender identity or expression.

⁷ NRS 651.050(k) includes public schools as places of public accommodations.

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				separate, private areas designated for use by pupils based on their biological sex for any school facility where pupils may be in a state of undress in the presence of other pupils.	do to the youth of the state. The Alliance Defending Freedom submitted a 3/24/2015 Legal Memorandum arguing in support of AB 375 as it would protect the privacy and safety of all Nevada Public School Students.	
	CLARK COUNTY SCHOOL DISTRICT	<i>DOE v. CCSD, 2008 WL 4372872 (D. Nev. 2008)</i>		<i>Held: Nevada District Court granted CCSD's Motion for Summary Judgment finding that the transgender plaintiff failed to establish standing. The court further found that "[e]ven applying this linguistically broad definition of what constitutes an</i>		Since this case was dismissed in 2008, the Nevada legislature has since included all schools as places of public accommodation and therefore subject to the public

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				<i>“education program,” under Title IX, it would be a stretch to conclude that a “restroom,” in and of itself, is educational in nature and thus an education program.</i>		accommodation law that prohibits discrimination on the basis of sex and gender identity or expression.
	WASHOE COUNTY SCHOOL DISTRICT			Administrative Regulation 5161/Board Policy 9201 General Introductory Provisions: 1. Safe and Respectful environment. 2. Needs of each student must be assessed on a case-by-case basis. 3. Proof of medical treatments will not be required (if principal has an objective basis to question a student’s asserted gender identity, he or she may ask for information to show the gender identity or expression is sincerely held. 4. Rights and Protections: a. Rt. to privacy. b. Rt. to be addressed by name or pronoun that corresponds to the student’s gender identity.		

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				<ul style="list-style-type: none"> c. Rt. to restroom access consistent with gender identity expressed and asserted at school. The transgender or gender non-conforming students shall not be forced to use biological sex bathroom or an alternative restroom (unless requested). d. Rt to locker room access (unless privacy requested). e. Rt to physical education consistent with gender identity. f. Class and Athletics. g. Dress Code consistent with gender identity. h. Yearbook Photos (student selects or school adopts gender-neutral uniform for all). i. Segregated Academic Programming is discouraged). j. Gender Segregation (consistent with gender 		

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				identity). k. Official Records (changed only in accord with Nevada law). l. Definition of terms.		
	NIAA	Position Statement		1. Fair Opportunity to compete. 2. Participation in accord with gender identity (birth cert. or medical treatment not required). 3. Notice to school/NIAA. 4. Confidentiality. 5. Committee (MD, psych., school admin., NIAA rep. advocate). 6. Doc. of consistent gender identification (parent letter sufficient). 7. Definitions (transgender, gender identity etc.).		
New York			YES			
	NEW YORK CITY PUBLIC SCHOOLS	Guidelines		Guidelines address: 1. Definitions. 2. Privacy (FERPA etc.). 3. Official Records must be		

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				<p>maintained as required by law, however, students should be addressed by their preferred name or pronoun “consistently asserted at school.”</p> <ol style="list-style-type: none"> 4. Sports & PE participation consistent with gender identity. 5. Restroom and locker rooms: consider several factors, but transgender student may not be required to use biological bathroom. 6. Gender segregation: student may participate consistent with their gender identity. 7. Resources. 		
Oregon	PORTLAND PUBLIC SCHOOLS	YES Memo to Building Admin.	YES⁸	<p>Memo Provisions:</p> <ol style="list-style-type: none"> 1. Definitions (Gender. Id. etc.). 2. Pronoun use. 3. Name change (state law). Preferred name should be used to address student. 4. Transgender status is confidential. 		

⁸ Law includes gender identity under the definition of sexual orientation.

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				<ol style="list-style-type: none"> 5. Bathroom use: “Transgender support organizations consistently recommend that transgender students be allowed to the bathroom that corresponds to their identified gender.” Schools should provide more privacy if needed or required. 6. Locker rooms: Under no circumstances shall a transgender student be required to use a locker room that conflicts with their gender identity. Otherwise, the use of locker rooms shall be assessed on a case-by case basis (criteria included). 7. Dress: Transgender students have the rt. to dress consistent with their gender identity or expression. 8. Overnight trips (no exclusion based on gender I.D.)(case by case). 9. Enrollment of new transgender or transitioning students: recommendations based on 		

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				<p>grade level.</p> <p>10. Transgender students do not choose to be transgender. Science increasingly shows that gender identity develops before birth.</p> <p>11. Resources.</p>		
Pennsylvania	UNIVERSITY OF PITTSBURG	<i>Johnston v. University of Pittsburg, 2015 WL 1497753 (W.D. PA. 2015) (on appeal to 3rd Cir.)</i>		<p>Transgender university student brought action against university and its employees following his expulsion, alleging that he was discriminated against based on his sex and his transgender status in violation of Title IX and the Equal Protection Clause.</p> <p><i>Held: Plaintiff failed to state a claim upon which relief may be granted. Defendant’s policy is based on the need to ensure the privacy of its students to disrobe and shower outside of the presence of members of the opposite sex. “[S]eparating students by sex based on biological considerations—which involves the physical differences between men</i></p>		

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Washington	Office of The Superintendent of Public Instruction (OSPI)	YES OSPI Policy/ Guidelines	YES	<p><i>and women—for restroom and locker room use simply does not violate the Equal Protection Clause.” The court particularly noted that the plaintiff’s birth certificate identified him as female and that he had not had a sex change. The court further found that the University’s policy of requiring students to use sex-segregated bathroom and locker room facilities based on students’ natal or birth sex, rather than their gender identity, does not violate Title IX’s prohibition of sex discrimination.</i></p> <p>This case is on appeal to the Fourth Circuit Court of Appeals.</p> <p>OSPI Policy 3211 Students [E]ducational environment that is safe and free of discrimination for all students, regardless of . . . gender identity or gender expression.</p> <p>OSPI 3211 Procedure: 1. Definitions/Terms.</p>		

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				<ol style="list-style-type: none"> 2. Official Records. 3. Confidential Health or Educational Information. 4. Communication and Use of names and pronouns. 5. Restroom Access. 6. Locker Room Access on a case-by-case basis. 7. Sports and Physical Education Classes. 8. Dress Codes. 9. Other School Activities. 10. Training and Professional Development. 11. Discrimination and Harassment Complaints. 		
Virginia	GLOUCESTER COUNTY SCHOOL DISTRICT	<i>Grim v. Gloucester County School Board, CV No. 4:15 cv 54 (E.D. Va.) (filed June 29, 2015) (motions to</i>		12/2014 board policy requires biological based use of restrooms or alternative single stall restroom use by transgender students. <i>Held: The bathroom policy does not violate Title IX. 34 C.F.R. §106.33 “[c]learly allows the School Board to limit bathroom access ‘on the basis of sex,’ including birth or biological sex.”</i>	The United States submitted a statement of interest seeking reinstatement (after seven weeks) of a transgender male’s use of restrooms	

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		<u>dismiss and injunctive relief decided September 17, 2015)</u>		<i>The Department of Education's interpretation, to the contrary, should not be given controlling weight because it is tantamount to rule making without notice and comment.</i>	consistent with his gender identity.	
	FAIRFAX COUNTY SCHOOL DISTRICT		YES	POLICY OF NONDISCRIMINATION No student, employee, or applicant for employment in the Fairfax County Public Schools shall, on the basis of age, race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity, as required by law. It is the express intent of the School Board that every policy, practice, and procedure shall conform to all applicable requirements of federal and state law.		
Ontario,			YES			

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Canada						
	TORONTO DISTRICT SCHOOL BOARD			<ol style="list-style-type: none"> 1. Definitions. 2. Accommodations made on request. 3. Case by case based on unique needs. 4. Privacy. 5. Legal Name. 6. Rt to be addressed by preferred name. 7. Rt to use of bathroom that corresponds to gender identity. 8. Dress code: Should not have to choose between male or female. 9. Sport/Activities. 10. Accommodations based on student need and safety. 		