EDUCATION LAW CENTER | FACT SHEET

THE RIGHTS OF LGBTQ+ & GENDER-DIVERSE STUDENTS

August 2026

Students who are LGBTQ+ or gender diverse should be supported as their full, authentic selves in school, free from any harassment, discrimination, or stigma. Over the last decade, many courts have recognized the rights of students who identify as lesbian, gay, bisexual, transgender, or queer, as well as students who are nonbinary or gender diverse. Important and meaningful gains were made in the courts and in many state legislatures to uphold the rights of LGBTQ+ students. But more recently, we have been seeing increasing political and legal attacks on the dignity and rights of students across the country.

Despite political rhetoric, federal executive orders seeking to unilaterally rescind federal protections, and targeted actions by agencies, our public schools have continuing legal obligations to protect LGBTQ+ students from discrimination under case law interpreting Title IX and the Constitution, the 2020 Title IX rule, and Pennsylvania anti-discrimination laws. This fact sheet reflects the requirements that schools *must* meet under current law, as well as what they *can and should do* to continue protecting LGBTQ+ students. ELC-PA continues to advocate for the rights of LGBTQ+ students. If you are a student facing LGBTQ+ discrimination or the parent/guardian of such a student and you are interested in helping expand protections in these areas, please call ELC-PA's Helpline at 215-238-6970.

MONITORING FEDERAL & STATE LAW

Federal law: Pennsylvania's highest federal court, the U.S. Court of Appeals for the Third Circuit, recognized in 2018 that "transgender students face extraordinary social, psychological and medical risks and the school district clearly had a compelling state interest in shielding them from discrimination."[1] Our transgender students remain vulnerable to discrimination in schools. More recently, extremists have sought to undermine broader privacy and bodily autonomy rights by targeting transgender people, and transgender children in particular.

Terms to Know

LGBTQ+ is an acronym that stands for lesbian, gay, bisexual, transgender, queer, and others.

Sexual orientation refers to a person's physical or emotional attraction to another person. People may define their sexual orientation as lesbian, gay, bisexual, pansexual, asexual, queer, straight, or another term.

Gender identity refers to a person's self-conception or deeply felt understanding of their gender, such as male, female, genderqueer, or nonbinary. Gender identity may vary over time. A student's gender identity may or may not align with their chromosomes, genitalia, hormone levels, or other biological indicators of sex.

Gender expression refers to the ways a person outwardly displays their gender identity and how society perceives those markers as masculine, feminine, or androgynous — for example, haircuts, clothing, accessories, or mannerisms.

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Court decisions. This is a rapidly changing area of law, and ELC-PA is monitoring case decisions as challenges move through the courts. Although the U.S. Supreme Court recognized in the *Bostock* case in 2020 that sex discrimination in the employment context includes discrimination for being gay or transgender,[2] the Court has refused to protect transgender children from discrimination in 2025 and 2026 decisions that are unsupported by precedent or credible or consistent reasoning, as reflected in concurring and dissenting opinions.[3] In *United States v. Skrmetti* (2025), the Supreme Court ruled that denying transgender minors gender-affirming healthcare was based on age and medical use and did not constitute sex discrimination under the Equal Protection Clause.[4] In *B.P.J. v. West Virginia* (2026), the Supreme Court held that state laws banning transgender girls from playing on their school's girls' sports teams do not violate Title IX based on the use of the term "sex discrimination" at the time the law was enacted. The Court's conclusion was that unequal treatment was justified by a perceived governmental interest in "safety and competitive fairness" in sports, and therefore the Equal Protection Clause was not violated.[5]

Terms to Know

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Cisgender refers to people who feel that their gender identity matches the gender they were assigned at birth.

Transgender refers to many different kinds of people who do not identify with their expected gender role or whose gender identity does not match some or all of their biological indicators of sex besides their gender identity. A student who identifies as transgender may identify as a male, female, nonbinary, genderqueer, or another term.

Gender diverse or **gender expansive** refers to people whose gender expression does not conform to society's expectations for people of a given gender or does not conform to expectations based on assigned gender.

Nonbinary is an umbrella term for people who identify as a gender that is neither entirely male nor entirely female, or do not identify with any gender. Some people may use the terms "gender fluid" or "genderqueer."

For more information, see www.translanguageprimer.com.

Title IX Regulations. The U.S. Department of Education's Office for Civil Rights can issue rules or regulations to implement and enforce the nondiscrimination requirements of Title IX. Currently, schools must follow the 2020 Title IX rule, which does not include explicit protections based on gender identity and sexual orientation.[6] However, the 2020 preamble expressly affirms that "[t]hese final regulations focus on prohibited conduct, irrespective of a person's sexual orientation or gender identity. … The Department will not tolerate sexual harassment … against any student, including LGBTQ students."[7] It's important to note that the 2020 rule represents a floor, not a ceiling, to the kinds of protections that schools can and should offer their LGBTQ+ students.

Executive orders. In 2025-26, the federal administration issued several executive orders attacking the rights of LGBTQ+ people, particularly transgender and gender-diverse people.[8] These orders represent a policy shift for federal agencies such as the U.S. Department of Education and Department of Justice, but **executive orders cannot be relied upon to "independently establish a likelihood that certain policies or conduct violate federal rights."**[9] These executive orders are being challenged in court.[10] You can learn more in this ELC-PA analysis of executive orders.

Schools also are required to adhere to state law protections that do not conflict with federal statutes.[11]

State law: The Pennsylvania Constitution independently prohibits discrimination based on sex.[12] Pennsylvania's anti-discrimination statute, the Pennsylvania Human Relations Act (PHRA),[13] also prohibits discrimination in schools on the basis of sex, including gender identity, sexual orientation, and other characteristics.[14] At this time, there are few cases where state courts have interpreted the PHRA in schools, but one example is a school district that was found liable under the PHRA for failing to intervene when students were harassing another student based on their gender identity and perceived sexual orientation.[15] The Pennsylvania Human Relations Commission (PHRC) investigates complaints and enforces this law at the administrative level. See ELC-PA's fact sheet on How to File a Complaint with the Pennsylvania Human Relations Commission.

Effective Aug. 16, 2023, PHRA's regulations were amended to more explicitly identify conduct that constitutes illegal sex-based discrimination.[16] The PHRA states that its prohibitions against discrimination "shall be construed liberally."[17] Students are protected against discrimination on the basis of sex, including "sex assigned at birth, gender identity or expression, affectional or sexual orientation, and differences in sex development."[18] PHRC guidance expansively protects gender identity, which is one's "innermost concept of self as male, female, a blend of both or neither."[19]

Gender expression is also broadly defined as the external "appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice. It may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine."[20] All gender identities and expressions, including those held by transgender students, are protected by the PHRA.[21] This protection also includes the ways that students' understanding of these identities evolve over time.

A lawsuit is now challenging the PHRA's gender identity regulations, but the court has not yet issued a decision. The PHRA and regulations remain in full effect while that lawsuit is pending. For information about the lawsuit, see ELC-PA's Summary of Pending Lawsuit Challenging Gender Identity Regulations.

Students who face illegal sex-based discrimination at school can file a complaint with the PHRC, which can investigate and seek to resolve complaints of discrimination.[22] To learn more, see ELC-PA's fact sheet about filing a PHRC complaint. For more information about sex discrimination in schools, contact ELC-PA or review our upcoming fact sheet, to be published in Fall 2026, on challenging sex- or gender-based harassment at school.

LGBTQ+ YOUTH OF COLOR FACE HOSTILE ENVIRONMENTS & HIGH RATES OF DISCRIMINATION

Studies show that schools nationwide are hostile environments for LGBTQ+ youth of color in particular. They experience victimization and discrimination based on race, sexual orientation, gender identity, or a combination of these identities.[23] Black LGBTQ+ students are highly likely to be targeted with biased remarks, including homophobic and racist messages.[24] They are also likely to be victims of sexual harassment and assault.[25] Moreover, due to anti-Black racism by adults and

the threat of school discipline, Black LGBTQ+ youth are less likely to report their experiences in school and more likely to experience victimization and feel unsafe in school, leaving them with limited or no access to in-school resources that could improve school climate and students' experiences.[26] These high rates of victimization negatively impact school attendance and academic achievement[27] and undermine these students' psychological well-being.[28]

Students can file complaints about multiple types of discriminatory conduct in the same incident if necessary. To learn more about students' rights to be free from race-based discrimination, see ELC-PA's fact sheet The Right to Be Free from Racism at School.

THE RIGHT TO BE OUT

Students have the right to be open about their sexual orientation[29] and the right to express their transitioned gender.[30] Schools cannot tell students to be silent about their sexual orientation or punish them for wearing LGBTQ-affirming clothing or accessories so long as they are following dress rules that apply to all students.[31]

EXPRESSING YOUR GENDER IDENTITY

Schools cannot discipline students for expressing their gender identity.[32] Your school should not stop transgender, nonbinary, or gender-expansive students from wearing clothes that they let cisgender students wear.

This area of case law is still developing, but there are strong arguments that gendered dress codes constitute illegal sex discrimination.[33] Schools should apply dress and grooming codes, where they exist, that are consistent with a student's gender identity.[34]

ACCESS TO BATHROOM & LOCKER-ROOM FACILITIES

Multiple courts, including the highest federal court in Pennsylvania, have held that school districts cannot discriminate against transgender and nonbinary students by requiring them to use a bathroom or locker room that does not match their gender identity.[35]

Some courts in other jurisdictions have found school policies preventing transgender students from using their desired bathrooms to be constitutional, and others are reevaluating in light of the decision in *U.S. v. Skrmetti*.[36] Appellate courts may be split on this issue, but the Third Circuit, the controlling federal court for Pennsylvania, held in 2018 that a school district's policy allowing transgender students to use the bathroom consistent with their gender identity does not violate cisgender students' right to privacy or rights under Title IX.[37] The U.S. Supreme Court declined to review this case, leaving the decision to stand.[38] Other federal courts in Pennsylvania have also affirmed the rights of transgender students to use school facilities.[39]

Schools may provide a gender-neutral/all-genders bathroom option for students who identify as nonbinary or gender-expansive and others who may feel safer using that option, but they cannot require students to use only gender-neutral facilities.[40]

The 2020 Title IX rule stipulates that a school "may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be

comparable to such facilities provided for students of the other sex."[41] The 2020 Title IX rule does not require schools to use only sex-separate bathrooms.

Several school districts across Pennsylvania have proposed or implemented school board policies that discriminate against students by restricting facilities' use based on sex assigned at birth. **These policies are inconsistent with the Third Circuit's *Boyertown* precedent, and they would violate the PHRA as well.** If your school has a discriminatory bathroom policy, please contact ELC-PA for advice about filing a complaint to challenge this policy. ELC-PA also supports students who may be eligible for 504 Plans to ensure affirming accommodations in school.

SCHOOLS MUST UPHOLD A STUDENT'S RIGHT TO PRIVACY ABOUT SEXUALITY & TRANSGENDER IDENTITY

Schools should not "out" students to anyone without the students' permission. Pennsylvania educators have a "primary professional obligation … to the students they serve" and "shall respect a student's right to privacy."[42]

Courts have recognized that a person's sexual orientation and transgender identity are confidential and that people are entitled to an expectation of privacy for these issues.[43] In some cases, courts have held that young people have a right to privacy in their sexual orientation from family members, too.[44]

The federal Family Educational Rights and Privacy Act (FERPA) forbids schools from disclosing a student's private information, including medical information regarding a student's gender assigned at birth, without permission from the student or guardian.[45] Although FERPA gives parents the right to view the school records of their minor children, it does **not** require schools to proactively contact parents about any content in or changes to student records. Nor does FERPA require a school to document a student's use of a new name or pronoun in the official school record. There is no requirement in law that a Pennsylvania school notify parents if a student asks to be called by another name or pronoun.

Schools cannot require students to provide a birth certificate to "prove" their sex at enrollment. Students' right to enroll in public school may not be conditioned on providing documents other than those showing proof of a child's age, residence, and immunizations, as required by law.[46] Even for these required items, the Pennsylvania Department of Education is clear that a school district can never demand only one kind of document and "schools should be flexible in consideration of the child's circumstances."[47]

Schools should continue to support their transgender and nonbinary students by implementing policies to safeguard their privacy, including maintaining the confidentiality of a student's birth name or sex assigned at birth if the student wishes to keep this information private.

THE RIGHT TO AN AFFIRMING NAME & GENDER IDENTITY IN SCHOOL

If a student who is transgender, gender diverse, or nonbinary identifies an affirming name and pronouns, school staff should use that name and pronouns for all interactions (*i.e.*, written, digital display name on Google Classroom, and verbal daily roll call) except where required by law to use

a child's legal name (*i.e.*, official school record).[48] The Pennsylvania Department of Education permits schools to update a student's gender and first name in data that must be submitted to the state if requested by a student or parent/guardian.[49]

Parent notice and consent are not required. In early 2025, the federal administration issued an executive order and guidance asserting that a school must notify parents and confirm their consent before using a student's affirming name and pronouns. It has also targeted investigations against districts and states with affirming policies.[50] But that guidance is not law, and this question is being litigated in a number of lawsuits nationwide.[51]

In March 2026, in the case of *Mirabelli v. Bonta*, the U.S. Supreme Court issued an emergency docket ruling stating that a California law that sometimes limits educators from disclosing information to parents about children's expressed gender identity without student consent was likely to violate a parent's constitutional rights.[52] This case has not been decided on the merits yet and should be not be over-read because the California law was not struck down and the decision only applied to the affected parents in the case.[53] The U.S. Supreme Court has since declined to take up similar student privacy cases.[54]

Pennsylvania does not have a law addressing school notification to parents. In our region, courts addressing the issue of parental notice when engaging students on gender identity in school have had mixed results.[55] However, the weight of legal authority does not support a requirement that a school must obtain parental consent before upholding their nondiscrimination obligation and affirming students' gender identity in school.[56] Affirming a student's request for supportive gender identity policies is distinguished in case law from allegations that "school officials ... proactively coerce students."[57] Courts have approved school policies that identify the goal of collaborating with a student and their family about a student's gender identity, while acknowledging that "in some cases, transgender and gender-nonconforming students may not openly express their gender identity at home because of safety concerns or lack of acceptance" and even in those cases, "staff will support ... a student-led plan that works toward inclusion of the family."[58] Courts have been hesitant to uphold gender affirmation policies that do not incorporate parental involvement or a case-by-case analysis of a transgender or gender expansive student's home life.[59]

Persistent misgendering is harassment. Federal courts have held that intentionally and persistently misgendering a person constitutes sex-based harassment and creates a hostile environment.[60] A federal court in Pennsylvania held in 2020 that "in addition to being misgendered," calling a transgender woman by her prior name ("deadnaming") "was sufficiently severe or pervasive to support her [hostile work environment] claim."[61] A policy permitting or promoting the persistent misgendering or deadnaming of students could also create a hostile environment under the PHRA.[62]

Teacher religious objections. Some teachers may claim they do not have to use a student's name and pronouns if they have a religious objection to transgender people's civil rights. Generally, speech in the classroom by teachers in K-12 public schools is not personal, but rather part of their job duties as a government actor.[63] Cases on this specific issue have been mixed and are still developing.[64] ELC-PA will continue monitoring cases in this area and advocate to ensure that teachers are not stigmatizing and discriminating against students in the classroom.

STUDENTS CAN CORRECT THEIR EDUCATION RECORDS

Official education records can be amended if the records are "inaccurate, misleading, or in violation of the student's rights of privacy."[65] Pursuant to this authority, transgender students wishing to change their name and gender marker on their education records can seek an amendment under federal law. While the student is under 18, a parent/guardian holds the rights to the student's records and may make a request for formal amendment to them. A parent's rights with respect to their child's education records transfer to the student when they reach the age of 18 or attend a school beyond the high school level.[66] Template request forms to correct education records are available here.

Schools should also affirm students' identified name and gender identity with an informal request from a student or parent to update regular points of contact such as daily attendance and class rosters, Google Classroom profile, and school email address. There is no law requiring a birth certificate or other "proof" be presented for such a request. The Pennsylvania Department of Education provides that a student's name and gender may be updated in the data submitted from school to the state (PIMS) by a simple student or parent/guardian request.[67]

THE RIGHT TO PARTICIPATE IN SCHOOL ACTIVITIES

Students have the right to form and meet as a Gender Sexuality Alliance (GSA) at school if other nonacademic clubs are allowed to meet at school.[68] Schools cannot impose a different set of student conduct rules for GSAs compared other clubs.[69]

Schools cannot restrict a student from going to prom or another school activity with a same-gender date.[70] The 2020 Title IX rule explicitly states that preventing a student from participating in an education program or activity on the basis of sex is prohibited by Title IX. Schools are required to allow students to participate in classrooms, extracurriculars, and educational programs without discriminating based on sex.[71]

TRANSGENDER STUDENTS' ACCESS TO SCHOOL SPORTS

In June 2026, the U.S. Supreme Court held that state laws prohibiting transgender girls from playing on a girls' sports team at school are permissible under Title IX and the Equal Protection Clause.[72] It's important to note that this Supreme Court decision, consolidated as *West Virginia v. B.P.J.*, does not *require* that states or schools implement bans and does not *prohibit* schools from creating and maintaining trans-inclusive sports policies.[73] This decision does not address transgender boys playing on school sports teams or any transgender students playing on co-ed school teams.[74]

Pennsylvania does not currently have a state law addressing trans students' access to school sports. Several school districts across the state have local school board policies banning trans students, and these would probably be considered permissible under the U.S. Supreme Court's reasoning in *B.P.J.* However, maintaining an ***inclusive*** policy or practice allowing trans students to play sports on a team aligned with their gender identity is also permissible under current federal law, and it is required by Pennsylvania state law, which prohibits gender identity discrimination. Also, a formal school board policy on this issue is not required by law.

Playing sports is associated with higher grades and standardized test scores, as well as higher rates of school completion.[75] There is no evidence that permitting transgender and intersex students to play on sports teams aligned with their gender identity harms anyone.[76] The foundational premise of sports-ban policies — that trans girls are not "real" girls and trans boys are not "real" boys — is based on discriminatory stereotypes. Read more in ELC-PA's analysis on equity in school sports, and contact the Helpline or Pennsylvanians for Welcoming and Inclusive Schools (PA-WInS) if you want support to advocate for an inclusive sports policy.

INTERACTING WITH SCHOOL POLICE OR SCHOOL RESOURCE OFFICERS

Police have historically targeted LGBTQ+ and nonbinary people — and those who identify as Black or Brown in particular — for disproportionate stops, searches, and harassment.[77] This is discrimination and should not be happening in schools. School police officers cannot search you or your bag without a reasonable suspicion of wrongdoing.[78] They cannot search you just because of your sexual orientation, gender identity/expression, or race.

You should email or write a complaint to your principal and your city's police review board if a school police or resource officer is inappropriate with you. In the School District of Philadelphia, you can submit an anonymous complaint online.

THE RIGHT TO BE SAFE AT SCHOOL & FREE FROM HARASSMENT

You have the same right to be safe in school as every other student. Unfortunately, LGBTQ+ students — and LGBTQ+ students of color in particular — are disproportionately subjected to bullying and harassment, with insufficient intervention by school staff. Behavior may qualify as harassment if the offensive conduct relates to gender, sex, sexual orientation, gender identity or expression, race, color, national origin/ethnicity, age, disability, or religion. Your school's actions may qualify as discrimination if a school staff member is treating you badly because of your sexual orientation, gender identity, or gender expression, or another student is treating you badly because of your sexual orientation, gender identity, or gender expression, and your school does nothing to stop it.[79]

Your school has an affirmative duty to address harassment against LGBTQ+ students in the same way it would address harassment against any other student. In addition, Title IX and the Pennsylvania Human Relations Act prohibit your school from ignoring harassment based on gender stereotyping.[80]

If you are being bullied or harassed, see our fact sheet and tools for more information: The Right to be Free from Bullying and Harassment.

SCHOOLS MUST ALLOW RELIGIOUS OPT-OUT — BUT SHOULD NOT CENSOR DIVERSE LEARNING MATERIAL.

It is deeply beneficial for LGBTQ+ students and all students to have access to inclusive class materials and curricula that acknowledge and celebrate all backgrounds.[81] Although one court decision found that a 1st grade teacher's classroom *instruction* on gender identity without parental notice violated the parents' rights,[82] all parents in Pennsylvania have long had the right to opt-out their child from any classroom instruction to which they have a religious objection.[83] This pre-dates

the 2025 U.S. Supreme Court case *Mahmoud v. Taylor*, which ruled that religious parents should have the option to opt their children out of instruction involving LGBTQ+ individuals.[84] For more information about the narrow impact on Pennsylvania schools, see ELC-PA's fact sheet about how schools must allow religious opt-out of LGBTQ+ storybooks, but should not censor diverse learning materials.

The Education Law Center-PA (ELC-PA) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC-PA advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ+ youth, children experiencing homelessness, and children at the intersection of multiple underserved identities.

ELC-PA's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC-PA's Helpline for information and advice — visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

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[1] *Doe v. Boyertown Area School Dist.*, 897 F.3d 518, 528 (3d Cir. 2018).
[2] *Bostock v. Clayton Cnty.*, 590 U.S. 644 (2020) (holding that dismissal of an employee for being gay or transgender is sex-based discrimination under Title VII). The Court reasoned that sexual orientation and "transgender status are inextricably bound up with sex … because to discriminate on these grounds requires an employer to intentionally treat individual employees differently because of their sex." *Id.* at 660-61.
[3] *W. Virginia v. B.P.J. by Jackson*, 609 U.S. --, 146 S.Ct. 2356 at 2384 (2026) (Gorsuch, N., concurring) (distinguishing Bostock's question of whether firing an individual for being transgender is discrimination under Title VII from B.P.J's question of whether prohibiting transgender girls from playing on a girls' sports team is discrimination under Title IX); *B.P.J*, 146 S.Ct. 2356 at 2395-97 (Sotomayor, S., concurring in part) ("The majority's position is... fundamentally inconsistent. It credits... concern that a class consisting of transgender girls like B. P. J. is large enough to pose an existential threat to girls' sports, but at the same time holds that this class is too small to be protected by the Equal Protection Clause... overbroad generalization is both necessary to furthering substantially the State's interests in girls' sports and effectively irrelevant... The Court's equal protection precedents neither require nor support this contorted logic.")
[4] *United States v. Skrmetti*, 605 U.S. --, 145 S.Ct. 1816 (2025). In *Skrmetti*, the Court held that a state law prohibiting certain gender-affirming medical treatments for transgender minors was not subject to heightened scrutiny as sex discrimination because the bill was based on age and medical use only and therefore subject to rational basis review.
[5] *W. Virginia v. B. P. J. by Jackson*, 146 S.Ct. 2356 (2026).
[6] Title IX rules published in 2024 by the Biden administration attempted to clarify protections on the basis of sexual orientation and gender identity but were struck down in federal court in Kentucky and later abandoned by the Trump administration. *See Tennessee v. Cardona*, 762 F.Supp.3d 615 (E.D. Ky. Jan. 10, 2025); U.S. Dep't of Educ., Office for Civil Rts., Dear Colleague Letter: Title IX Enforcement Directive (Feb. 4, 2025), https://www.ed.gov/media/document/title-ix-enforcement-directive-dcl-109477.pdf.
[7] 85 Fed. Reg. 30178 (May 19, 2020).
[8] *See, e.g.*, Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 30, 2025); Exec. Order No. 14190, 90 Fed. Reg. 8853 (Jan. 29, 2025); Exec. Order No. 14201, 90 Fed. Reg. 9279 (Feb. 11, 2025).
[9] *Female Athletes United v. Ellison*, 172 F.4th 1019, 1028-30 (8th Cir., Apr. 15, 2026) (rejecting preliminary injunction based on Executive Order alone and noting "executive guidance and agency findings, in and of themselves, do not reflect settled law"). Note: Although the proposition regarding executive orders still stands, this case is currently on appeal as of July 6, 2026, due to the intervening Supreme Court decision. The docket can be reviewed at https://www.courtlistener.com/docket/70313692/female-athletes-united-v-ellison/.
[10] *See* Education Counsel, *Summary and Analysis of Trump Administration Executive Actions Impacting Education*, https://educationcounsel.com/our_work/publications/2025-federal-executive-actions/educationcounsel-s-summary-

and-analysis-of-trump-administration-executive-actions-impacting-education (last visited Jul. 25, 2026); Democracy Forward, *Litigation Tracker*, DEMOCRACY 2025, https://democracy2025.org/litigation-tracker/ (last visited July 22, 2026) (filter by "LGBTQIA+" to see cases involving issues impacting the LGBTQ+ community).

[11] *See Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 372-73 (2000) (state law must yield to federal law where Congress intends federal law to "occupy the field," and state law is naturally preempted due to a conflict with a federal statute, such as making it impossible to comply with both state and federal law).

[12] *See* Pa. Constit. Art. I, § 28 ("Equal Rights Amendment"); see also *Allegheny Reprod. Health Ctr. v. Pa. Dep't of Human Svs.*, 309 A.3d 808, 868-69, 869 n. 51 (Pa. 2024) (finding that a sex-based distinction is presumptively unconstitutional and requires a compelling state interest).

[13] Pa. Human Relations Act, 43 PA. STAT. ANN. § 953.

[14] *Id.; id.* § 954(l).

[15] See *Wible v. School District of Philadelphia*, No. 15-043169, 1392 CD 2018 (Phila. Cty. Ct. of Comm. Pls. 2018) (judgment entered for student plaintiff in the amount of $500,000 damages and an additional $578,000 in attorney fees for school's failure under PHRA to address harassment based on gender presentation), https://www.berneylaw.com/wp-content/uploads/2017/10/Opinion-Rule-1925.pdf.

[16] Protected Classes Under the PHRA and PFEOA, 16 PA. CODE §§ 41.201-41.207 (final regulations defining terms related to sex, sexual orientation, and gender identity used in the PHRA and the Pennsylvania Fair Educational Opportunities Act); Pennsylvania Human Relations Commission, Guidance on Discrimination on the Basis of Sex under the Pennsylvania Human Relations Act 2-3 (Mar. 3, 2021), https://www.phrc.pa.gov/AboutUs/Documents/APPROVED%20Sex%20Discrimination%20Guidance%20PHRA.pdf (delineating prohibitions in the PHRA against discrimination on the basis of sex, sex assigned at birth, sexual orientation, transgender identity, gender transition, gender identity, and gender expression).

[17] 16 Pa. Code § 42.2.

[18] 16 Pa. Code § 41.206.

[19] Pennsylvania Human Relations Commission, *Guidance on Discrimination on the Basis of Sex Under the Pennsylvania Human Relations Act* 3 (Mar. 3, 2021), https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/documents/Sex Discrimination Guidance PHRA-3-3-2021.pdf.

[20] *Id.*

[21] 16 Pa. Code § 41.204 (definition of gender identity); 16 Pa. Code § 41.206 (sex discrimination includes gender identity).

[22] Pa. Human Relations Act, 43 PA. STAT. ANN. § 957(f).

[23] Amy L. Gower et al., *Application of an intersectional lens to bias-based bullying among LBGTQ+ youth of color in the United States*, 8 STIGMA & HEALTH 363, 363 -371 (2023); Adrian D. Zongrone, et al., *Transgender and Nonbinary Youths' Experiences With Gender-Based and Race-Based School Harassment*, 124 TCHRS. C. REC. 121, 121-144 (2022).

[24] THE TREVOR PROJECT, DISCRIMINATION AMONG BLACK LBGTQ+ YOUNG PEOPLE AND SUICIDE RISK 2 (Feb. 2024), https://storage.googleapis.com/trevor-web-public/2024/02/Discrimination-among-Black-LGBTQ-Young-People-and-Suicide-Risk.pdf ("Over two-thirds (70%) of Black cisgender LGBTQ young people experienced at least one form of discrimination related to their race, sexual orientation, gender identity or expression in the past year, while even more Black transgender, nonbinary, or questioning young people (83%) experienced the same. Of those who experienced discrimination related to their race, sexual orientation, or gender identity or expression in the past years, the majority (58% for cisgender LGBQ, 72% for transgender, nonbinary, or questioning) experienced two or more forms of discrimination."); KESHA S. MOORE, THE WAR ON US: HOW ANTI-TRUTH POLICIES HARM BLACK LGBTQ+ STUDENTS (Thurgood Marshall Inst. 2026), https://tminstituteldf.org/how-anti-truth-policies-harm-black-lgbtq-students/ (documenting instances of racist and homophobic messages that Black LGBTQ+ students faced).

[25] Lisa A. Eaton, *Examining Experiences of Sexual Violence at the Intersection of Gender, Sexual Orientation, Race, and Ethnicity Using National U.S. Data Among Sexual and Gender Diverse Youth*, J. INTERPERSONAL VIOLENCE (2026); HUMAN RIGHTS CAMPAIGN FOUNDATION, 2024 BLACK LGBTQ+ YOUTH REPORT 10 (Feb. 2024), https://hrc-prod-requests.s3-us-west-2.amazonaws.com/2024-Black-LGBTQ-Youth-Report.cleaned.pdf ("Over half [55.9%] of Black LGBTQ+ youth had been verbally or physically harassed at least once in the prior 30 days, as well as 58.8% of Black transgender and gender-expansive youth. Overall, 62.1% of Black LGBTQ+ youth [and 64% of Black transgender and gender-expansive youth] said they faced some form of bullying or mistreatment at school in the year prior").

[26] HUMAN RIGHTS CAMPAIGN FOUNDATION, *supra* note 30, at 12-13 (reporting that the vast majority (80.6%) of Black LGBTQ+ youth did not tell a teacher/staff about bullying, and finding that "a plurality of Black LBGTQ+ youth (42.7%), including half (48.8%) of Black transgender and gender-expansive youth, feel unsafe in at least one setting in school.").

[27] Kevin L. Nadal et al., *Did It Get Better? The Realities of Queer and Trans Youth of Color in K-12 Schools*, 23 J. SCH. VIOLENCE 264 (2024) ("QTPOC [Queer and Trans People of Color] youth face lower academic achievement and higher absenteeism, which can be attributed to school climate and victimization"); *id.* at 270 ("LGBTQ+ students do not misbehave more than those who do not identify as LGBTQ+; instead, they are unfairly targeted by school officials and police personnel …, especially when they are QTPOC youth."); Shannon D. Snapp et al., *School Pushout: The Role of Supportive Strategies Versus Punitive Practices for LGBT Youth of Color*, 32 J. RSCH. ON ADOLESCENCE 1470, 1478-79 (2022) (finding "that LGBT youth of color — especially Black LGBT youth — are most likely to be suspended … even schools that use *low* punitive practices have disparities that especially impact Black and multiracial LGBT youth." [emphasis in original].)

[28] Tara R. Sullivan et al., *Oppression-Based Stressors, Posttraumatic Stress Symptoms, and Self-Injurious Thoughts and Behaviors Among a National Sample of Queer Adolescents of Color*, J. TRAUMA. STRESS. (2026); THE TREVOR PROJECT, *supra* note 29, at 1 (finding that "over one in five (21%) Black transgender, nonbinary, or questioning young people reported a suicide attempt in the past year").

[29] *See, e.g.*, *Henkle v. Gregory*, 150 F.Supp.2d 1067, 1075-76 (D.Nev. 2001) (student stated a claim for a First Amendment violation, alleging that school censored his speech about being gay; no qualified immunity because the broad right established in *Tinker* "would encompass the right of a high school student to express his sexuality").

[30] *See Richards v. Thurston,* 424 F.2d 1281, 1285 (1st Cir. 1970) (protecting a male student's right to wear their hair as they wish); *see also* Harper Seldin, *Trans Students Should Be Treated With Dignity, Not Outed by Their Schools*, ACLU (Jan. 26, 2023), https://www.aclu.org/news/lgbtq-rights/trans-students-should-be-treated-with-dignity-not-outed-by-their-schools.

[31] *See Tinker v. Des Moines Ind. Comm. Sch. Dist.*, 393 U.S. 503 (1969) (student may not be punished for expressing views unless the school has reason to believe the speech or expression will "materially and substantially disrupt the work and discipline of the school"); *Gillman v. School Board for Holmes County, Florida*, 567 F. Supp. 2d 1359 (N.D. Fla. 2008) (a school district's censorship of T-shirts advocating fair treatment for LGBT people was unconstitutional).

[32] *See Tinker*, 393 U.S. 503; *McMillen v. Itawamba Cty. Sch. Dist.*, 702 F. Supp. 2d 699 (N.D. Miss. 2010) (lesbian student's desire to wear a tuxedo to her prom is protected by the First Amendment). See also *Gillman*, 567 F. Supp. 2d 1359 (a school district's censorship of T-shirts advocating fair treatment for LGBT people was unconstitutional).

[33] *See Sturgis v. Copiah Cty. Sch. Dist.*, No. 3:10-CV-455-DPJ-FKB, 2011 WL 4351355, at *1 (S.D. Miss. Sept. 15, 2011) (refusing to dismiss a gender-nonconforming student's Equal Protection and Title IX challenges of her school's policy that differentiated what students may wear in yearbook pictures on the basis of sex); *see also Peltier v. Charter Day Sch.*, 37 F.4th 104 (4th Cir. 2022) (finding school dress code requiring girls wear skirts to violate Equal Protection and remanded to assess Title IX claim); Galen Sherwin et al., 4 Things Public Schools Can and Can't Do When It Comes to Dress Codes, ACLU (Sep. 21, 2022), https://www.aclu.org/news/womens-rights/4-things-public-schools-can-and-cant-do-dress-codes; Letter from James D. Esseks, Director of ACLU's Lesbian Gay Bisexual Transgender & HIV Project (Aug. 26, 2020), https://www.aclu.org/letter/open-letter-schools-about-gendered-dress-codes, (last visited May 30, 2023).

[34] *See, e.g.*, School District of Pittsburgh, *Policy 102.3 Nondiscrimination — Transgender and Gender Expansive Students* (June 2016), https://go.boarddocs.com/pa/pghboe/Board.nsf/files/AAVNG25B8B5D/$file/102.3_Nondiscrimination_Transgender_and_Gender_Expansive_Students_June2016.pdf ("[s]tudents shall have the right to dress in accordance with their gender identity …"); School District of Philadelphia, *Policy 252 Transgender and Gender Non-Conforming Students* (June 16, 2016), https://www.philasd.org/schoolboard/wp-content/uploads/sites/892/2017/06/252.pdf ("students shall have the right to dress in accordance with their stated gender identity and/or expression …").

[35] *See Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518 (3d Cir. 2018); *see also Grimm*, 972 F.3d 586, *cert denied,* 141 S.Ct. 2878 (2021) (district court and Fourth Circuit held that school violated Title IX and Equal Protection Clause when they prohibited Grimm from using the same restrooms as other boys and forced him to use separate restrooms in contravention of his transgender identity; Supreme Court denied cert); *Doe by Doe v. South Carolina*, 2025 WL 2375386, at 9 and 13 (4th Cir. Aug. 15, 2025) (granting preliminary injunction preventing school from enforcing anti-trans bathroom policy, stating in part: "[t]here's zero evidence that Doe's use of boys' restrooms presents even a remote possibility of harm to anyone. But the evidence of state hostility toward him overwhelms"); *Whitaker v. Kenosha Unified School District No. 1 Board of Education*, 858 F.3d 1034, 1055 (7th Cir. 2017) (finding that transgender student who was denied access to facilities matching their gender identity was likely to succeed on claim of sex discrimination under Title IX), (*rehearing pending consolidated with A.C. v. Metropolitan School District of Martinsville*, No. 25-1094 (7th Cir. 2025)); *A.C. by M.C. v. Metro. Sch. Dist. of Martinsville*, 75 F.4th 760, 773 (7th Cir. 2023) (transgender boys who were denied the ability to use boys' bathrooms at school were likely to succeed on the merits of their Title IX and equal protection claims) (*rehearing pending, A.C. v. Metropolitan School District of Martinsville*, No. 25-1094 (7th Cir. 2025)).

[36] *See Roe v. Critchfield*, 137 F.4th 912, 932 (9th Cir. May 23, 2025) (affirming district court's denial of a preliminary injunction for students challenging state law requiring students to use restrooms and changing facilities designated based on "biological sex," finding that state law was not facially unconstitutional under the Equal Protection Clause); *Adams by and through Kasper v. School Board of St. Johns County*, 57 F.4th 791, 817 (11th Cir. 2022)(holding that school's policy prohibiting transgender students from using their desired bathrooms did not violate student's equal protection rights or constitute sex discrimination under Title IX). *See also* Kristen Kinast & Jennifer Smith, *Seventh Circuit Court of Appeals to Reconsider Transgender Student Access to School Facilities*, Franczek (July 9, 2025) (explaining how the Seventh Circuit ordered rehearings in both *Whitaker* and *A.C. by M.C.*, which had upheld the rights of transgender students to access their preferred restrooms, based on the *Skrmetti* decision), https://www.franczek.com/blog/seventh-circuit-court-of-appeals-to-reconsider-transgender-student-access-to-school-facilities/.
[37] *Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518 (3d Cir. 2018).
[38] *Doe v. Boyertown Area Sch. Dist.*, 139 S. Ct. 2636 (2019).
[39] See *Evancho v. Pine-Richland Sch. Dist.*, 237 F. Supp. 3d 267 (W.D. Pa. 2017) (transgender students' challenge to school board resolution limiting transgender students' access to bathrooms found likely to succeed on Equal Protection claim); *A.H. by Handling v. Minersville Area Sch. Dist.*, 290 F. Supp. 3d 321, 331 (M.D. Pa. 2017) (transgender student who was prohibited from using girls' bathroom stated a claim for violation of Title IX and Equal Protection Clause).
[40] Notably, such cases that focus on the issue of transgender students and bathroom policies have found that the option for students to use a single-user, gender-neutral bathroom is not sufficient and not an appropriate remedy. A better policy example is to provide a gender-neutral bathroom in every school building, like the School District of Philadelphia. *See* Kristen Graham, *A gender-neutral restroom in every school: Philly plans changes to make transgender kids feel safe*, PHILA. INQUIRER, Jul. 12, 2021, https://www.inquirer.com/education/gender-neutral-bathrooms-philadelphia-schools-lgbtq-students-20210712.html.
[41] 34 C.F.R. § 106.33.
[42] 22 Pa. Code § 235.5a (PA Code of Professional Practice and Conduct for Educators).
[43] *See e.g. In re Subpoena No. 25-1431-014*, 810 F.Supp.3d 555, 597 (E.D.Pa. 2025) (refusing to require disclosure of trans youth medical records and emphasizing that the Third Circuit recognizes privacy protection "extends to information regarding sexuality and sexual orientation, and disclosures entailing 'stigma, potential for harassment, and risk of much harm from nonconsensual dissemination of the information'"); *Doe v. Pennsylvania Dep't of Corrections*, 2019 WL 5683437 (M.D.Pa. Nov. 1, 2019) (courts have long recognized that the harms arising from disclosing a person's transgender status are among those that make protection by pseudonym appropriate).
[44] *See e.g., Sterling v. Borough of Minersville*, 232 F.3d 190 (3d Cir. 2000) (police officer's threat to "out" a teenage arrestee as gay to the teen's grandfather violated the teen's constitutional right to privacy); *Nguon v. Wolf*, 517 F. Supp. 2d 1177, 1192-95 (C.D. Cal. 2007) (student had a reasonable expectation of privacy about her sexual orientation, and even though she was out at school, she had a protected interest in not being outed to her parents by school officials).
[45] *See* 20 U.S.C.A. § 1232g.
[46] See 22 PA. CODE § 11.11.
[47] See Pa. Dep't of Educ., *Basic Education Circular: Enrollment of Students*, (May 1, 2026), https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-becs/purdons-statutes/enrollment-of-students.html.
[48] *See, e.g., Vesely v. Illinois Sch. Dis*t. 45, 669 F. Supp. 3d 706 (N.D.Ill. 2023) (rejecting parent's objection to a school district's policy allowing students to socially transition to a different gender identity at school without one parent's consent; finding that the district's policy had a reasonable relation to its legitimate interest in protecting transgender students).
[49] *See* Pa Dep't of Educ., Pa. Information Management System (PIMS) User Manual, Vol. 1, at 15 (Feb. 25, 2025), available at https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/data-and-reporting/pims/pims-manuals/2025-2026%20pims%20manual%20vol%201.pdf.
[50] Exec. Order No. 14190, 90 Fed.Reg. 8853, (Jan. 29, 2025); Sec'y McMahon and Student Privacy Policy Office, Dear Colleague Letter (Mar. 28, 2025), https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Secretary_Comb_SPPO_DCL_Annual%20Notice_0.pdf. For information about the administration's targeted investigations, see Public Interest Privacy Center, *Recapping USED's Recent Surge in FERPA Enforcement Activities* (Apr. 17, 2025), https://publicinterestprivacy.org/ferpa-enforcement-recap/.
[51] Often these cases are dismissed because they are brought by individuals without legal standing. *See, e.g., Doe v. Pine Richland Sch. Dist.*, 2024 WL 2058437 (W.D.Pa. May 7, 2024) (parent's challenge to affirming gender identity

policy dismissed because their child was not implicated by the policy, not at risk of harm); *affirmed in part, Doe v. Pine Richland Sch. Dist.*, 2026 WL 1103489 (3d Cir. Apr. 23, 2026) (affirming that parent lacks Article III standing for prospective relief, but remanding to allow damages claim).

[52] *Mirabelli v. Bonta*, 607 U.S. 492, 498 (2026) (court reinstated an injunction for parent plaintiffs that had blocked California policies while litigation in lower courts continues, finding the policies likely interfere with the parents' right to religious development of their children and right to direct the upbringing and education of their children).

[53] *Id.*

[54] *See* Naaz Modan, Supreme Court turns away another parental notification case, K-12 Dive (Jun. 3, 2026), https://www.k12dive.com/news/supreme-court-turns-away-another-parental-notification-case/821799/.

[55] Compare *Doe v. Delaware Valley Regional High Sch. Bd. Of Educ.*, 2024 WL 706797 (D.N.J. Feb. 21, 2024) (rejecting temporary restraining order where parent did not demonstrate likely success on claims alleging that a school policy violated his parental right to control his child and that school had an obligation of nondiscrimination) and *Short v. N.J. Dep't of Ed.*, 2025 WL 984730 (D.N.J. Mar. 28, 2025) (dismissing most claims for lack of standing where no facts suggested the children were transgender or imminently going to talk with school staff about their gender, and the student who had talked with a counselor was affirmed in their gender with no allegations of coercion or compulsion from school staff) with *Landerer v. Dover Area Sch.Dist.*, 2025 WL 492002 (M.D.Pa. Feb. 5, 2025) (dismissing all claims for injunctive relief for lack of standing because the children were removed from the district and policy was facially neutral and had no discriminatory application; allowing damages claims under motion to dismiss standard where there could be some level of coercion or interference and school counseling could overstep fundamental rights of parents) and *Tatel v. Mt. Lebanon Sch. Dist*, 752 F.Supp.3d 512, 560-61 (W.D.Pa. 2024) (granting summary judgment in favor of parents' claim that teacher who discussed gender dysphoria and transitioning with 1st graders without notice to parents violated parents' substantive due process right to control the upbringing of their children).

[56] Regino v. Blake, No. 2:23-CV-00032-DJC-DMC, 2026 WL 121667, at *17 (E.D. Cal. Jan. 15, 2026) (dismissing claim that parental rights were violated by a school policy that affirmed her child, who identified as transgender at the time, without parental consent) (appeal pending, *Regino v. Blake*, et al., 26-475 (9th Cir 2026)); *Littlejohn v. Sch. Bd. of Leon Cty, Fla.*, 647 F.Supp.3d 1271, 1282-83 (N.D.Fla. 2022) (school's gender identity support plan requested by student did not violate liberty interests in familial privacy and upbringing of child*) Littlejohn v. Sch. Bd. of Leon Cnty.*, Fla., 132 F.4th 1232, 1245 (11th Cir. 2025), *cert. denied sub nom. Littlejohn v. Sch. Bd. Leon Cnty.*, 224 L. Ed. 2d 525 (Apr. 27, 2026) (upholding school officials' actions of developing safety plan on the ground that that it did not "shock the conscience"); *Willey v. Sweetwater Cty Sch. Dist. No.1 Bd of Trustees*, 2023 WL 4297186, *12-16 (D.Wy. Jun. 30, 2023) (denying preliminary injunction filed by parent challenging school's policy of addressing child by requested name and pronoun); *Vesely v. Illinois Sch. Dist. 45*, 669 F. Supp. 3d 706 (N.D.Ill. Apr. 18, 2023) (school's support of child's gender identity did not violate parental rights under federal and state constitution).

[57] See *Delaware Valley Regional*, 2024 WL 706797 at *9-10 (reviewing cases on the issue of gender policies).

[58] *See e.g. John & Jane Parents 1 v. Montgomery Cty. Bd. of Educ.*, 622 F.Supp.3d 118, 129 (D.Md. Aug. 18, 2022) (holding that parents do not have fundamental right to be informed of child's gender identity stated to school; school policy served legitimate interest in an affirming environment for all students), vacated on standing grounds, 78 F.4th 622 (4th Cir. 2023) (parent plaintiffs did not show an injury in fact where none of their children had gender support plans or anticipated gender transition), cert denied, 78 F.4th 622 (U.S. 2024).

[59] Compare *Willey v. Sweetwater Cty Sch. Dist. No.1 Bd of Trustees*, 680 F.Supp.3d at 1278 (holding that parents had a likelihood of success on the merits of challenging a school's Student Privacy Policy, which broadly stated that "Staff must respect the privacy of all students regarding such choice [to use a different name or set of pronouns at school]" but enjoining policy would preclude school staff from refusing to disclose this information to parents on request or to actively lie to parents about how their child is being referred to at school) with *John & Jane Parents 1 v. Montgomery Cty. Bd. of Educ, 622 F.Supp.3d at 129* (upholding school gender affirmation guidelines that said that "the needs of each student must be assessed on a case-by-case basis" and actively encouraging familial involvement in the creation of a gender support plan); *See also Doe v. Delaware Valley Reg'l High Sch. Bd. of Educ.*, No. CV 24-00107 (GC) (JBD), 2024 WL 5006711, at *16 (D.N.J. Nov. 27, 2024) (denying parent's motion for preliminary injunction and upholding school's gender affirmation policy, which noted that school officials "should also discuss with the student, and any other individuals at the student's request, the risks associated with the student's transgender status being inadvertently disclosed.").

[60] *See e.g., Copeland v. Georgia Dep't of Corrections*, 97 F.4th 766 (11th Cir. 2024) (holding that persistent misgendering is severe and pervasive harassment in violation of Title VII in the employment context).

[61] *Doe v. Triangle Doughnuts, LLC.*, 472 F. Supp. 3d 115 (E.D. Pa. 2020) (citing *Bostock*, 140 S.Ct. 1731) (applying *Bostock*, the court held that "in addition to being misgendered," an employer deadnaming a transgender woman "was sufficiently severe or pervasive to support her [hostile work environment] claim").

[62] See 16 Pa. Code § 41.206; *Wible v. School District of Philadelphia*, No. 15-043169, 1392 CD 2018 (Phila. Cty. Ct. of Comm. Pls. 2018) (judgment entered for student plaintiff in the amount of $500,000 damages and an additional $578,000 in attorney fees for school's failure under PHRA to address harassment based on gender presentation), https://www.berneylaw.com/wp-content/uploads/2017/10/Opinion-Rule-1925.pdf.
[63] See *Bradley v. Pittsburgh Bd. of Educ.*, 910 F.2d 1172, 1176 (3d Cir. 1990) (teacher has no First Amendment right of academic freedom extending to classroom management techniques); *Kahan v. Slippery Rock Univ. of Pa.*, 50 F.Supp.3d 667, 707 (W.D.Pa 2014) (applying 3d Circuit precedent and finding teacher "does not personally hold a First Amendment 'teaching right' concerning classroom management, class content, student conduct, and use of testing materials. A teacher's 'in-class' conduct concerning what may be taught and how it will be taught is not protected by the First Amendment.").
[64] *See Kluge v. Brownsburg Community Sch. Corp.*, 150 F.4th 792 (7th Cir. 2025) (teacher claimed religious accommodation needed to avoid using trans student's affirming name; remanded to lower court to develop fact issues about whether teacher's use of only student last names imposed undue burden on school's nondiscrimination mission). *See also Parks v. Lake Oswego Sch. Dist.*, 758 F.Supp.3d 1247 (D.Ore. 2024) (rejecting injunction of former high school teacher and coach who claimed First Amendment retaliation in employment action where school would have removed him based solely on derogatory reference to transgender athlete while coaching, regardless of earlier email stating personal belief that trans girls should not be allowed to compete).
[65] 34 C.F.R. § 99.7(a)(2)(ii)).
[66] 34 C.F.R. § 99.4-5.
[67] The Pennsylvania Department of Education permits schools to update a student's gender and first name in school records and data that must be submitted to the state based on a student or parent/guardian request. See Pa Dep't of Educ., Pa. Information Management System (PIMS) User Manual, Vol. 1, at 15 , 138 (reporting student gender), https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/data-and-reporting/pims/pims-manuals/2025-2026%20pims%20manual%20vol%201.pdf.
[68] *See* 20 U.S.C. 4071 (Equal Access Act); *Straights & Gays for Equality v. Osseo Area Sch. Dist. No. 279*, 540 F.3d 911 (8th Cir. 2008) (Equal Access Act prohibited school from denying non-curricular gay equality group meeting when other noncurricular groups can meet).
[69] Courts have made clear that any school rules relating to order and discipline on school property, student and staff well-being, and attendance must be applied to all student groups. School officials cannot censor groups because they express unpopular viewpoints. *See, e.g., Gonzalez v. School Board of Okeechobee County*, 571 F. Supp. 2d 1257, 1268 (S.D. Fla. 2008) (holding that a school failed to show that the GSA's discussions would cause material disruption to the school); *Colin v. Orange Unified School District*, 83 F. Supp. 2d 1135, 1147-49 (C.D. Cal. 2000) (holding that the "limited open forum" principle must apply to all school groups equally).
[70] *McMillen v. Itawamba Cty. Sch. Dist.*, 702 F. Supp. 2d 699 (N.D. Miss. 2010) (school violated female lesbian student's First Amendment rights when they prevented the student from attending prom wearing a tuxedo and with her girlfriend as her date); *Aaron Fricke v. Richard B. Lynch*, 491 F.Supp. 381 (D.R.I. 1980) (school violated male gay student's First Amendment rights when they tried to prevent the student from attending prom with his male date).
[71] 34 C.F.R § 106.31(a).
[72] *W. Virginia v. B. P. J. by Jackson*, No. 24–38, 609 U.S. --, 2026 WL 1868739 (2026).
[73] *See id.* at FN 1 ("these cases do not present the distinct question of whether, under Title IX and the Equal Protection Clause, schools may *allow* biological males who identify as female to participate on girls' and women's sports teams. That question is currently the subject of litigation in some lower courts").
[74] *Id.*
[75] *Title IX at 45: Advancing Opportunity through Equity in Education* 41, NAT'L COAL. FOR WOMEN AND GIRLS IN EDUC. (2017), https://www.ncwge.org/TitleIX45/Title%20IX%20at%2045-Advancing%20Opportunity%20through%20Equity%20in%20Education.pdf.
[76] An analysis of Centers for Disease Control and Prevention data found that there was no negative impact on the participation of girls and women in school sports in states that had implemented trans-inclusive state athletics policies. Shoshana K. Goldberg, *Fair Play: The Importance of Sports Participation for Transgender Youth* 14-16, CTR. FOR AM. PROGRESS (Feb. 8, 2021), https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/02/08/495502/fair-play.
[77] See Kevin L. Nadal et al., supra note 32 at 270 ("LGBTQ+ students do not misbehave more than those who do not identify as LGBTQ+; instead, they are unfairly targeted by school officials and police personnel …, especially when they are QTPOC youth.").
[78] *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) (search of student generally permissible if there are reasonable grounds for suspecting that the search will turn up evidence that student is violating the law or school rules and the search is no more intrusive than necessary).

[79] *See, e.g., Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. at 633 (1999) (Peer-on-peer sexual harassment at school, "if sufficiently severe, can ... rise to the level of [sex-based] discrimination actionable under [Title IX]"); *Gabrowski v. Arizona Board of Regents*, 69 F.4th 1110 (9th Cir 2023) (harassment against student based on sexual orientation or perceived sexual orientation is sex-based discrimination under Title IX).
[80] See 34 C.F.R § 106.45(b)(1)(iii) (Title IX grievance process); *Wible v. School District of Philadelphia*, supra note 71.
[81] LGBTQ-inclusive curricula have been shown to be beneficial for all youth. See V. Paul Poteat et al., *Factors Affecting Academic Achievement Among Sexual Minority and Gender-Variant Youth*, 47 Advances in Child Dev. & Behav. 261, 290 (2014) ("[A]n inclusive curriculum that promotes respect for [gender and sexual orientation] diversity stands to benefit all youth along indices of psychological and social well-being."); Shannon D. Snapp et al., *Students' Perspectives on LGBTQ-Inclusive Curriculum*, 48 Equity & Excellence in Educ. 249, 251 (2015) ("[W]hen schools teach LGBTQ-inclusive curriculum, all students, including heterosexual . . . students felt safer, experienced less victimization, reported hearing fewer homophobic slurs, and experienced greater peer acceptance").
[82] *See Tatel v. Mt. Lebanon Sch. Dist.*, 752 F.Supp.3d at 561 (ruling that a teacher reading books about gender dysphoria with her 1st grade class violated parents' rights to control the upbringing of their children).
[83] 22 Pa. Code § 4.4(d)(3) (parents have a broad right to opt-out their child from "specific instruction that conflicts with their religious beliefs upon receipt by the school entity of a written request from the parent or guardians").
[84] *Mahmoud v. Taylor*, 606 U.S. 522 (2025) (holding that the school's use of storybooks with LGBTQ+ characters, combined with its decision to withhold notice and not to allow opt-outs, burdened parents' First Amendment free exercise rights by substantially interfering with religious development of their children).