



Educator Support for Transgender, Nonbinary and Intersex Students: *Setting the Record Straight on the K-12 Schooling Executive Order*

On January 29th, President Trump issued an Executive Order entitled [Ending Radical Indoctrination in K-12 Schooling](#), which among other provisions, directs the U.S. Attorney General to “coordinate with State attorneys general and local district attorneys in their efforts to enforce the law and file appropriate actions against K-12 teachers and school officials who violate the law” by “sexually exploiting minors,” “unlawfully practicing medicine by offering diagnoses and treatment without the requisite license,” or “otherwise unlawfully facilitating the social transition of a minor student.” Educators neither are nor should be involved in the first two categories, which seem to be fabrications. Educators do, however, support students who are socially transitioning, meaning asking to be addressed and treated according to their gender identity.

Educators should know that there is no federal law that prohibits supporting students in this way. Rather, federal law prohibits discrimination and harassment of transgender, nonbinary and intersex students. **Educators should not be intimidated by the Executive Order from treating all students with dignity and respect, and fostering safe, welcoming, and inclusive learning environments for all students.**

Educators Can and Should Continue to Follow Policies That Support Transgender, Nonbinary and Intersex Students.

- There is no federal law criminalizing basic actions that support and affirm transgender, nonbinary and intersex students, such as using the names and pronouns students themselves identify with.
 - The Order makes vague reference to "protecting parental rights" pursuant to federal laws that protect student privacy and parental rights in records and surveys and evaluations (FERPA and PPRA), but those laws have nothing to do with whether educators may support and affirm all students.

- State and local laws and school district policies – not federal law – govern how educators instruct and support students, and there is no presidential authority to direct states and local authorities otherwise.¹

¹ U.S. Const. Amend. 10; 20 U.S.C. 3403 (Dept. of Ed. Organization Act); 20 U.S.C. 7906a and 7909 (ESEA, as amended by ESSA).

- Many state laws and local ordinances require that educators do not discriminate against or allow harassment or bullying of students based on their gender identity.
 - Find more information here: [Movement Advancement Project | Safe Schools Laws](#)
- State laws, school policies or professional ethics may require that staff respect the confidentiality of students who seek support.
- State Attorneys General and other state officials, as well as individual school boards, have directly responded to these threats and misrepresentations about the role of the federal government, and declared that they will continue to uphold their state laws and school district policies that protect transgender, intersex and nonbinary students.²
- Many states have educator codes of ethics that require teachers to treat all students fairly and equally and to respect all students, regardless of gender identity.

Educators Can and Should Continue to Protect LGBTQI+ Students from Discrimination and Harassment.

- **Executive Orders do not – and cannot – repeal existing laws that make it illegal to discriminate against transgender, intersex or nonbinary people. And it remains illegal to harass or discriminate against students because they do not conform to sex-based stereotypes.**
- The Supreme Court’s decision in *Bostock v. Clayton County*, which affirmed that discrimination “based on sex” includes sexual orientation and gender identity, is still the law of the land. Title IX, a federal statute which prohibits sex-based discrimination in education, also remains the law of the land. Many courts have affirmed that the Supreme Court’s *Bostock* ruling applies to Title IX.
- The Title IX regulations that are now in effect make clear that LGBTQI+ students are protected against harassment. Although the Biden Administration’s Title IX regulations are currently vacated by a court order, the 2020 Trump Administration rules that are now in effect state: “The Department will not tolerate sexual harassment as defined in [the regulation] against any student, including LGBTQ students.”³ If the Department of Education acts to roll back rights or propose new rules that are not consistent with existing law, these actions will be challenged in court.
- Many states and localities have strong laws protecting LGBTQI+ students. Find more information about your state here: [Movement Advancement Project | Safe Schools Laws](#).

² See e.g., California Attorney General Rob Bonta Statement, “[California Schools Will Remain a Welcoming, Inclusive, Safe Place for All](#)” (Feb. 4, 2025); New Jersey Division on Civil Rights, “[Statement on Protecting LGBTQIA+ New Jerseyans from Discrimination](#)” (Jan. 2025).

³ 85 FR 30026, 30179 (2020).

- Many school districts have policies that prohibit bullying and harassment of LGBTQI+ students, and that affirmatively create welcoming, inclusive and safe environments for all students.
- Gender diverse students may also have Constitutional rights – like First Amendment rights of free expression and association, and rights to Equal Protection under the Fourteenth Amendment – as well as rights under other federal laws, including laws that protect student privacy.

For more information about the Trump Administration’s Executive Order on Gender Identity, see [NEA guidance and know-your-rights checklists](#). More comprehensive guidance can be found in NEA’s “[What Educators Should Know About LGBTQ+ Rights](#).”