



BOSTOCK AND STUDENT RIGHTS

On June 15, 2020, the Supreme Court announced that federal law prohibits discrimination against LGBTQ employees. Based on identical language protecting student rights, courts and the Department of Education agree that federal law prohibits schools that receive federal funding from discriminating against students on the basis of their sexual orientation or gender identity.

Below is a quick reference guide developed by NEA's Center for Social Justice and General Counsel to help inform LGBTQ students about their rights.

Sexual Orientation and Gender Identity. Schools may not treat students differently based on their sexual orientation. They may not treat transgender students differently from how they treat other students with the same gender identity. Not only is it unlawful to discriminate based on LGBTQ status, it is also unlawful to discriminate based on a perceived sexual orientation or gender identity.

Enrollment and Records. Schools may not refuse to enroll students in schools or classes based on the students' gender identity or sexual orientation. Federal law allows single-sex schools under certain circumstances. But schools may not prohibit students from enrolling at these schools based on their sexual orientation or transgender identity. Schools must change school records of students who provide documentation of their legal name or gender change.

Participation in School Activities. Schools may not exclude students from school activities, including schools clubs, student office, and field trips based on the students' sexual orientation or transgender status. Litigation over whether schools may prevent transgender students from participating in athletic contests on teams that match their gender identity is ongoing.

Dress codes. Where schools have gender-specific dress codes, schools cannot prevent transgender students from following the dress code rules that match their gender identity. NEA urges school districts to adopt gender neutral and inclusive dress codes.

Harassment and Bullying. Harassment can consist of offensive comments, gestures, and physical acts of a sexual nature or related to sex, sexual orientation, or gender identity, by school staff or other students. Failure to treat students consistent with their gender identity, including failure to use the student's correct pronouns, can be a form of harassment. If schools are aware that students are experiencing harassment that is so frequent and severe that it prevents them from participating in school activities they must take steps to prevent it.

Bathrooms and Locker Rooms. Schools may not prevent students from using the bathrooms or locker rooms that match their gender identity.

Examples of unlawful discrimination at school:

- ▶ A school denies a Gay Straight Alliance's application to be an official school club, even though it approves numerous other clubs.
- ▶ A gay student experiences daily harassment based on her sexual orientation on the school bus. She complains to her homeroom advisor that the harassment has been unrelenting, that she dreads going to school every day, she has missed classes so she can walk to school and avoid the bus, and she is considering transferring schools if the bullying won't stop. The teacher tells her that some children are just mean and she should grow a thicker skin.
- ▶ A transgender student enrolls in school after she has transitioned from male to female. The school will not allow her to use the restrooms for female students, but tells her that she may use the faculty bathrooms instead.
- ▶ A gay student enters a speech competition at his school and becomes a finalist. After realizing that he is gay, the school principal chooses one of the other finalists as the winner because she does not want a gay student to represent the school in a district-wide speech competition.

These rights represent the floor that the federal law guarantees. Many states and school districts have adopted protections for LGTBQ youth that go above and beyond these rights. NEA EdJustice has additional resources to support LGTBQ students and educators.

For information on supporting LGTBQ youth and protecting students' civil rights, visit <https://neadjustice.org/supporting-lgbtq-youth/>

