

Supporting Trans Students in Oregon's Schools: Title IX and Other Provisions

Administrators, teachers, and school boards often seek information about changes needed to make their transgender students feel welcome, supported, and safe in their school. To that end, Oregon Safe Schools and Communities Coalition (mission: to make all schools safe for all students, teachers and families) and TransActive Gender Center (mission: to provide a holistic range of services and expertise to empower transgender and gender diverse children, youth and their families in living healthy lives, free of discrimination) have collaborated to develop this resource.

Oregon law prohibits discrimination based on sexual orientation which includes gender identity. Oregon State Law (ORS 659.850) defines discrimination as any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on race, color, religion, sex, sexual orientation, national origin, marital status, age, or disability. Oregon law (ORS 174.100) also includes an "individual's gender identity, appearance, expression, or behavior" in its definition of sexual orientation.

There are also federal laws that may protect transgender students. Title IX states that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Several agencies, including the U.S. Department of Education, U.S. Attorney General's Office and the Office of Civil Rights have indicated that this includes protection of transgender students and staff.

Students have the right to express their gender identity and have it respected and validated in your school, as well as access services free of discrimination and harassment.

The Oregon Safe Schools Act requires that schools provide educational environments free of bullying, intimidation, harassment, and cyberbullying. Schools may not take or condone any action that creates a hostile educational environment, which includes interfering with the psychological well-being of a student.

When parents disagree with a student's transgender status:

Schools are often in a difficult situation when a parent disagrees with a student's decisions relating to their sexual orientation or gender identity. The school must respect the right of the parents to raise their child, but must also protect the student at school and prevent discrimination and bullying. Each situation should be handled on a case-by-case basis, involving the parents and student in communications.

Students have the right to use a name and pronoun that matches their gender identity.

The Oregon Department of Education has issued guidelines for school administrators on incorporating students' preferred name into school records, with parental permission. Regardless of documentation, all school personnel must respect and use a student's preferred name and pronoun.

Students are not required to 'officially' notify their school of a change in their gender expression.

There is no prescribed notification that the student is required to provide if there is a transition. Students have the right to change their gender expression with or without parental permission. The safety of informing the student's parents must be determined through consultation with the student *prior* to speaking or meeting with the parents/caregivers.

Students have the right to dress in clothing that affirms their gender identity.

Schools cannot enforce dress codes that limit a student's attire to clothing that conforms with the gender assigned at birth. Students have the legal right wear clothing that affirms their gender identity so long as it is within your school's dress code for that gender.

Students have the right to use the restroom/locker room that matches their gender identity.

Title IX protections require that schools grant transgender students access to a restroom and locker room that matches their gender identity as consistently expressed at school. Schools cannot require students to use private unisex restrooms or changing room; however if a student feels unsafe using shared restrooms, the school must provide access to alternatives.

Students have the right to play sports and participate in activities on teams or in groups that reflect their gender identity.

Title IX and policies established by the Oregon School Activities Association protect the right to participate in all activities, including sports, and not be discriminated against based on gender identity.

Resources: U.S. Department of Education's Office for Civil Rights; TransActive Gender Center's "Know Your Rights"; ACLU, National Center for Transgender Equality; and Transgender Law Center.