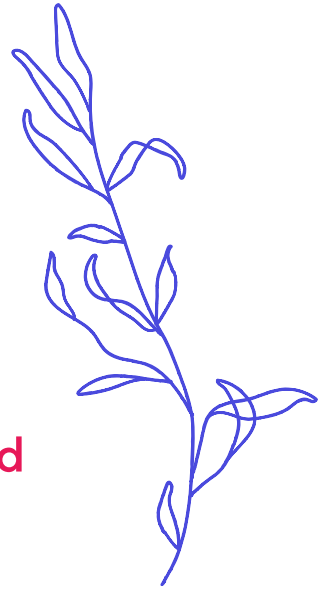
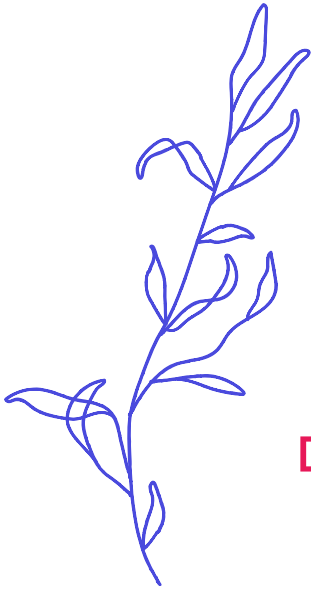
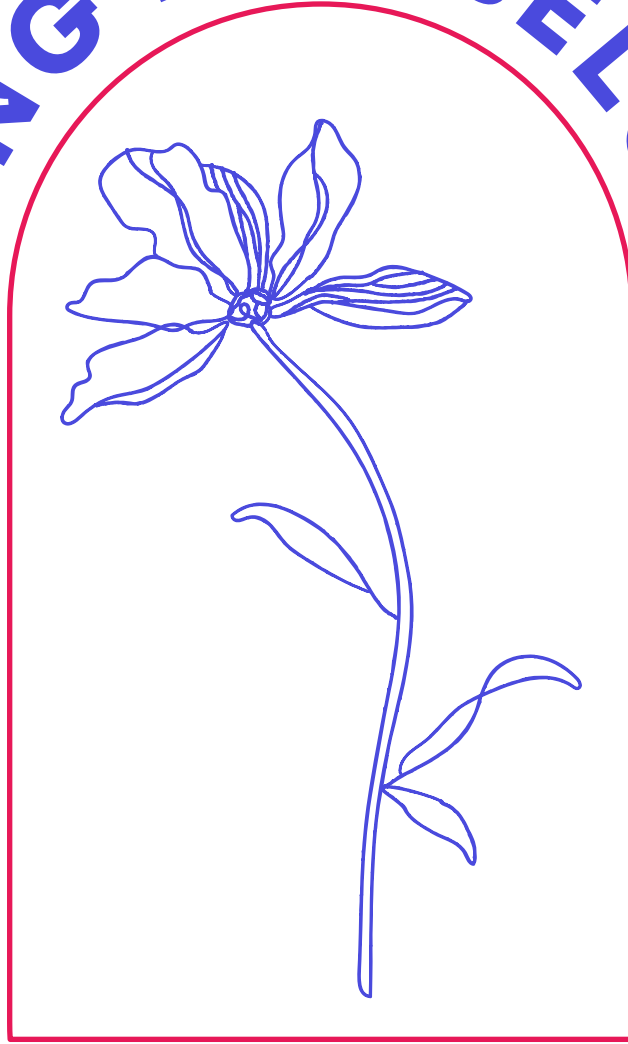


TEACHING FOR BELONGING



Strategies for Resisting Legalized
Discrimination in Classrooms & Beyond

SAY GAY TEACH TRUTH



Teaching for Belonging

We began this project in January 2024 to create a resource to empower educators to challenge the rise of anti-LGBTQ+ laws (such as Florida’s infamous ‘Don’t Say Gay’ bill), that were sweeping our nation. The aim of such legislation was to *passively* erase queer and transgender people from our public schools. Fast forward a year: we are now confronted with the reality of living in a nation whose federal government claims that transgender people do not exist. Transgendered people at present are now actively being erased via the extreme executive orders of a president who has no respect for adherence to the rule of law and the rulings of a Supreme Court that values religious bigotry over diversity and inclusion. However, the United States of America is not ruled by a king. Executive Orders, no matter how strongly and authoritatively ordered, cannot change decades of legal progress that protects and includes transgender and queer people in our nation’s civil right’s jurisprudence. These laws, not the Executive Orders of a delusional man, are the law of the land, and are what we must cling to as we fight for our very existence as queer Americans.¹ This Know-Your-Risks (KYR) manual aims to empower all educators to resist anti-LGBTQ+ policies, and to advocate for LGBTQ+ students as well as themselves. This manual is not just for teachers in states with active anti-LGBTQ+ laws, but also those who teach in schools and districts without restrictions but fear facing adverse consequences for maintaining truly inclusive classrooms in these times.

This manual helps educators understand the risks they currently face by:

- 1) Reviewing this moment of anti-LGBTQ+ legal backlash and codification, and how we got here, backlash and codification, and how we got here,
- 2) Providing an overview of federal and state protections for educators, and
- 3) Providing testimonials from educators currently resisting anti-LGBTQ+ laws and a list of resources that can help support you.

We hope that this KYR manual will help you feel empowered to resist anti-LGBTQ+ laws by inspiring you to creatively work *with* and *around* them. In doing so, you will help make schools a safe place for all kids to learn and grow, and for queer educators to teach openly and proudly.

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¹<https://truthout.org/articles/trumps-anti-trans-education-order-relies-on-intimidation-we-must-not-yield/>

I. Introduction: The Rise of Anti-LGBTQ Laws in Education

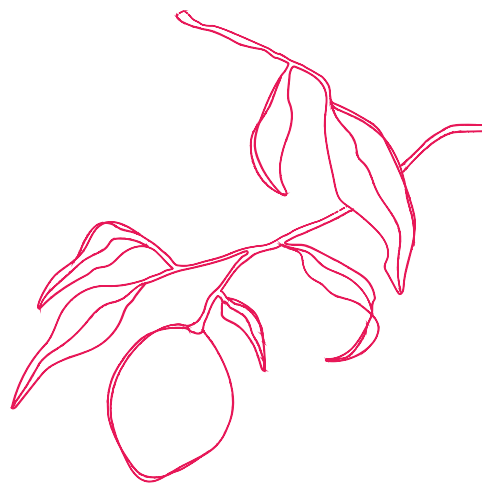
In March 2022, Florida passed HB 1557, the ‘Don’t Say Gay’ bill which prohibited the instruction of sexual orientation or gender identity in schools.² This law had a devastating effect on Florida families, LGBTQ+ students, and education. According to the Williams Institute, 88% of LGBTQ+ parents were concerned about the bill’s impact and more than half considered moving out of the state after its passage.³ The Trevor Project, a national crisis intervention non-profit aimed at protecting LGBTQ+ youth, condemned the bill, citing its detrimental impact on the mental well-being of their target demographic.⁴ **Research reveals that fears about the effect of laws like Florida’s “Don’t Say Gay” bill are well founded:**

- In 2023, the Trevor Project found that **86% of transgender and nonbinary youth** said recent debates around anti-transgender bills **negatively impacted their mental health.**

- As a result of these policies and debates, **45% of trans youth experienced cyberbullying in the past year.**⁵

- A recent analysis by the Washington Post using FBI data revealed that **hate crimes targeting LGBTQ+ students at schools increased fourfold** in states that implemented restrictive laws.⁶

Anti-LGBTQ+ laws often encompass regulations on educational content, bathroom access, and participation in sports teams for transgender children.⁷ When it comes to educators, one in ten teachers said they experienced fear or anxiety about violating restrictive policies, which could potentially cost them their jobs.⁸ For instance in May 2023, the Florida Department of Education investigated an elementary school teacher for showing a Disney movie that included a gay character, an act that a conservative school board member argued violated Florida’s ‘Don’t Say Gay’ law.⁹ While teachers can now discuss sexual orientation and gender identity under less stringent restrictions than the bill originally set out due to a binding settlement agreement,¹⁰ 21 other states have enacted laws restricting LGBTQ curriculum and discussion in some form, using Florida’s legislation as a template.¹¹



² The ‘Don’t Say Gay’ rules were expanded through 12th grade in 2023. <https://abcnews.go.com/Politics/called-dont-gay-rules-expanded-12th-grade-florida/story?id=98691183>

³ <https://williamsinstitute.law.ucla.edu/publications/impact-dont-say-gay-parents/>

⁴ <https://www.thetrevorproject.org/blog/the-trevor-project-condemns-florida-dont-say-gay-bill-targeting-lgbtq+-students/>

⁵ <https://www.thetrevorproject.org/blog/new-poll-emphasizes-negative-impacts-of-anti-lgbtq+-policies-on-lgbtq+-youth/> School districts have invoked recent anti-LGBT legislation to justify cutting back or completely eliminating essential resources for LGBTQ+ students, such as anti-bullying workshops, training sessions, and Pride Week events. <https://pen.org/report/americas-censored-classrooms-2023/>

⁶ <https://www.washingtonpost.com/education/2024/03/12/school-lgbtq-hate-crimes-incidents/>

⁷ <https://www.washingtonpost.com/education/2024/03/12/school-lgbtq-hate-crimes-incidents/>

⁸ <https://www.rand.org/pubs/commentary/2023/05/how-floridas-expansion-of-dont-say-gay-law-will-hurt.html>

⁹ <https://truthout.org/articles/florida-teacher-under-investigation-for-showing-disney-movie-with-gay-character/>

¹⁰ The settlement also allows educators to place a photo of their same-sex spouse on their desk, librarians to stock books that feature LGBTQ+ characters, and schools to enact anti-bullying efforts to protect LGBTQ+ students. <https://www.chalkbeat.org/2024/03/13/florida-dont-say-gay-settlement-clarifies-law-protects-students-teachers/> <https://www.npr.org/2024/03/11/1237730819/florida-dont-say-gay-law-settlement-lgbtq+>

¹¹ https://www.lgbtmap.org/equality-maps/curricular_laws This website provides state specific information on curriculum discussions of LGBTQ+ topics or themes.

Recent anti-LGBTQ Legislation relating to K-12 education include:

3

Executive Orders erasing transgender people from educational institutions by denying their existence, banning them from sports and bathrooms, banning their pronouns, and banning their medical care.¹²

8

states require **advance parental notification** of any LGBTQ-related curriculum topics.¹³

4

states restrict how schools can discuss homosexuality in **specific curricula (eg. sex ed)**.¹⁴

9

states explicitly censor discussing LGBTQ people, issues in **all school curricula**.¹⁵

7

states force **teachers to out transgender youth to their parents**.¹⁶

7

states **promote, though do not require**, teachers to out transgender youth to their parents.¹⁷

15

states **ban transgender people from using bathrooms of their choice** in schools.¹⁸

9

states have enacted laws **restricting diversity, equity, and inclusion initiatives**.¹⁹

12

States with laws impacting transgender people's access to **bathrooms or facilities aligning with their gender**.²⁰

Florida

made a **book ban** that may criminally charge teachers who fail to get books approved ahead of time.²¹

¹² <https://www.axios.com/2025/02/05/anti-trans-executive-orders-trump>

¹³ https://www.lgbtmap.org/equality-maps/curricular_laws

¹⁴ https://www.lgbtmap.org/equality-maps/curricular_laws

¹⁵ https://www.lgbtmap.org/equality-maps/curricular_laws

¹⁶ http://www.mapresearch.org/equality-maps/youth/forced_outing

¹⁷ https://www.lgbtmap.org/equality-maps/youth/forced_outing

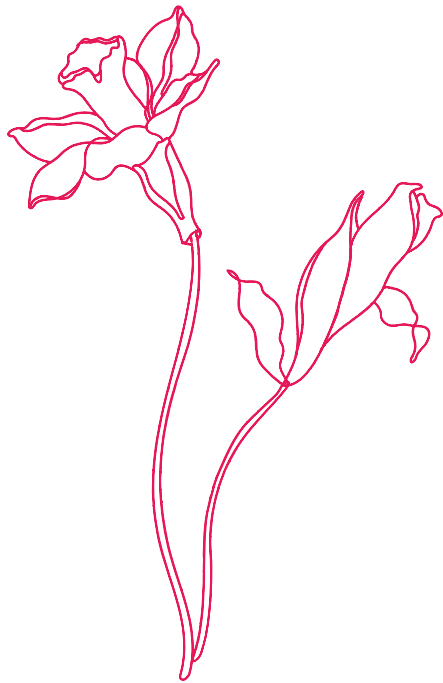
¹⁸ https://www.lgbtmap.org/equality-maps/nondiscrimination/bathroom_bans

¹⁹ <https://abcnews.go.com/US/map-impact-anti-dei-legislation/story?id=108795967> (federal executive order also does this but isn't law)

²⁰ https://www.lgbtmap.org/equality-maps/nondiscrimination/bathroom_bans It should be noted that Florida and Utah make it a crime for transgender people to use facilities consistent with their gender in some circumstances, but this has not been applied to schools.

²¹ <https://lithub.com/florida-teachers-will-face-felony-charges-for-resisting-book-bans/> While HB 1467 does not include any criminal punishment, it layers on top of a long-standing statute, FL 847.012, which makes it a felony to "knowingly" distribute "any book, pamphlet, magazine, printed matter however reproduced, or sound recording that contains any matter defined in s. 847.001, explicit and detailed descriptions or narrative accounts of sexual excitement, or sexual conduct and that is harmful to minors." However, no teachers have been charged under 847.012 since HB 1467's passage.

Like “Don’t Say Gay” laws, laws that scrutinize and police queer and trans students’ bathroom use have also been on the rise in recent years. For Example, late in 2024 Ohio signed into law the “Protect All Students Act.” This law requires public and private K-12 schools, as well as colleges and universities, to designate separate bathrooms and locker rooms for “exclusive use” based on gender assigned at birth in school buildings and events.²² The law’s name is as chilling as it is ironic; created in the name of protecting students while placing transgender and gender nonconforming students in greater need of protection. However, it is unclear if any enforcement mechanism is articulated for this law beyond its purpose and dicta, making it ripe for the challenging. In recent weeks students in Ohio have vehemently protested these laws and have refused to comply with them. As a result, university leaders have rolled back enforcement of this act on some campuses.²³



Anti-LGBTQ+ state laws have a chilling effect that extends across state borders. Even in states that have not passed anti-LGBTQ+ laws educators may be subject to local restrictions set by school or district leaders (or both), or opt to self-censor in fear of an increasingly conservative environment.²⁴ According to a 2023 survey by RAND, 65% of teachers across the country stated that they restrict discussions on political and social issues in their classes due to policies at the state and local levels. Counted in this survey were 55% of teachers who were not subject to any state or local restrictions.²⁵ The survey notes of teacher anxiety surrounding the attack on K-12 education:

Regardless of the presence or type of restriction, teachers said that they limited their instruction because they were afraid of upsetting parents and felt uncertain about whether their school or district leaders would support them if parents expressed concerns. Where teachers were not subject to any restrictions, lack of guidance from school or district leaders was another key reason that they limited their instruction. Where teachers were subject to local restrictions, a fear of losing their teaching jobs or licenses also drove their decisions.²⁶

²² <https://www.politico.com/news/2024/11/27/ohio-governor-bathrooms-transgender-students-00192010>

²³ <https://www.msn.com/en-us/news/us/uc-president-calls-biological-bathroom-signs-error-as-students-faculty-protest/ar-AA1zNE6i>

²⁴ https://www.rand.org/pubs/research_reports/RR1108-10.html

²⁵ https://www.rand.org/pubs/research_reports/RR1108-10.html

²⁶ https://www.rand.org/pubs/research_reports/RR1108-10.html

²⁷ https://www.rand.org/pubs/research_reports/RR1108-10.html

²⁸ <https://static1.squarespace.com/static/5c9542c8840b163998cf4804/t/6200834672ce5c1f48a326f9/1644200786726/MOTN-APM-Schools-CRT-Evol-SexEd%28Feb2022%29.pdf>

²⁹ <https://pen.org/report/americas-censored-classrooms-2023/>

³⁰ <https://static1.squarespace.com/static/5c9542c8840b163998cf4804/t/6200834672ce5c1f48a326f9/1644200786726/MOTN-APM-Schools-CRT-Evol-SexEd%28Feb2022%29.pdf>

II. What is this Political Moment, and How Did We Get Here?

PEN America has asserted that anti-LGBTQ+ curricula laws started proliferating after laws targeting speech around race, racism, and American history, otherwise known as anti-critical race theory (CRT) laws, “were overwhelmingly unpopular.”²⁷ In fact, research reveals that a mere 13% of the public believes state lawmakers should wield substantial influence over discussions on how racism and slavery are addressed in classrooms.²⁸ “But backers of educational censorship have by no means given up. They have simply shifted focus,” PEN America says in its 2023 report.²⁹ “In 2023, there was an explosion of gag orders restricting how K-12 educators discuss sexual orientation and gender identity, driven by the same broad group of legislators and advocates previously targeting so-called CRT.”³⁰

This is partially fueled by conservative “parent’s rights” groups that have been lobbying legislators to pass anti-LGBTQ+ laws. They are advocating for book bans, censorship, and restrictions on the content students encounter in public school classrooms, all under the guise of “parents’ rights.” While these groups say that these anti-LGBTQ+ bills empower parents, Movement Advancement Project (MAP), “an independent, nonprofit think tank ...[working] to create a thriving, inclusive, and equitable America”³¹, says that they actually “censor curricula and undermine supportive school climates.”³²

Some of the dominant organizations lobbying for anti-LGBTQ+ laws include:

- **“Moms for Liberty”** is an anti-government organization established in 2021 by former Florida school board members Tiffany Justice and Tina Descovich. According to the Southern Poverty Law Center (SPLC), it is an anti-student inclusion group that presents itself as a modern parents’ rights organization aiming to “unify, educate, and empower parents to defend and protect their parental rights at every level of government.”³³ Both the national organization and its chapters advertise their anti-government policies, promote hyper-conservative conspiracy theories, oppose LGBTQ rights and gender identity, and reject inclusive curriculum through their social media presence and real-world activities. The group encourages and trains its chapters and members to gain positions in local school districts, typically by seeking open school board seats, to address what they perceive as school districts disregarding the opinions of parents.
- **“No Left Turn in Education”** has emerged as a leading group spreading fear about teaching critical race theory in schools.³⁴ They have shared anti-LGBTQ material and slurs, and have suggested that accepting LGBTQ children dismantles the family unit.³⁵
- **“Parents Defending Education”** is a conservative non-profit organization that self-identifies as “a national grassroots organization working to reclaim our schools from activists promoting harmful agendas. Through network and coalition building, investigative reporting, litigation, and engagement on local, state, and national policies, we are fighting indoctrination in the classroom-- and for the restoration of a healthy non-political education for our kids.”³⁶ This group maintains on its website a list of school districts by state that have “Transgender/ Gender Nonconforming Policies that openly state that district personnel can or should keep a student’s transgender status hidden from parents” and records incidents of “indoctrination” at schools across the country which typically feature school policies that are anti-racist or pro-LGBTQ+.³⁷

²⁹ <https://pen.org/report/americas-censored-classrooms-2023/>

³⁰ <https://pen.org/report/americas-censored-classrooms-2023/>

³¹ <https://www.lgbtmap.org/our-work-and-mission>

³² <https://www.lgbtmap.org/file/2022-spotlight-school-bills-report.pdf>

³³ <https://www.splcenter.org/fighting-hate/extremist-files/group/moms-liberty>

³⁴ <https://www.mediamatters.org/education/no-left-turn-education-leading-anti-critical-race-theory-group-frequently-pushes-toxic>

³⁵ <https://www.mediamatters.org/education/no-left-turn-education-leading-anti-critical-race-theory-group-frequently-pushes-toxic>

³⁶ https://www.sourcewatch.org/index.php/Parents_Defending_Education

³⁷ <https://www.influencewatch.org/non-profit/parents-defending-education/>
https://www.sourcewatch.org/index.php/Parents_Defending_Education

These anti-LGBTQ+ extremist groups are part of a conservative movement that is attempting to defund public education and rollback civil rights protections for LGBTQ+ youth. According to the Southern Poverty Law Center:

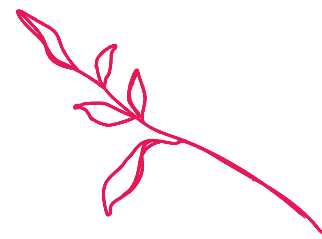
These groups denigrate lessons on diversity and inclusion. They spew homophobic and transphobic speech in the name of protecting their children's innocence, disregarding and disrespecting children in the LGBTQ+ community. They ban reading materials that they deem inappropriate, which almost always happens to be LGBTQ+ or non-white in subject matter. They embrace racist and nationalist ideology, claiming to want the teaching of America's accurate history in the schools but label the true, harsh history of the country as unpatriotic and unsuitable for children.³⁸

According to a detailed policy proposal within the Heritage Foundation's conservative initiative known as Project 2025: Presidential Transition Project³⁹ (which includes Moms for Liberty in its aligned organizations), the following changes are proposed:⁴⁰

- Title I, the \$18 billion federal fund for low-income students, would be phased out over the next decade.
- Federal special education funds would be provided to school districts as block grants without specific conditions, or allocated to savings accounts that parents could use for private school tuition or other educational costs.
- The U.S. Department of Education would be abolished.
- The federal government's authority to enforce civil rights laws in schools would be scaled back.⁴¹

Project 2025 also proposes removing "sexual orientation and gender identity" from all federal regulations and banning teachers from affirming transgender students.⁴² The extreme anti-transgender Executive Orders Trump issued in his first month of his second presidential term stem directly from these proposals.⁴³ A particularly radical aspect of Project 2025 equates transgender identity, or "transgender ideology," with pornography and advocates for its prohibition.⁴⁴ The conservative think tank suggests that educators and public librarians promoting transgender concepts should be listed as sex offenders, and that telecommunications and technology companies aiding in the dissemination of transgender ideas should be shut down.⁴⁵

It is clear that the second Trump era threatens the safety and education of all historically marginalized students. Sadly the SCOTUS has ruled in favor of laws that limit access to gender affirming care for minors and that allow parents to opt their students out of lessons and story time that present queer people in a good light. In *Mahmoud v. Taylor*, 606 U.S. ____ (2025), a case out of Maryland brought by parents with religious objections to their children consuming books portraying LGBTQ+ characters positively, the Court ruled that schools could continue to teach and include these books in elementary schools but that parents must be able to opt their children out of participating in these classroom activities.



³⁸ <https://www.splcenter.org/year-hate-extremism-2022/assault-inclusive-education>

³⁹ <https://www.project2025.org/policy/> and here https://cloudfront.mediamatters.org/static/D8File/2024/03/26/2025_mandateforleadership_full.pdf

⁴⁰ <https://www.edweek.org/policy-politics/what-would-happen-to-k-12-in-a-2nd-trump-term-a-detailed-policy-agenda-offers-clues/2024/03>

⁴¹ <https://www.edweek.org/policy-politics/what-would-happen-to-k-12-in-a-2nd-trump-term-a-detailed-policy-agenda-offers-clues/2024/03>

⁴² <https://19thnews.org/2024/06/LGBTQ+-trump-trans-second-term/>

⁴³ <https://www.mediamatters.org/project-2025/trumps-anti-trans-executive-orders-came-straight-out-project-2025>

Perhaps now more than ever, educators' and administrators' ethical obligations to protect students of color, queer, and other marginalized students are calling at the door - calling us to act. As racist and anti-LGBTQ+ laws impacting schools continue to rise across the country, many educators who care about these issues and the quality of student learning are wondering how they may resist these policies. Knowing the laws surrounding what rights students and educators are supposed to have to express and resist in schools can inform how you decide to advocate for students' safety and learning. The following section lays out and breaks down some of these rights.

III. Know Your Risks

Many educators understand the harmful impact anti-LGBTQ+ and anti-Diversity, Equity, Inclusion and Accessibility (DEIA) laws have on students, communities and on themselves. Familiar with laws like Title IX and the Civil Rights Act, for at least the past 50 years educators have been frontline workers in the fight for equality in our nation. This section provides an overview of laws that may protect educators and students who want to resist anti-LGBTQ+ and anti-DEIA laws that are harming their students as well as limiting classroom discussions and curricula. It also discusses some of the loopholes in the state laws that require educators to self censor, violate their professional code of ethics, and discriminate against LGBTQ+ students.

In the Federal portion, we review the First Amendment, Title IX, and Title VII of the Civil Rights Act to create a “Know Your Risks” spectrum tailored to educators. Teachers occupy a particular place because they are both individuals and employees. So, while the First Amendment protects citizens’ rights to engage in political speech, as public employees, public school teachers have more limited First Amendment rights. We explore these nuances, along with the rapidly changing Title IX landscape.

While Title IX is supposed to protect students and employees alike from sexual discrimination in any public school receiving federal funding, it has recently come under fire. The Biden Administration expanded Title IX protections to include LGBTQ+ students, but multiple states have challenged that expansion in court and are stating that they will not follow the new guidelines.⁴⁷ Federal employment law under Title VII of the Civil Rights act is another weaker, but still applicable tool to prevent retaliatory or discriminatory firing or discipline of educators.

While this section mostly focuses on federal protections that are at educators’ disposal, it ends by offering tips and encouragement to teachers for understanding what state laws may exist in your community that supplement these federally-afforded protections. We weave all of the above laws into a spectrum of risk. This synthesis can help teachers more easily estimate the potential legal risk around various actions. This guide is not legal advice; it is an overview of the current legal landscape and how some laws could protect educators as they advocate for themselves and their students.

1) Federal Protections

First Amendment

Most people think the First Amendment is a broad blanket that allows Americans to speak their minds without government interference. However, the reality is much more complicated. First, speech is not just what you say, it can also be your actions, what you wear, or how you decorate your classroom. It is a broad concept that includes many forms of self-expression. Second, teachers, especially public school teachers, have limited First Amendment rights because they are government employees.⁴⁸ Courts have distinguished between “government speech” and “individual speech.” When teachers are speaking as government employees, which means within the course of their jobs, they have curtailed First Amendment rights. The government can impose restrictions on their speech that would violate the First Amendment if the teachers were everyday citizens.⁴⁹

Speech does not just refer to what someone says. Teacher speech can include things like:

- sending letters and speaking to public officials;
- communicating with students and parents in-person, in writing, online or over other forms of communication;
- wearing pins and other clothing items;
- posting on social media;
- decorating your desk, water bottle, coffee mug or car; and
- hanging banners and signs on school property.

Not all of these examples are permissible as protected free speech, but some of them are. For example, if a teacher hangs banners on school property, they are very likely acting within their role as a teacher, and will be subject to school and state regulations that regulate these displays. However, if a teacher wears a pride pin on their personal ID lanyard, this would likely be considered protected speech.

⁴⁷ <https://www.nbcnews.com/nbc-out/out-politics-and-policy/five-republican-led-states-sue-bidens-new-title-ix-transgender-protect-rcna149855>. List states that aren’t enforcing new guidelines.

⁴⁸ *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968).

⁴⁹ In the *Brown v. Chi. Board of Educ.*, the 7th Circuit held “that a teacher’s in-classroom speech is not the speech of a ‘citizen’ for First Amendment purposes” within a K-12 context.”

Because public school teachers are government employees, when they are acting within their role as teachers, they do not have the same First Amendment rights as other citizens. Instead, school and government policies can legally restrict public school teacher speech.⁵⁰ Consequently, the First Amendment only protects public school teacher speech when they are speaking out as a concerned citizen on matters of public import. In order for the First Amendment to protect public school teacher speech, the speech must satisfy a series of 3 questions:

- 1) Is the teacher speaking out as an individual or an employee?

Courts have frequently held that speech during the school day or within a teachers' responsibilities is government speech, not individual speech. The First Amendment does not apply to government speech, so the government, and by extension the schools, have broad First Amendment leniency to regulate what teachers say while they are "on the clock." Therefore, the First Amendment likely does not protect protests in the classroom, during the school day, or during other official duties, such as overseeing extracurricular activities. "Common examples of where this is so include when educators are teaching a class, coaching a team, holding a parent-teacher conference, and driving a school bus."⁵¹ In these environments educators have very limited individual speech rights and can be punished for their speech when it does not conform to laws, rules, and regulations.

- 2) Is the speech related to matters of public concern?⁵²

In order for teacher speech to be protected, it has to be related to a matter of "political, social, or other concern to the community."⁵³ It is more likely that a teacher's speech will be protected when it pertains to issues that are political in nature and important for the larger community to understand...

- 3) If the speech is regarding a *matter of public concern*, the Court balances the government's interest "in promoting the efficiency of the public services it performs through its employees" with the teacher "as a citizen commenting upon matters of public concern."⁵⁴

This balancing test was first introduced in *Pickering v. Bd. of Educ.* when a teacher was unconstitutionally dismissed from his position for sending a letter to the local newspaper regarding recent tax increases. In this letter, the employee also criticized the School Board's financial acumen. The test considers:⁵⁵

- The possibility of disruption
- Disharmony among co-workers that could affect the efficiency of the workplace⁵⁶
- Whether the speech was regarding matters of public concern⁵⁷
- Does the speech impact the actual functioning of the school⁵⁸

In *Pickering*, the Court held that the public letter was a valid exercise of the teacher's First Amendment rights, because it was on a matter of public import, and created minimal disruption within the school.

Examples of constitutionally protected speech include:

- testifying before a state legislature or school board,
- speaking as a member of an educators union at public meetings,
- testifying in a court of law,
- sharing concerns about funding during meetings held to address these topics, and
- making statements or memos that relate to the school's functioning outside of work time.⁵⁹

Overall, actions that do not "disrupt" an efficient use of the school's functioning and resources are more likely to be protected First Amendment speech.⁶⁰

⁵⁴ *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968). It is important to note that slightly different standards govern when individuals are making specific attacks on another individual, especially a superior. *Id.* at 574 (applying *Garrison v. Louisiana*, 379 U.S. 64 (1964) and *Wood v. Georgia*, 370 U.S. 375 (1962)).

⁵⁵ "We only hold that when a public employee speaks not as a citizen upon matters of public concern, but instead as an employee upon matters only of personal interest, absent the most unusual circumstances, a federal court is not the appropriate forum in which to review the wisdom of a personnel decision taken by a public agency allegedly in reaction to the employee's behavior." *Connick v. Myers*, 461 U.S. 138, 147 (1983).

⁵⁶ *Id.* at 570.

⁵⁷ *Id.* at 571-72.

⁵⁸ *Id.* at 571.

⁵⁹ For testifying before a state legislature see *Perry v. Sindermann*, 408 U.S. 593 (1972). For a case on concerns about funding see *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968). For a case on testifying in a court of law, see *Lane v. Franks*, 573 U.S. 228 (2014).

⁶⁰ "Analysis of when teachers can be punished for their speech are quite complicated, especially post-Garcetti. A court must determine whether the teacher's speech was made as a citizen or as an employee. If the teacher made the speech as an employee rather than as a citizen, then First Amendment protections will not be triggered, although they might be triggered if the comments were made in the context of teaching or research. Even if First Amendment protections are thereby triggered, how much protection is added has not been specified and the First Amendment protection may be overridden if the speech causes workplace disruption. Such a jurisprudential approach has led to similar cases being decided differently in the circuits." Mark Stasser, *Pickering, Garcetti, and Academic Freedom*, 83 Brook. L. Rev. 579, 595 (2018).

⁵⁰ "A governmental employer may impose certain restraints on the speech of its employees, restraints that would be unconstitutional if applied to the general public." *City of San Diego v. Roe*, 543 U.S. 77, 80 (2004).

⁵¹ <https://www.nea.org/resource-library/first-amendment-protections-educators>

⁵² *Connick v. Myers*, 461 U.S. 138, 149 (1983).

⁵³ *Id.* at 146.

However, the divide of on and off duty is not always binary. “Where an educator is on the clock, but not engaged in official duties there may be some First Amendment protection for their speech.”⁶¹ For instance, conversations in the teachers lounge between staff members during staff breaks should be protected. However, conversations with students, even if part of open classroom debate, can be limited. The courts tend to look at the fact that teachers hold a position of power and influence, and that their speech is essentially hired speech. During periods of instructional classroom time, teacher speech is most limited. During periods of informal supervision, like lunch duty, recess, and carlines, the law is less clear but leans towards restricting speech.

• **The First Amendment and Visual Expression**

When it comes to hanging banners and other visual signs of support, there are different restrictions. Any sign or visual display attached to the physical wall of the school can be considered government speech and therefore is not protected by the First Amendment.

Courts have not protected public school teachers’ ability to hang signs and banners in their classrooms, because the school walls are considered an extension of the government’s own speech.⁶² Teachers have far greater First Amendment protection when the visual display is on their own person or personal property, like a lapel pin, bracelet, or water bottle sticker. For example a teacher may not hang a cross on the wall of their classroom, but they can wear a cross on their necklace. Likewise, a teacher may not be able to hang a pride flag on their classroom wall, but they may wear a pride flag pin. See Stories 1, 2 and 7 for examples of this resistance in Frontline Stories.

• **Risk Levels of Specific Speech Related Activities**

The chart below shows specific actions educators can take and the level of risk associated with each action. As of March 1, 2025 none of these actions can result in civil or criminal liability against educators. Disciplinary action could be taken against educators who engage in the most and moderate risk categories without administrative support.

Most Risky (Least Amount of 1A Protection)	Moderate Risk (Some, Debatable 1A Protection)	Least Risky (Most Likely to Be Protected by 1A)
• Actions that disrupt schooling taken during a teacher’s official duties. • Political statements during lessons or student debates. • Displays of political or religious statements or symbols on school property; including bulletin boards and classroom walls. • Using books or lessons that deviate from the assigned curriculum. • Handing out flyers with religious or political messages during class or while on school property • Responding to student questions at school regarding political actions while off duty, like attending a protest.	• Actions during down time on the school’s premises that do not fall within official responsibilities (like conversations in the teachers lounge during breaks and during lunch breakbunch or recess). • Handing out flyers near the school but off school property, before or after official school hours. • Having personal items on your desk that demonstrate certain beliefs like a pencil holder on your desk that says “trans kids matter” or a rainbow mouse pad at your personal work computer.	• Actions taken outside of school duties (off school grounds is helpful) regarding matters of public concern. • Speaking at a public meetings off campus not in your capacity as an educator. • Posting messages on one’s personal social media site that are clearly one’s own personal opinions. • Wearing non-disruptive symbols on one’s person that show your personal moral or religious beliefs (like pronoun pins, pride lapel pin, or a statement bracelet). • Having affirming stickers on one’s personal water bottle, coffee cup or car.

⁶¹ <https://www.nea.org/resource-library/first-amendment-protections-educators> ; see also *Kennedy v. Bremerton*, which has a relatively narrow holding but is an illustration of this concept.

⁶² In a case from 2011, the Ninth Circuit ruled that the First Amendment did not protect a high school calculus teacher who was prominently displaying religious banners in his classroom. The public school was “free to ‘take legitimate and appropriate steps to ensure that its message [was] neither garbled nor distorted.’” *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 957 (9th Cir. 2011) (citing *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 833 (1995)).

Title IX

Title IX is a landmark federal law that states, “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[.]”⁶³ Over the past 50 years, courts have found Title IX to cover a wide range of issues including: “sex-based harassment; sexual violence; pregnancy discrimination; the failure to provide equal athletic opportunity; sex-based discrimination in a school’s science, technology, engineering, and math (STEM) courses and programs; discriminatory application of dress code policies and/or enforcement; and retaliation.”⁶⁴

Because Title IX has been the law of the land for over 50 years, many school districts looked to it for guidance when they found themselves forced to comply with state based anti-LGBTQ+ legislation like “Don’t Say Gay” laws and Parent Bills of Rights. Specific districts, such as Chapel Hill-Carrboro School District in North Carolina, had concerns that state laws like Senate Bill (SB) 49 in North Carolina, which required forced outing of students, use of improper pronouns and dead names, and prohibitions on instruction on sexuality and gender identity, violated Title IX. On this basis, some of these districts refused to implement these parts of the law in their district.⁶⁵ Faced with having to discriminate against their students in violation of their moral and professional ethics and federal legal obligations, teachers and school boards brought lawsuits challenging these state laws across the country.⁶⁶

This understanding of federal law stems from the Supreme Court’s ruling in *Bostock v. Clayton County*, written by Justice Gorsuch in 2020, that sex discrimination prohibited by Title VII of the Civil Rights Act of 1964 included discrimination based on transgender status and/or sexual orientation.⁶⁷ A series of court cases across the country has applied this ruling to Title IX, protecting transgender students from discrimination on the basis of gender identity, allowing them access to sports teams,⁶⁸ and bathrooms that matched their gender identity.⁶⁹ Additionally, on

March 26, 2021, the U.S. Department of Justice Civil Rights Division issued guidance to all federal civil rights offices and general counsels that, because of *Bostock*, Title IX’s prohibition on discrimination on the basis of sex also includes discrimination on the basis of gender identity and sexual orientation.⁷⁰

In January 2024, we began this project to support educators committed to ending discrimination and protecting inclusive communities. We awaited the federal government’s intervention to declare state laws requiring blatant sex and gender discrimination in curricula and in things as deeply personal as what name, pronouns, and bathroom one uses as violating Title IX. Early on, the Biden administration took an explicit stance against discrimination on the basis of gender or sexual orientation, issuing an executive order stating:

“Every person should be treated with respect and dignity and should be able to live without fear, no matter who they are or whom they love. Children should be able to learn without worrying about whether they will be denied access to the restroom, the locker room, or school sports.”⁷¹

On April 19, 2024, the Biden Administration released its “Final Rules” for Title IX’s. Following the U.S. Department of Education’s (“ED”) “long-standing interpretation, its prior guidance, and the Supreme Court’s rationale in *Bostock v. Clayton County*, the rule makes clear that discrimination on the basis of sexual orientation and gender identity (as well as discrimination based on sex stereotypes and sex characteristics) is prohibited sex discrimination.”⁷² While not a new interpretation, it is the first time “explicit protection against sexual orientation and gender identity discrimination has been formalized in Title IX regulations, giving it the force of law.”⁷³

⁶⁸ *West Virginia v. B.P.J.*, 143 S. Ct. 889 [2023], <https://www.ca4.uscourts.gov/opinions/231078.P.pdf>

⁶⁹ “Title IX Cover Addendum post-Bostock - Editor’s Note” DOJ Civil Rights Division, <https://www.justice.gov/crt/title-ix#Bostock>

⁷⁰ See, <https://gaycitynews.com/justice-department-explains-bostock-ruling-to-federal-agencies/> and <https://civilrights.org/biden-timeline-issue/#referencing>, “Letter from Pamela S. Karlan, Principal Deputy Assistant Attorney General for the Civil Rights Division, to Federal Civil Rights Directors and General Counsels (Mar. 26, 2021)” formerly available at <https://www2.ed.gov/about/offices/list/ocr/correspondence/stakeholders/educator-202106-tix.pdf>

⁷¹ “Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation,” *The White House*, President Biden, January 20, 2021.

<https://bidenwhitehouse.archives.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation/>

⁷² “Protections Against Discrimination on the Basis of Sex, Including Sexual Orientation and Gender Identity, and Pregnancy and Related Conditions Under the New Title IX Final Rule.” National Education Association. May 20, 2024 <https://www.nea.org/resource-library/title-ix-final-rule-protections-against-discrimination>

⁷³ *Id.*

⁶³ “Sex Discrimination - Overview of the Law” U.S. Department of Education, <https://www2.ed.gov/policy/rights/guid/ocr/sexoverview.html>

⁶⁴ *Id.*

⁶⁵ “CHCCS board chooses not to comply with some parts of Parents’ Bill of Rights.” *The Daily Tar Heel*, <https://www.dailytarheel.com/article/2024/01/city-chapel-hill-carrboro-city-schools-board-of-education-0118>

⁶⁶ Campaign for Southern Equality files federal complaint against S.B 49 <https://www.dailytarheel.com/article/2024/01/city-sb-49-campaign-southern-equality-federal-complaint>

⁶⁷ *Bostock v. Clayton County*, 590 U.S. 644 (2020); see also, “The Supreme Court’s Landmark LGBTQ+ rights decision, explained in 5 simple sentences.” *The Vox*. <https://www.vox.com/2020/6/15/21291515/supreme-court-bostock-clayton-county-lgbtq-neil-gorsuch>

These rules apply to a broad range of topics including dealing with sexual harassment claims, sexual violence allegations, sex discrimination and the treatment of pregnant students or those recently giving birth. The Final Rules prohibit harassment and discrimination based on sex characteristics, sexual orientation, and gender identity. The rules state that schools cannot subject students to more than *de minimis* harm when they separate or treat people differently because of their sex. Clarifying this standard, the rules recognize that “preventing someone from participating in school (including in sex-separate activities) consistent with their gender identity causes that person more than *de minimis* harm.”⁷⁴ This includes things like consistent misgendering of students and educators and allowing students and educators to use bathrooms consistent with their gender identity, while explicitly allowing an exemption to this standard for “sex-separate living facilities and sex-separate athletic teams.”⁷⁵ Additionally, this rule, as federal law, supersedes any state law that conflicts with it, such as bathroom bans for transgender students or pronoun restrictions.⁷⁶

In response to the Final Rules, 26 Republican-led states, along with several private organizations across the country, sued the Biden Administration and ED to prevent the Final Rules from being enforced in their states.⁷⁷ As of September 21, 2024, the Final Rules were blocked from going into effect in Alabama, Alaska, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Montana, Ohio, South Carolina, Tennessee, Utah, Virginia, West Virginia, and Wyoming.⁷⁸ These cases were all under appeal by the federal government when Biden was in office.

In addition to these state-led lawsuits, private citizen groups including Moms for Liberty, Young America’s Foundation and Female Athletes United, claimed that the Final Rules violated their freedom of religion and speech and created unsafe learning environments for girls who did not feel comfortable using the bathroom with transgender students. These groups extended their arguments to include students whose “religious beliefs” prohibited the idea that gender could be changed. In late June, these private groups sought and won court orders to block the Final Rules from being enforced in Alaska, Kansas, Utah, Wyoming and any school, including colleges, where a member or child of a member of these organizations attends. Nothing

in these lawsuits blocks schools from updating their Title IX policies to align with the Final Rules within their districts. However, the rules cannot currently be enforced by the Federal Government in over 850 counties and over 700 colleges across the country. Because of this, individual schools in the same district have different abilities to apply Federal Law, ensuring even more confusion among educators as to what laws they should follow during the 2024/2025 school year.⁷⁹

The year 2025 began with a preposterous legal situation in which the Federal Government was blocked from enforcing legally-enacted Federal Law in all but one of the Southern states. This has not happened since the 1950’s during the Civil Rights Movement when Southern states fought against racial integration of schools. Notably, North Carolina stands as the only Southern state where the Final Rules could be enforced, arguably blocking SB49’s requirement to out students, use biological pronouns and legal name only unless given parental consent.⁸⁰ Because of this, educators in North Carolina had a strong federal basis for refusing to comply with these parts of SB49 during the 2024-2025 school year. Educators and schools in Democratic-lead states could lean on the Final Rules’ inclusion of gender orientation and sexual identity in the realm of Title IX protections against sex based discrimination, as a legal basis for protecting and respecting the dignity of LGBTQ+ students and faculty members. Because of the Final Rules, educators had legal basis for using student’s chosen names, gender affirming pronouns, refusing forced outing to parents and allowing transgender students access to gender-aligned bathrooms.

Heartbreakingly, this all changed on January 9, 2025 when a federal district court in Kentucky ruled that the U.S. Department of Education’s 2024 Title IX regulations were invalid for various reasons and vacated them entirely nationwide. This court order implies that the Title IX regulations enacted in 2020 during Trump’s first term should be followed nationwide in place of the Final Rules.⁸¹ This ruling coupled with Trump’s executive orders declaring the existence of only two genders, male and female, and complete refusal to acknowledge or respect any courts’ or states’ determination of a person’s legal or chosen gender, will likely render Title IX completely impotent to protect transgender students or educators. Despite these federal setbacks towards

⁷⁴ “Fact Sheet: U.S. Department of Education’s 2024 Title IX Final Rule Overview.” <https://www.cmu.edu/title-ix/university-response/files/t9-final-rule-factsheet-2024.pdf>

⁷⁵ See fn 11 above

⁷⁶ Id.

⁷⁷ Id.

⁷⁸ <https://www.cmu.edu/title-ix/university-response/files/t9-final-rule-factsheet-2024.pdf> and <https://www.lawdork.com/p/sixth-circuit-title-ix-rule-stay-denial>

⁷⁹ <https://www.lawdork.com/p/judge-denies-moms-for-liberty-request> and <https://www.lawdork.com/p/kansas-title-ix-injunction-colleges>

⁸⁰ <https://www.carolinajournal.com/nc-only-southern-state-to-adopt-bidens-title-ix-gender-rules/>

⁸¹ <https://www.hklaw.com/en/insights/publications/2025/01/2024-title-ix-regulations-vacated-nationwide-what-you-need-to-know>

full inclusion and protection of all people regardless of their sex, nothing prohibits states from enacting their own laws protecting transgender students and educators. In fact, many Democratic-led states are urging resistance in compliance with these blatantly discriminatory executive orders which violate federal civil rights laws and the First Amendment of the US Constitution.⁸² While these orders have strong language, they have little force of law, the President has no authority to overturn constitutional law or federally enacted legislation by executive order. It is paramount that any institution, from the state level to local school boards, that supports full inclusion of all people in America's schools resist these orders and refuse to comply.⁸³

Sadly, rather than having a strong federal law protecting all people from sex discrimination in federally funded schools, the protections of Title IX have been culled.⁸⁴ Teachers can and should look to other long standing federal law, such as Title VII, their own rights under the First Amendment, and their duty to protect and respect their students when resisting discriminatory state laws, executive orders and lower court interpretations of Title IX. This may change as litigation on the Final Rules moves forward. The law on Title IX is not settled because the Trump administration has not gone through the legislative process necessary to replace Biden's Final Rules, and history suggests that federal law preempts state laws.⁸⁵ If you live or work in a state with a Democratic Governor, the Final Rules might be enforceable down the road; however, they will not be enforced by the current Federal Government under the Trump administration. In fact, the current administration has threatened cuts to federal funding of schools that offer social support to transgender students, creating a quagmire for schools committed to following long standing civil rights laws and the best interests of their students. Despite these dangers, educators are resisting. An Elementary Librarian we interviewed leaned on her knowledge of federal civil rights law and her duties as an educator to challenge attempts to limit access to inclusive books and spaces at her school. See Stories 3 and 5 in Frontline Stories for personal examples of this resistance.

Title VII of the Civil Rights Act

Title VII of the Civil Rights Act makes it illegal for employers to discriminate against employees because of their race, color, religion, sex or national origin.⁸⁶ In 2020, the U.S. Supreme Court ruled that under Title VII sex discrimination includes discrimination based on transgender status and/or sexual orientation.⁸⁷ "Over 30 years ago, the Supreme Court in *Price Waterhouse v. Hopkins* ruled that these policies also protect people against sex stereotyping – for instance, women who some people think are "too masculine" or men who some people think are "too feminine."⁸⁸ Therefore, employees of public, charter and private schools in all states can look to Title VII for protection from discrimination on the basis of sexual orientation, gender expression, and/or gender identity.

Under recent court decisions this means that schools cannot force people to use pronouns or titles based on their biological gender at birth. Therefore, if you are a transgender or non-binary person you should be able to use pronouns and titles that align with your gender identity. Recently, a Florida law requiring teachers to use only their biological pronouns was blocked by the courts on the basis that it violated Title VII, the first amendment and possibly Title XI as a sex-based condition of employment. The Court concluded that it erred when it previously ruled "pronoun policy discriminates [on the basis of sex] with respect to Plaintiffs' terms, conditions, or privileges of employment."⁸⁹ This case is moving forward to trial, but the fact that the state has been blocked from forcing transgender educators to use pronouns based on their biological birth is a win for transgender educators everywhere⁹⁰ and continues the positive trend of appeals court's ruling in favor of transgender employees.⁹¹ See "Existence is Resistance" in the Front Line Stories section of the manual to hear one educator's personal resistance story.

⁸⁵If you chose to resist state law on the basis of federal law and are disciplined for this action, make sure to include a statement to this effect in any response you make to being disciplined. You could say something like, "I do not want to violate Federal Civil rights laws including Title XI and Title VII, so I am not going to discriminate against my student (or coworker, etc.) on the basis of their sex." If you face further discipline you will have to make the personal decision of continuing to resist the discriminatory state law and face employment consequences or follow the directions of your supervisor and protect your job. Staying in your job is powerful. Each time you have to violate your own consciousness to stay in your job you can make a written statement to this effect to send to HR or your administrator. You can also privately, outside of your instructional time, let queer students know that you disagree with state policy. As litigation progresses this might be useful in future lawsuits.

⁸⁶<https://www.justice.gov/crt/laws-we-enforce>

⁸⁷see footnote 54

⁸⁸<https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/internal/policies/gender-identity>

⁸⁹<https://www.lawdork.com/p/florida-trans-pronouns-ban-sex-discrimination>

⁹⁰ *Id.*

⁹¹<https://www.lawdork.com/p/appeals-court-revives-trans-employees>

⁸²<https://thehill.com/homenews/LGBTQ+/5128757-trump-order-gender-affirming-care-transgender-rights-blue-states/>

⁸³<https://truthout.org/articles/trumps-anti-trans-education-order-relies-on-intimidation-we-must-not-yield/>

⁸⁴<https://storage.courtlistener.com/recap/gov.uscourts.ksd.152561/gov.uscourts.ksd.152561.72.1.pdf> is the list of schools submitted to the court by Moms for Liberty. If your school is listed here the Title IX final rules may not be applied to your school for the time being. This could change once the US Supreme Court rules on the appeal.

Federal Rights Considerations for Private & Charter School Teachers

The First Amendment does not apply to every school; it only acts as a restraint on the government and does not apply to private entities.⁹² Therefore, teachers in private schools might have to rely on legal mechanisms outside of the First Amendment to protect their speech, actions, and employment.

There are also schools that exist in the gray area between a public and a private school: charter schools. Considered neither public nor private, for the purposes of applying the First Amendment, the court characterizes charter schools on a case-by-case basis. Looking at how the state characterizes charter schools in their statutes, the school's funding streams, and other aspects of their governance, courts determine whether charter school employees are public employees.

The findings vary based on the court, so charter school employees cannot be reliably categorized in either category.⁹³ Consequently, their actual First Amendment rights are in flux. Charter school employees can look to the mission and vision statements and by laws of their individual schools for guidance. As schools receiving Federal funding, the protections of Title IX do apply to charter schools and to private schools that receive federal funding.⁹⁴ All of the protections of Title VII of the Civil Rights Act also apply to charter schools and private schools (with some slight caveats for religious institutions), and neither can discriminate against a person because of their status as a person belonging to one of the groups protected by the law.⁹⁵

⁹² *Herbert v. Lando*, 441 U.S. 153 (1979) (incorporating the First Amendment through the Fourteenth Amendment).

⁹³ See *Pocono Mountain Charter School v. Pocono Mountain School Dist.*, 908 F.Supp.2d 597 (2012) for court analysis on state-charter school relationship. *Caviness v. Horizon Community Learning Center, Inc.*, 590 F.3d 806 (9th Cir. 2010) (holding that Horizon Community Learning Center was not a state actor); *Peltier v. Charter Day School, Inc.*, 37 F.4th 104, 115-124 (4th Cir. 2022) (for state action analysis regarding whether individuals could bring constitutional challenges against a North Carolina charter school. Held that Charter Day School was a state actor).

⁹⁴ <https://toyandassociates.com/blog/does-title-ix-apply-to-private-schools/>

⁹⁵ https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/intersection-of-LGBTQ+-rights-and-religious-freedom/what-the-supreme-court-giveth-can-religious-schools-taketh-away/

2) State Protections

State laws can more robustly protect teachers. For state-by-state guidance, it is best to contact or seek out your local chapter of the National Educators Association. Unfortunately it is also state laws that are sowing the most fear and confusion among educators who strive to maintain inclusive and supportive classrooms, and believe in public education's ability to deeply improve the lives of students and the trajectory of our democracy. If you are an educator in a state that has passed one of the many harmful laws discussed in the first section, know that you can resist these laws.

These laws have many names but have the common requirements of:

- censoring stories that include gay or trans characters;
- prohibiting instruction on gender, sexuality or sexual orientation;
- obtaining signed permission from parents before teaching anything related to sexuality or human anatomy;
- banning trans students from using the bathroom of their choice;
- requiring teachers to call students by their legal name
- and biological pronouns, rather than chosen names and pronouns;
- prohibiting teaching related to diversity and inclusion or critical race theory; and
- prohibiting transgender educators and staff from using the titles and pronouns of their choice.

As discussed in the sections above on Title IX and Title VII all of these laws are very likely unconstitutional. Furthermore, while these laws have a lot to say about what can and cannot be done in schools, most of them have nothing to say about what should be done to educators who refuse to comply. The laws are extremely vague and are left to local districts to implement and enforce. Only one of the state level laws has the possibility of imposing criminal liability on teachers for non-compliance with these blatantly discriminatory and harmful laws. Florida threatens felony charges for teachers who do not comply with their rigorous book censorship law. Felony charges are not actually included in the book censorship laws themselves; however, teachers could be prosecuted for violation of older laws that prohibit providing pornographic content to minors. This has been the case for decades, and most banned books in schools do not contain any pornographic content. To our knowledge, no teacher has been charged under this law.

Also, to our knowledge, all state laws also have an exemption from outing students or complying with the law if doing so might cause harm to a child or put them at risk of harm. In the two states that impose criminal trespass charges in very narrow circumstances against people who refuse to leave bathrooms that do not match their biological identity, there is no criminal liability for transgender students, educators and staff members of schools who use a bathroom that conforms to their gender identity at school. Although in Florida, these groups can be discriminated against and subject to discipline if they are asked to leave the bathroom and do not.⁹⁶

In contrast and conflict with these new state laws is the long required ethical duty of teachers to protect students in their care, treat them with dignity and respect, and prevent race and sex based discrimination.⁹⁷ Teachers as mandated reporters in all states are also legally obligated to protect students from harm and to report suspected harm.⁹⁸ It is precisely because of these ethical and legal duties that teachers can technically comply with the requirements of these state laws and refuse to follow mandates to out students to parents or only use the names or pronouns on their student record, rather than chosen names and pronouns. Both of these actions can harm students thus violating teachers' ethical and professional duties and possibly put the student at risk of harm at home. There is simply no way to know how a parent will respond to a forced outing; if a student is not ready to come out to their parents this is reason enough not to out them for their own safety and wellbeing. See "Safety is our First Priority" and "Discretion is a Super Power" in the Stories from the Front Line Section to understand this strategy for resistance.

This section is made up of writings detailing teachers and parents who have been navigating being subject to anti-LGBTQ+ laws in education in their communities. We offer these stories so that teachers may be able to relate, think creatively about strategies under anti-LGBTQ+ restrictions, and continue to connect and build hope.

IV. Frontline Stories - Educators and Parents Share Their Own Strategies for Resistance

1) Existence is Resistance: A Nonbinary Paraeducator's Advice for Queer Educators

Despite Maryland's statewide shield laws providing strong civil rights protections for gay and transgender individuals, Mac Miller⁹⁹ faced direct discrimination for simply existing. As a non-binary person they adopted the title "Mx." instead of Ms. or Mr. Mac came out as non-binary during covid lockdown in a very public way on TikTok. When they were teaching online they identified themselves as "Mx. Mac - they/them" on their Zoom ID. Their pre-K students who couldn't even read didn't even notice; but their lead teacher and administrators were supportive and celebrated the expression of their new found identity. When they returned to in-person teaching in fall of 2021 they began always wearing a they/them pronoun pin, and put a they/them sticker on their lanyard with their required staff ID. As an inclusion support educator, sharing their identity openly and proudly felt deeply important to them. A year after coming out, they began college to earn a degree in special education and look forward to one day having their own classroom in this much needed field.

In 2022, one morning as they greeted students being dropped off at school, a parent saw their pronoun pins and glared at them. Recalling this time Mac shared, *"There's still a significant amount of backlash that queer teachers face just for existing. I have two students whose parents know about my identity and you know brought it up. They threw a whole stink and tried to get me fired just because I'm out and I'm gay... One student I had never even met before! My admin showed me a picture of this student and asked, 'Hey do you know this kid?' and I was like, 'No who's that?' They were like, 'This is his name, this is his picture um don't talk to him ever.'"*

This happened just after Mac started college to pursue a teaching degree in one of the most needed educational fields, special education. The experience made them question the decision and their safety in the profession. Mac shared this concern, *"You know in both cases admin was great and they were just like, you now have our full permission to never interact with these two students ever again. But that's not*

⁹⁶<https://www.aclufl.org/en/know-your-rights/know-your-rights-floridas-public-restroom-changing-facility-ban> and <https://www.acluutah.org/en/know-your-rights/faqs-hb-257>

⁹⁷<https://www.nea.org/resource-library/code-ethics-educators>

⁹⁸<https://www.educationcorner.com/teachers-mandated-reporters/>

⁹⁹Name changed for identity protection. Mac has served as an early elementary inclusionary support and paraeducator for the past four years in a conservative county in the blue state.

always guaranteed. I'm worried going into student teaching and having my own classroom and being a more forefront person who interacts with parents more that my identity would become a bit of an issue. Unfortunately there's no blanket protection; there's only my admin who happens to be really great protection. But a different school could have had a different outcome in those two situations."

Because of this realization Mac took a concrete step to help ensure their safety and protect the rights of other teachers too. They joined their local teachers union. In response to some local activity from Moms for Liberty, the union recently formed a committee specifically for LGBTQ+ educators. As part of the union Mac was alerted to any actions at the state or school board level that would affect the LGBTQ+ community. When Moms for Liberty pushed for a county wide book ban on books that were not even in the schools, the union fought it. When the same organization tried to get the school board to pass a hyper-local parent bill of rights, in violation of state law; the Union and a group of politically informed highschool students, who didn't want their education compromised by right wing propaganda, spoke out to block it. Mac described the scene, *"I went to the board meeting and there were quite a few high school students who spoke up and were just like this literally interferes with our curriculum... When you look at an AP world history course and government course part of that is learning how to have these hard discussions. You're saying that the teacher can't allow these? That's directly interfering with our education."*

Mac recalled the first time they spoke with the union at a school board meeting during this emotional but empowering time, *"I believe the sentence that I said was, 'I'm vibrating like a cat right now because I am a horribly anxious person.' I was also crying."* Mac shared how harmful the proposed policies would be and how negatively they would impact not only students but also educators. These policies actually put both groups at risk of harm and negatively impacted their ability to learn and teach. One proposal deeply troubled Mac: the possibility of forcing teachers to out students to their parents. *"If a student were to come up to me and be like, 'Hey Mx. Mac, I'm gay.' I would have to say I have to tell your parents which I would never do... Like I would sooner lose my job than out a child to their parents."*

Mac continued recalling speaking with the union at a subsequent meeting: *"By the second time I was not crying; I was just vibrating. But don't be afraid to cry. It's okay to be emotional about things because it is something that affects your life and the livelihoods of your friends and co-workers. So like, that's okay!"*

When asked what Mac would recommend to other queer educators who want to resist similar laws to the one they helped defeat in their district they responded: *"I would say first, only resist if you're able to be safe in your job. If you're not safe in your job then what is the point in resisting, you know because you're just gonna be fired from your job and not able to meaningfully resist in any way. So your existence and your presence is, if that's all the resistance that you can offer, that is a-okay. ...I always said that my core value of living in the world is just doing the most good that I'm able to do. If the most good that you're able to do is just being out; being you. ... If you can't have a pride flag on your desk that's okay. I think the biggest thing that I've been able to do so far is that a couple of years ago I had a group for three fifth graders who were all non-binary gender diverse fifth graders. They were just like, 'Oh my god a non-binary adult!' I know one of them could not be out to their family.... They approached me and asked me to do a lunch bunch with them. I was like, 'Yes! I need to talk to people.' I talked to the guidance counselor, talked to admin and we did it all the right ways. I had the lunch bunches in the guidance counselor's office with the guidance counselor there so that way if anything went wrong and came back to bite me there was another person there. You know if that's all that you can do; if you can't even do that, it's okay. I think that was like my biggest gay though."*

2) The First Amendment's Fine Line: One Educator's Strategy for Letting Her Students Know They are Safe and Welcomed in the Library

A 20- year veteran elementary school librarian uses signs and symbols to show the library is a safe space for all students. After growing up with a gay sister in rural Tennessee, Naomi Jones,¹⁰⁰ the media specialist for a K- to 4 library in Western NC wanted to make her library a safe place for queer students. About a decade ago she started hanging the blue and yellow equal sign stickers of the Human Rights Campaign near her where students who knew what it meant could see it. Seeing this let the gay and gender diverse students at her school know they were safe with her and could come

¹⁰⁰Name changed for identity protection.

to her for suggestions on books they really wanted to read. Every year she would have at least one 3rd or 4th grader tell her they thought they might be gay and request books with gay characters. She explained that usually they would read one book that allowed them to explore this idea and then move onto stories of dinosaurs or magic.

In 2022, when the news had so much coverage of Florida's "Don't Say Gay or Trans" law, Ms. Jones felt it was more important than ever to create safe spaces for queer students and wanted to have a sign showing this in the library that all students would understand. She printed out a small sign that had the words ALL ARE WELCOMED HERE printed over a rainbow background. She also got a rainbow mouse pad for her desk. She posted the sign at student eye level at the entrance and exit of the library.

Within a couple of days she got called into the principal's office. The principal, who had only recently become an administrator, explained that she had received complaints about the sign and asked her to take it down. Ms. Jones asked for clarification because the message was simply one of inclusion and welcoming of all students. She also asked if the complaint had come from a staff member, student or parent? The principal shared that a staff member complained about the sign and reported that it made her feel uncomfortable every time she walked past the library. She asked the principal to ask the staff member which group she would not like to have welcomed into the library. The principal couldn't really respond to this because she knew which group the teacher was uncomfortable with: LGBTQ+ people. Ms. Jones explained to her supervisor that it would make her uncomfortable to single out one group for exclusion and that it would probably be illegal under federal civil rights law. She also argued that all students need a place at school where they could feel comfortable, safe and welcomed. Because of this she said she would not take the sign down, but that she would change it slightly. She decided to change the sign to a yellow background with black letters, keeping the words ALL ARE WELCOMED. She then vamped up the rainbow display on her desk, adding a small pride flag to her pencil cup, a rainbow sticker on the side of her computer and a rainbow mouse pad. Students would know she was someone they could ask for any book they were truly interested in and the teacher who was uncomfortable would have to face her directly if she had problems with the personal decorations on her personal desk.

3) Safety is Our First Priority. Compliance if Possible; Civil Disobedience if Necessary. A gay high school educator acts to keep all kids safe and learning.

After 10 years of teaching, G, a self described "gay beacon" and high school English and Cultural Studies teacher in Lexington, KY knows what kids need to learn: a sense of safety and trust. She also knows that SB 150, Kentucky's Frankenstein Parent Bill of Rights bill (that bans all gender-affirming medical care for trans youth, restricts which bathrooms students can use, limits discussing gender and sexuality, allows teachers to refer to students by their gender assigned at birth, and requires forced outing of students and parental consent for any discussions of anatomy or sexuality), deeply erodes both of these things, making queer and questioning students feel unsafe and on edge rather than open to learning.

In August 2024, her program director called a staff meeting to discuss the implications of SB 150 and what it meant for how and what they could teach. The staff was told that trans kids must use the bathroom of their gender assigned at birth, and that if a student came out anywhere on the LGBTQ+ spectrum, teachers had to call home to inform parents or guardians of it. She was staunchly and adamantly against it in every core of her being.

G explained that she never discussed the gay part of her identity with her students, but it was something that students could sense about her. This fact opened up opportunities for students who didn't have support at home to see a queer adult living in a way that they might want to live and to see that it was okay; that she was a professional, with a job, a partner, and a good life. Seeing her this way made students feel safe and many students over the years came out to her. Nearly all of them always asked that she not tell their parents. Trans kids in particular, would ask her to use their biological pronouns with their parents and chosen pronouns at school. It was never about trying to hide something from a parent; it was about safety.

"There were 20 of us sitting in there and I was the only one sitting there crying," G shared, recalling this meeting. "After it was over with, I just walked up to my director and I was like, so what happens if I'm not compliant? He said 'that 'even if I don't support it; even if I do support it. It is not my job to show whether or not I support it.'"

This was exactly what G needed to hear to know what to do. She committed herself to being radically compliant as long as possible and to committing civil disobedience if necessary to fulfill her top priority as a teacher. *“In the Kentucky Code of Ethics for teachers, our number one priority is safety for the student. And to me, that includes safety at home. And if a student is not safe at home, being their own true selves, it is not my job to make them unsafe. It would be going against my code of ethics to make them unsafe.”* Radical compliance with her state code of ethics forbids her from complying with SB 150’s requirement to out students, to call them a name that makes them feel bad, or to not allow them to use the bathroom of their choice. She simply could not comply with SB 150 and with her Code of Ethics. Instead she committed to supporting her students as she has always done.

The day the bill became law, she and several of her fellow teachers joined students to walk out and protest the legislation. The students were clear; this law was not about their safety or education and they were not going to comply with it either. In response to the law, G went to the state capitol to talk to their legislators and asked one why he supported the law. G recalled the conversation saying, *“The legislator looked me straight in the face and said, we’re worried about grooming. And I said, I can guarantee you, Senator Thayer, that the only thing that I am worried about is if Marcus is passing, English three. If he passes, or if he can tell me the main theme of Romeo and Juliet. That’s what I am primarily worried about. I’m not here to tell anybody how to live or how to think or what to think. I’m here to educate, but I’m also here to make people feel like they can trust me. That way they can learn.”*

Taking this strong, ethical stance, the students and staff both trust her and have followed her lead with responding to the law. As a school, the staff decided to let students continue to use the bathrooms of their choice. G explained, *“I’m the theater director. I’ve intentionally waited outside of bathrooms for my trans kids to use the bathroom that they need to use and guarded the bathroom in case anybody wants to walk in that is not part of our little group that knows the situation.”* While the student is in the bathroom, *“I’ll be like, oh, you know, they’re in there cleaning, or you know, someone’s in there really sick, or something. I’m not going to tell a kid that they have to use the male restroom if they don’t identify as a male; that’s ridiculous. So I sit out there and guard the bathroom.”*

G has also committed to “malicious compliance” when it comes to parental notification of lessons explaining, *“I teach visual art classes and part of SB 150 states that if we teach anything about human anatomy we have to get a permission slip signed from parents at any instance that we teach it. And so I did an entire unit on watercolor illustration. And so I sent a letter home basically every single time that I provided any materials that had any human body references in it. So I ended up sending home like 15 letters this year, just to get permission slips. And the kids were like, this is so stupid! Why do you have to do this? And parents were like ‘why do you keep sending this thing home?’”* Laughing, G continued saying, *“I do it because, “SB 150 states that I need to do this and if you disagree with it, I would highly recommend that you call your legislator ... It’s ridiculous and the parents agree and they think it’s stupid and they’re like, ‘please stop sending home stuff.’ And I’m like, I can’t, you know; I’m just following the law.”*

When asked if there was anything G would like to tell other educators who are being required to comply with similar laws in the new school year she responded, *“You’re here for kids. ... We’re here to raise up a more intelligent and more open-minded generation of thinkers. ... The least that you can do for them is care about their safety. Ultimately what it comes down to is what hill are you willing to die on? And if you are not there to protect the safety of your students, all students, then what are you doing? Find people who support you; join an organization. Community is everything. Don’t fight it alone...Fight it in the smartest way possible and don’t be afraid. I think that’s really powerful.”*

4) Discretion is a Superpower - A librarian shares her story

Hello, my name is Hadley Mae Stone.¹⁰¹ I am a school librarian, mother of two, and I stand in solidarity with children for the empowerment of us all. I am a parent and educator and I know from experience that NC Senate Bill 49- ‘Parents Bill of Rights’ is unwise. “[c] The procedures shall not prohibit parents from accessing any of their child’s education and health records created, maintained, or used by the public school unit, except as follows:

(1) As limited by G.S. 114A-10(6)a.

(2) When a reasonably prudent person would believe that disclosure would result in the child becoming an abused juvenile or neglected juvenile, as those terms are defined in G.S. 7B-101.”

As a kid, I went to public school, got exceptional grades and did all the activities; sports, dance, and more. I had regular medical care for health and for cleft lip and palate treatment. Teachers, coaches, social workers, counselors, principals, dentists, doctors, and other trained professionals were in my life every day, every year, and not one of them knew that my father was hitting me at home, that my own dad was threatening my life. My community of adults, some as close as family, had no direct knowledge that I was an abused juvenile because my father was brilliant, controlling and rather charming. My dad was the dad that drove a motorcycle AND baked cookies for school events, he was cute too, and just about anything that triggered his shame and anger could turn him on me.

It is not reasonable or prudent to assume that a child's home is safe from abuse or neglect, to assume that all children are being treated with healthy care, support and respect every day at home. It is not reasonable or prudent to assume that a child's home is free from complex physical and emotional trauma, to assume that one would always know if a child is not safe at home. It is not reasonable or prudent to believe that a child who is not communicating openly with their own parents/caregivers is safe with their own parents/caregivers. That is facts. No cap, as the kids say.

We all show up, with our knowledge, skills and training to do the best that we can to meet children where they are to give them the best chance we can. That's the deal in education and in parenting, even better when it is a collaborative effort. I understand the spirit of Senate Bill 49 and I encourage parents' direct, supportive involvement in our children's education. I don't just say that, I walk the walk. I would freely share my story with any parent or teacher, and I am sure that any reasonably prudent person would understand why I would prioritize respecting other people's privacy with care.

The unintended consequences of violating another person's privacy can be catastrophic, especially where children are involved, that is where the rubber meets the road. MY story is the only story I have any business sharing. I am the universe's only expert on me just as everyone else is the universe's ONLY expert on themselves. That principle extends to children fully and I intend to listen when someone shares their story with me. Listen and support.

I feel comfortable trusting my discretion, and I believe that you can trust yours too.

I encourage you to protect children and their privacy. As for me; If the state feels the need to compel me to speak something about a child then it is the state's burden to prove to me beyond a shadow of a doubt that the child is in a safe and supportive home. They have their work cut out for them, I wish them well.

5) K to 4 Media Specialist in NC Looks to Federal Law to Protect Access to Books that Represent All of Her Students.

Kendra Smith,¹⁰² a Media Specialist at a K to 4 public school in Western North Carolina, explained her internal dilemma over the requirements of SB 49 and her professional understanding of Title IX and the Civil Rights Act. The section of SB 49 that most disturbed her prohibited "instruction on gender identity, sexual activity, or sexuality" in kindergarten through fourth grade. After twenty years of building and maintaining a diverse collection of age appropriate books representing all of the students in her school, she could not imagine removing books only because they included stories of gay or transgender individuals. Removing books with these characters felt like a direct act to discriminate against the gay and transgender students at her school. Having grown up in rural East Tennessee where gay and transgender people were never included in stories at school or in public spaces in her community, she felt morally compelled to do better for her students. She explained that the issue went beyond her students because her sister was gay and experienced shame and suffering for years because she felt like an outsider in her own community. After seeing the library Kendra built, her sister said how much having such a welcome and inclusive space would have meant to her as a child who knew she was gay at a very young age. Kendra recommitted to keeping the library collection inclusive and reflective of all the people in her community.

Having made this internal commitment, she asked for guidance from her teacher's union attorney on how to deal with this conflict. The attorney explained that the state law was extremely vague and contained no real consequences or enforcement mechanism, and was basically up to individual school principals to interpret. She advised Kendra to seek guidance from her principal. This felt disconcerting to Kendra because it meant that students at one elementary school could have access to an entirely different set of books than those at a school across town, simply because a principal was afraid or anti-LGBTQ+.

¹⁰¹alias used to protect identity

¹⁰²This is an alias; name changed to protect identity

Shortly thereafter, a district-wide meeting of roughly 40 media specialists convened to discuss SB 49's prohibitions on gender and sexuality. The vast majority of media specialists saw a similar conflict between the state and federal law and their own moral and personal desire to have libraries that reflected all of their students. Kendra realized no one understood how to comply with both the state and federal laws; much less their own moral compass. She recommended that the group ask for county-wide guidance from the school board attorneys on how to interpret the provision of SB 49 on which books can be included in media collections. The next day she got an email from the district saying that all questions in this regard should be directed to her principal, because, as the attorney for the NCNEA stated, there was really no clear means of enforcing the law. Having been told this twice she realized that the law was basically just a fear tactic and that the right thing to do was to keep running her library as she always had; as a safe place for all students with representation of all students.

After the meeting, her principal didn't take any steps to modify her library collection, but when the school held its annual book sale her principal began pulling books that had LGBTQ+ representation from the sale. Kendra immediately intervened and questioned why the principal was doing this. The principal said that SB 49 prohibited these books. Kendra explained that the law prohibits "instruction on gender identity, sexual activity and sexuality" and that while she maintained a diverse collection of age appropriate books that represent a wide range of people, none of these books "instruct" on gender identity, sexual activity or sexuality. They just included stories of people from all backgrounds. She argued that if the principal was going to claim that any book that included a gay character or trans person was instruction on gender identity, sexual activity, or sexuality, then she would need to pull all books including heterosexual representation too. Then she asked her principal to explain how these books provided "instruction" on these topics by simply including gay or trans characters or stories? The principal couldn't answer this question and just responded that she didn't want to be in the news. Kendra held her ground saying, "Then let's keep these books available to students and let's stay out of the news," implying that if the principal prohibited the books Kendra would go to the media to let their community know of the principal's decision to censor stories of only one minority group. This ended the discussion and her K to 4 public school library continues to be a place of safety and inclusion for all of her students.

6) "Teach the children the curriculum that they need. Don't worry about this." Veteran early elementary teachers in Florida and NC encourage others not to cave to fear.

After teaching PreK to 3rd grade for over ten years in a Florida elementary school, Ms. Morris,¹⁰³ who leads her school's instructional leadership team, encourages new teachers to ignore the hype around the law and focus on the facts. In our interview with her, she shared the fact that despite all the press coverage on the Don't Say Gay Laws, her district is largely ignoring the law because they have many bigger concerns. When asked what she would recommend to teachers who want to maintain supportive and inclusive elementary classrooms in Florida, she shared:

"My advice is always to teach the children the curriculum that they need. Don't worry about this. Don't stress too much about it. Do what they ask, meaning write everything down for whoever wants to look at it as best you can. You just do the best you can and you can't lose sleep over it on a day-to-day basis. Should you have a family that either has two same-sex parents or other combinations, then obviously just respect them like everybody else. We've always done that."

What surprised Ms. Morris most about the laws is that it has gotten so much press attention, but she has not actually met a single teacher who has been punished for failing to comply with the regulations. She sees a big divide between the new teachers who are truly frightened by the law and the veteran teachers who understand that it is simply a vague and unenforceable political ploy being driven by the Moms of Liberty in Florida who often don't have children, or don't have children anymore in the elementary grades. She explained that after the Don't Say Gay Law passed, the state said teachers had to scan every single book in their library or get rid of them. She chose to get rid of her library because scanning every single book was extremely tedious and as a protest she refused to use her time for a small group of extremists. There was a short period when there were no books and no one knew what was going to happen, and then the district provided everyone with a new classroom library, with essentially the same books they already had. The whole law was based on a false narrative about the books teachers were using at school in the first place. Seeing this complete waste of time and resources, Ms. Morris decided to largely ignore the policies. She encourages others to do the same.

¹⁰³Name changed for protection

“So my advice is just to continue. Don’t let this affect your teaching as much as you can. The problem with our union getting involved in this is that our school district, and the country as a whole, has so many problems in education. We’re short, last I heard, like 300,000 teachers in our country and that, not that this isn’t important, but those other issues take precedence.”¹⁰⁴ So the unions are gonna just do what they have to do. The districts are gonna do what they have to do because they have bigger problems... That’s just my opinion, of course. But, and from what I see, that’s what I feel is happening because the problems in education are tremendous.”

Mandy Cline,¹⁰⁵ a farmer and educator in rural North Carolina who has taught 1st to 3rd grade for the last 15 years offers similar advice and encourages educators to focus on creating safe and inclusive classrooms for learning. She shared the following advice:

“As an educator, my first goal at the start of a new school year is to establish a welcoming environment for all the students. If a child feels safe and valued for who they are then they will grow and learn. I take time to get to know my students and ask families to share as much information about their child as they would like through a student information sheet. This helps me to be sensitive to preferences or concerns the child or families have. Another step in creating an inclusive environment is to select texts to read aloud that represent diverse characters with a range of interests, families and defy stereotypes students may face. Some read aloud I like to use at the start of the year are: All Are Welcome by Alexandra Penford and Suzanne Kaufman, I Have the Right to be a Child by Alain Serres, Our Class is a Family by Shannon Olsen, and Families Belong by Dan Saks. Finally, I often find during social times, like recess or snack, students will touch on different opinions and ideas that may make a child feel uncomfortable. I know my job isn’t to ignore those hard questions but to help guide students to have a conversation to better understand one another. For example, if a child states a gender stereotype, then I can point out that this may not be true for all and remind students that we all have our own preferences and ways to express who we are.”

7) Saying Gay; Saving Lives - A Parent’s Story

In February 2023, during my daughter’s 5th Grade year at our local K to 6th grade school in rural North Carolina, the guidance counselor approached

me for support. “Some of the 5th and 6th grade students would like to start an LGBTQ+ support club on campus,” she said., “I can offer my office for meetings, but it might make it easier if the club is run and sponsored by a parent. Would you be willing to meet with the kids and maybe consider sponsoring the club?” I didn’t hesitate for a minute. “I would love to!” I said.

As a stay-at-home parent who volunteered a lot at the school, the guidance counselor knew from the rainbow pins on my bag and “Protect Trans Kids” sticker on my travel coffee mug that I didn’t shy away from Gay Pride. She also knew that I was the primary parent to an autistic trans teenager who I was homeschooling. She didn’t know that a month earlier, I had walked into his bedroom just as he stuffed a handful of sleeping pills into his mouth. His suicide note, decorated with peach stickers and the drawing of a beautiful tree, explained that while he knew he was safe as my child he didn’t want to live in a world where he could not be free, or where his friends could be forced to come out to abusive parents. It ended with the instructions to “bury me under a peach tree and know I love you.” Thankfully my parental instincts had kicked in just at the right time. When I fell to my knees and threw my arms around him, he spit the pills out of his mouth and crumpled into my arms sobbing. While I had found him excellent mental health care that saved his life, neither he nor I had a community of support for the trying times we found ourselves in. The invitation to sponsor an LGBTQ+ support club for kids five minutes from home felt like a gift from angels.

The next day, I joined the guidance counselor and the student who requested the club. This 6th grade student shared that she had been paying attention to the news and seen stories about the “Don’t Say Gay Laws” in Florida and the attack on healthcare for trans kids. She also shared that she was trans and had been living as a girl since beginning school at age five. Her parents supported her completely. She had been taking puberty blockers and had her name and birth certificate legally changed years before. She had not told anyone at school about her full self, but now she wanted to so she could help other kids who didn’t have the support of their families. She was ready to come out, and she knew she would need support. While our school was fairly progressive for the area, she knew from conversations at lunch that some of her classmates would not be okay with her identity. I said I would be honored to sponsor the club and offered to donate \$40 a month towards it so we would have funds for activities.

¹⁰⁴ <https://www.usatoday.com/story/graphics/2024/03/19/teacher-shortage-crisis-explained/72958393007/>

¹⁰⁵ name changed for identity protection

At our first club meeting the next week, she shared that when she came out to her classmates as transgender, one boy told her he would bring a gun to school and shoot her and any other trans person he found there. Bravely, she reported the threat to the school safety hotline. The sheriff's office investigated the situation and decided that he was not a threat to her. The next day he came to the school with a bible in his arms and both of his parents by his side. Nothing more happened to the boy. At club, we discussed if she would like us to get involved and try to get the school to discipline him in some way. Without hesitation she answered, "No, he's just mouthing off. The sheriffs investigated and he doesn't have access to a gun...And besides I have a black belt in taekwondo. If he messes with me he will be sorry." Her bravery astounded me.

For the rest of the year we met weekly with ten 5th and 6th grade students. At the first meeting, we made an agreement that what was discussed in group stayed in the group, unless of course someone was at risk of harm to themselves or others. We also agreed not to share the names of group members with anyone outside of the group. Some students came as allies, some as proudly out and queer, and some came because they were questioning feelings they were having as they came into puberty. Having the guidance counselor present for all meetings gave a trusted adult with professional training who could step in when needed. Only two members were out at home. During our meetings we made pronoun pins, pride bracelets and fidgets. In this self created cocoon, students mostly just enjoyed having time to be "out" with each other in a safe place.

We ended the school year with a sign making session for Pride Month and the students all helped hang them in the halls during our final meeting of the year. In a small way, our school had its first pride celebration as the student leader and the other 6th graders paraded through the halls before their graduation ceremony. I shared this story with my son and he felt a great sense of relief, knowing that the club and the kids had made it through a school year.

That August, just after school started back in session, the North Carolina Legislature passed SB 49; a supposed "parent bill of rights" law that took away my rights as parent to decide what medical treatment my transgender child could have. Among other things, it required forced outing of students if they came out to a teacher (unless the teacher had concerns for their safety), the use of improper pronouns and names, and restricted instruction on gender and sexuality in K to 4th grades. The guidance counselor and I knew we had to keep the club going. My son (who never attended

the club, but celebrated my participation in it), agreed. By keeping the club parent and guidance counselor run, we could comply with the law and still offer a safe space for queer kids and allies at our school. As a parent I had no obligation to out students or restrain my speech. As a licensed professional whose ethics required her to maintain confidentiality, and provide counseling to all students, the guidance counselor felt she could not comply with the state law and her professional ethical guidelines. She chose to follow her personal and professional ethics and ran the club each week, even when I could not attend due to work or family obligations.

That year, one 4th grader asked to be able to come to the club. He was not out at home and had no one to talk to about his identity. We gladly welcomed him. The club was smaller that second year, with 8 kids attending. As we got to know each other, all but one student shared that they were fearful of their parent or parents finding out about their participation in the club. As a parent heavily involved in the PTA, this shocked me. I knew most of those parents and would have never guessed they would not be supportive of their child simply because they were queer. I trusted the students though, and kept our club agreements of not discussing anything with people outside of the club, even my own children and spouse.

Around spring break, the students asked if we could bring in speakers to share what it was like to come out and to live openly in our community. As the parent sponsor I was able to find two speakers to share their coming out stories. Each speaker shared painful stories of initial rejection by their families, but also of later reconciliation. The students were saddened by this but also inspired by the fact that the speakers had each found community, love and chosen family and were all around happy, thriving, queer adults living in rural North Carolina. As the school year came to a close we celebrated our second year as a support group with a walking trip to a coffee shop that displayed a large pride flag, and which had become a safe space for my son in his teen years.

This August when school returns to session, so will our club. It is a true honor to create and hold this incredible space and be part of building a supportive and thriving community for all kids in our community, my son included."

V. Closing

“The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.” - *Shelton v. Tucker*, 364 U.S. 479, 487 (1960).

“Rightly called the ‘cradle of our democracy,’ our schools bear the awesome responsibility of instilling and fostering early in our nation’s youth the basic values which will guide them throughout their lives.” - *James v. Board of Ed.*, 461 F.2d 566, 566 (2d Cir. 1972)

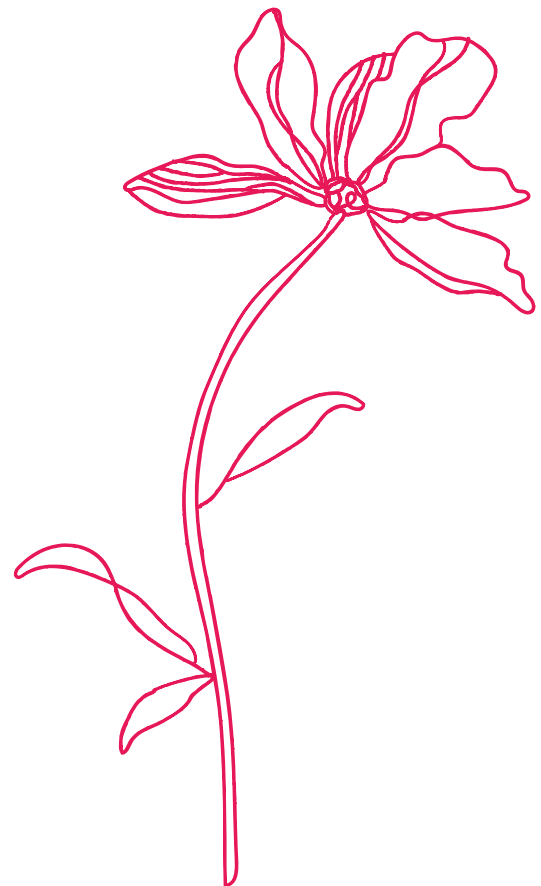
It is precisely because of the power of public schools to instill “the basic values that will guide our nations’ youth throughout their lives” that the rightwing has targeted schools. By turning law into a tool of fear and confusion rather than order and protection, a small minority is attempting to erase decades of progress people of color and queer folk have made in terms of civil liberties, public leadership, legal equality and proud visibility. As individuals who celebrate our nation’s progress towards the promises of our constitution, committed to creating schools and communities where all people are safe, welcomed and accepted, we must look towards our inner compass as we embark on a new school year. The strategies discussed in this manual use the vagueness and exemptions of state laws that attempt to legalize discrimination against queer people, the protections of federal law, and support of the broader community to maintain inclusive schools, supportive classrooms, affirming campus spaces and diverse representation in books and curriculum. While we have tried to offer ideas that will not have negative consequences for educators, there are no guarantees.¹⁰⁶

The laws affecting queer folks, especially transgender children, are being actively challenged in courts across the country every day. At the same time, new laws are being proposed, good and bad, at every level of government across our country. The best way to stay abreast of these changes is to follow two extraordinary journalists and to support their work:

- 1) Erin Reed and her contributors - <https://www.erininthemorning.com/>
- 2) Chris Geidner - <https://www.lawdork.com/>

We are living through an actual attempt to erase transgender people from our country by our federal government. Our nation needs educators who can look past rhetoric with bravery and personal conviction and do what is best for students. School is sometimes the only place queer children can be themselves and find support and acceptance. If you run into problems in your quest to create and maintain inclusive classrooms, and protect the privacy and safety of your LGBTQ+ students, you can reach out for help by emailing queercaucus@nlg.org which will help to find an attorney who can help you.

Good Luck with this school year and the ones to come!
Thank you for all you do!



¹⁰⁶ The first known teacher suspension for using a student's chosen name occurred in April 2025 <https://www.advocate.com/politics/florida-teacher-fired-preferred-name>

Resources

Support for Students

GLSEN <https://www.glsen.org/>
National Women's Law Center <https://nwlrc.org/resource/lgbtq-student-and-educator-rights-resources/>
Southern Poverty Law Center <https://www.splcenter.org/know-your-rights-students-lgbtq-rights-school>
Trevor Project <https://www.thetrevorproject.org/>

Resources for Educators

ASCD <https://ascd.org/blogs/supporting-lgbtq-students-in-the-dont-say-gay-era>
GLSEN <https://www.glsen.org/activity/lgbtq-educator-rights>
Human Rights Campaign <https://www.hrc.org/resources/schools>
Lambda Legal <https://legacy.lambdalegal.org/know-your-rights/article/youth-for-educators>
National Center for Transgender Equality <https://transequality.org/issues/youth-families>
National Education Association:
<https://www.nea.org/advocating-for-change/racial-social-justice/tools-justice/lgbtq-support-protection>
<https://www.nea.org/professional-excellence/professional-learning/resources/supporting-transgender-non-binary-and-gender-non-conforming-students>
<https://www.nea.org/resource-library/lgbtq-rights-partner-resources>
<https://www.nea.org/resource-library/nea-lgbtq-resources>
National Women's Law Center <https://nwlrc.org/resource/lgbtq-student-and-educator-rights-resources/>
Out & Equal <https://outandequal.org/>
PFLAG <https://pflag.org/all-together-now-toolkit/>
Pride at Work <https://www.prideatwork.org/>
Campaign for Southern Equality <https://southernequality.org/>

Legal Landscape and Updates

American Civil Liberties Union <https://www.aclu.org/legislative-attacks-on-lgbtq-rights-2024>
Movement Advancement Project <https://www.lgbtmap.org/file/2022-spotlight-school-bills-report.pdf>
PEN America <https://pen.org/report/americas-censored-classrooms-2023/>
Williams Institute at UCLA <https://williamsinstitute.law.ucla.edu/>

State specific resources

Basic Rights Oregon <https://www.basicrights.org/>
California Teachers Association <https://www.cta.org/taking-action-for-the-lgbtq-community>
Equal Rights Washington <https://www.equalrightswashington.org/>
Equality Arizona <https://www.equalityarizona.org/education>
Equality California <https://www.eqca.org/>
Equality Connecticut <https://eqct.org/>
Equality Florida <https://www.eqfl.org/>
Equality Hawaii <https://www.equalityhi.org/>
Equality Illinois <https://www.equalityillinois.us/about-us/>
Equality Kansas <https://eqks.org/>
Equality Michigan <https://equalitymi.org/about/>
Equality North Carolina <https://equalitync.org/>
Equality Ohio <https://equalityohio.org/>
Equality Texas <https://www.equalitytexas.org/>
Equality Utah <https://www.equalityutah.org/>
Fair Wisconsin <https://fairwisconsin.com/>
Fairness West Virginia <https://fairnesswv.org/>
Garden State Equality <https://www.gardenstateequality.org/>
Iowa Safe Schools <https://iowasafeschools.org/>
Kentucky Equality Federation <https://kentuckyequality.org/>
MassEquality <https://massequality.org/>
One Iowa <https://oneiowa.org/>
OutFront Minnesota <https://www.outfront.org/>
OutNebraska <https://outnebraska.org/>
Tennessee Equality Project <https://www.tnep.org/>
Transgender Education Network of Texas <https://www.transtexas.org/>
Wyoming Equality <https://www.wyomingequality.org/>

"Beloved community is formed not by the eradication of difference but by its affirmation, by each of us claiming the identities and cultural legacies that shape who we are and how we live in the world."

—bell hooks, Killing Rage: Ending Racism



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