



## Transgender students: Preventing a hostile environment and complying with the law

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Navigating transgender issues can be confusing and overwhelming. The increasing visibility of transgender celebrities, such as Caitlyn Jenner on the cover of *Vanity Fair*, has intensified the interest of transgender students and their advocates to fight for public acceptance. As this area of law rapidly evolves, the education landscape across the country similarly continues to transform. Below are some tips to help your district avoid potential legal, compliance and public relations issues.

1. Be familiar with the relevant law at the federal, state and local level. Title IX, the federal law that prohibits sex discrimination in education, has been interpreted to prohibit discrimination based on “gender non-conformity” or “sex-stereotyping.” As most transgender students, by definition, do not conform to gender stereotypes, they are protected by Title IX in many situations. Ohio state law also does not explicitly prohibit discrimination on the basis of transgender status, but it is important to be aware of any local laws, such as city ordinances, which may apply to your school.
2. Be familiar with your relevant policies and consider certain revisions to avoid the appearance of discrimination. Some schools explicitly include “gender identity,” “transgender identity,” or “transgender status” in their nondiscrimination, anti-harassment, Title IX and other similar policies, and it is important to be aware if this language is present in your own policies. You should also revisit other policies which may implicate the rights of transgender students, such as those governing facilities.
3. Be prepared. Be aware of common issues to help your school anticipate concerns before they arise, and be able to respond proactively when necessary. Often, the sensitivity and support expressed by the first administrator to field the question (even if the answer is ultimately “no”) may be the difference between an unhappy student and an unhappy plaintiff. Common issues faced by school districts include requests for name and pronoun changes (both in day-to-day references and student records), access to facilities that correspond to a student’s gender identity, participation in programs or activities dominated by a particular gender, and bullying and harassment of transgender students.
4. Be flexible. Don’t lose your flexibility to address student needs just because of transgender status, even when the status may be hard for others to understand. Each transgender individual is unique, and it is important for districts to realize that there is no “one-size-fits-all” solution.

5. Be informed. The law surrounding transgender issues is continually evolving, and it is important to be aware of any changes that may affect your school. There is not yet definitive case law on the issues here in Ohio, but recent case studies give an idea of the issues that can arise. The general trend in case law suggests that transgender students should be accommodated without singling them out for separate treatment. However, the courts and the Office for Civil Rights do not always approach transgender issues consistently, so it is important to follow developments in the law to help your district comply with the law and reduce legal liability.

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