



Transgender Student Rights in New Jersey

Does New Jersey Law protect me from discrimination on the basis of gender identity and gender expression?

Yes. The New Jersey Law Against Discrimination (LAD) prohibits discrimination based on gender identity or expression. This means it is unlawful to for you to be discriminated against on the basis of gender identity or gender expression in employment, business and financial transactions, housing, and places of public accommodation, including public schools.

Do I have the right to access restrooms and locker rooms that match my gender identity?

Yes. The LAD makes clear that access to gender-segregated spaces must be permitted on the basis of gender identity. This includes places of public accommodation and public schools (N.J.S.A. 10:5-12(11)(f)(1)).

Can I participate in athletics in accordance with my gender identity?

Yes. The question of participation in athletics is not up to individual school districts.

Interscholastic athletic participation is governed by the New Jersey State Interscholastic Athletic Association (NJSIAA). NJSIAA has a transgender student policy which allows for participation on the basis of gender identity. You can find the NJSIAA's transgender student policy at:

<https://www.njsiaa.org/documents/transgender-policy>

I heard that the New Jersey Department of Education issued guidance on transgender students. What does the guidance say, and does my district have to adhere to the guidance?

In 2017, Governor Christie signed a law mandating that the New Jersey Department of Education (DOE) issue guidance on transgender students in order to assist schools in creating supportive and nondiscriminatory environments for transgender students. You can find that guidance, and resources for transgender students and their families at:

<https://www.nj.gov/education/students/safety/sandp/transgender/>

The guidance takes a student-centered approach to ensure that school administrators, educators, and counselors communicate openly, albeit confidentially, with you regarding your transgender status or gender identity. The guidance covers issues common to transgender students, such as confidentiality and privacy; school record keeping; use of names and pronouns; use of gender-segregated facilities; parental consent and notification; and participation in sports and other activities. Your school should have a conversation with you about each of these areas before formulating a plan that works for you.



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Does my school district have to follow the DOE guidance?

Yes. The DOE guidance is the State's interpretive statement of the law. This means that your school district should be taking the guidance under advisement and using it, as it was intended, to develop policies and procedures that ensure a supportive and nondiscriminatory environment for transgender students.

Does my district need to adopt a transgender student policy?

No. However, adopting a transgender student policy is a great way for your district to make a public commitment to transgender students, as well as provide clarity to educators, students, parents, and staff on how to create a safe and affirming environment for transgender students. Whether or not your district adopts a policy on transgender students, they are bound by the DOE Guidance on transgender students. If the school district does adopt a policy, it should not be in conflict with the DOE guidance.

Does the school have to tell my parents about my gender identity?

No. The guidance issued by the DOE is clear: school districts do not have an affirmative obligation to disclose a student's gender identity or transgender status to their parents or guardians. Rather, school personnel has an obligation to have a confidential conversation with you about how you would like to proceed at school.

Why doesn't the Department of Education guidance require parental notification?

While the guidance does not require parental consent or notification, nowhere does the guidance say that parents are not to be involved. Indeed, we all want parents to be involved in decisions involving their children. Unfortunately, LGBTQ youth face extremely high rates of family rejection and abandonment. Research shows that family rejection leads to high rates of depression and anxiety (and attendant poor social and academic outcomes) for LGBTQ youth. Conversely, supportive family environments greatly decrease these risks. Therefore, the DOE guidance makes clear to schools that they need to have conversations with young people about parental notification. If your family is currently unsupportive, the school should work with you to create a school environment that is supportive, while making clear that certain supports, such as going by a chosen name and pronouns and using facilities that match your identity, may increase the risk of being outed.



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Why doesn't the Department of Education guidance require parental consent?

Your parents do not need to agree that you are transgender, or agree with your gender identity or presentation, in order for you to be supported in your gender identity at school. Indeed, there are likely to be cases in which students and parents disagree. In these instances, the district should take steps to support the student, and, where possible, the student's family.

What do I do if I am facing discrimination on the basis of my gender identity, gender expression, or transgender status?

If you are facing discrimination or harassment on the basis of gender identity, gender expression, transgender status, HIV status, or sexual orientation, you may want to reach out to Garden State Equality. You or your parent or guardian can file a discrimination complaint through our Report Discrimination portal, which can be accessed here:

https://www.gardenstateequality.org/report_discrimination

You can also file a complaint with the New Jersey Division of Civil Rights (DCR) within 180 days of the act of discrimination. After a complaint is filed, DCR investigates the allegations. If an investigation shows enough evidence to support the complaint, and the complaint cannot be settled, a hearing will be held in the Office of Administrative Law (OAL). After that hearing, the DCR Director will issue a final decision as to whether unlawful discrimination has been proven. If discrimination has been proven, the decision will order appropriate remedies.

What is conversion therapy and is it legal?

Conversion therapy is the practice of trying to change an individual's sexual orientation or gender identity. It is sometimes referred to as "reparative therapy," "ex-gay therapy," or "sexual orientation change efforts (SOCE)." It is established science that you cannot change someone's gender identity or sexual orientation. It is also established science that attempts to change an individual's gender identity or sexual orientation can cause psychological harm. All of the expert psychological and medical bodies agree on this.

It is illegal to practice conversion therapy on minors in New Jersey (N.J.S.A. 1,2 - C.45:1-54 & 45:1-55). Courts have also found that practicing conversion therapy on adults constitutes fraud, as there is significant evidence that the practice, in addition to being harmful, does not work (Ferguson v. JONAH, New Jersey Superior Court No. L-5473-12 (2015)).

If you or someone you know has been subjected to or threatened with conversion therapy please contact Garden State Equality at contact@gardenstateequality.org