



## National PTA Resolution on LGBTQ Individuals as a Protected Class Guidance and Talking Points for PTA Leaders

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This document provides information about National PTA's resolution on the [Recognition of Lesbian, Gay, Bisexual, Transgender and Queer/Questioning \(LGBTQ\) Individuals as a Protected Class](#), which was adopted by the voting delegates at the 2016 Annual National PTA Convention & Expo. PTA leaders are encouraged to use this document to inform and guide responses to membership, partner organizations and stakeholders concerning the resolution. If you have any questions regarding the resolution, please contact Elizabeth Rorick, deputy executive director of communications and government affairs for National PTA, at [erorick@pta.org](mailto:erorick@pta.org). Please direct any media inquiries regarding the resolution to Heidi May Wilson, manager of media relations for National PTA, at [hmay@pta.org](mailto:hmay@pta.org).

### **PTA Resolutions and Advocacy**

Resolutions are an important part of the advocacy work of PTA. They are adopted by voting delegates during National PTA's annual convention and outline the opinion, will or intent of the association to address national problems, situations or concerns that affect children and youth. Resolutions provide direction for advocacy efforts of National PTA; the 54 Congresses of PTA; and regional, council and local PTAs. Resolutions empower PTA members, leaders and public policy and program teams to build partnerships, form coalitions, increase awareness, develop programs and advocate for federal, state and local policies.

### **Development of LGBTQ Resolution**

National PTA and its constituent associations believe that every child deserves to go to school excited to learn in a safe and nurturing environment, without the fear of bullying, violence or discrimination. It has long been a top priority of PTA to make sure all children have a safe, supportive and positive environment in which to thrive and learn.

A collaborative group of volunteer PTA leaders developed the LGBTQ resolution and sought to ensure the language is representative of the mission, values and priorities of PTA. The collaborative working group consisted of National PTA's vice president of advocacy; representatives from California State PTA, Florida PTA, Indiana PTA and Massachusetts PTA; and a representative from each of the following National PTA committees: Diversity, Inclusion and Outreach; Health and Safety; and Legislation. The resolution was shaped by volunteers and elected leadership representing 26 states across the country.

The resolution was reviewed and approved by the National PTA Resolutions Committee and then submitted to the National PTA Board of Directors for their consideration. The National PTA Board of Directors thoroughly reviewed and approved the resolution at its January 2016 meeting. The resolution was then considered and adopted by voting delegates at the 2016 Annual National PTA Convention & Expo in Orlando, Fla.

## **Rationale for LGBTQ Resolution**

National PTA believes that schools should be a safe, supportive and respectful environment for all students. However, lesbian, gay, bisexual, transgender and queer/questioning (LGBTQ) students are more likely than their peers to be bullied, feel unsafe in school and skip school due to safety concerns. Within this climate of hostility, one in six LGBTQ youth [report](#) being physically assaulted within the past year because of their real or perceived sexual orientation or gender identity. Additionally, LGBTQ students are two to four times more likely to commit suicide than their non-LGBTQ peers. While more thorough studies are needed regarding the risks of suicide among transgender youth, one [study](#) of 55 transgender youth found that approximately 25% reported suicide attempts. Additionally, the [National Transgender Discrimination Survey](#) found that 41% reported attempting suicide compared to 1.6% of the general population. The rate rose to 55% of transgender individuals who were harassed or bullied in school. It is clear that there is a most urgent need for explicit protection for these youth under federal law to create safe and affirming learning environments.

## **Terminology**

In order to clarify terms used throughout this document, below are commonly accepted definitions related to sex and gender from the [American Psychological Association \(APA\)](#), the [National Association of School Psychologists \(NASP\)](#) and the [Human Rights Campaign](#).

*Sex assigned at birth:* Refers to indication of male or female on one's birth certificate based on physical attributes such as chromosomes, hormone prevalence and external and internal anatomy.

*Gender:* Refers to the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for boys and men or girls and women. These influence the ways that people act, interact and feel about themselves. While aspects of sex—male or female—are similar across different cultures, aspects of gender may differ.

*Sexual orientation:* Refers to the sex of those to whom one is sexually and romantically attracted. Categories of sexual orientation typically have included attraction to members of one's own sex (gay men or lesbians), attraction to members of the opposite sex (heterosexuals) and attraction to members of both sexes (bisexuals).

*Gender identity:* Refers to "one's sense of oneself as male, female or transgender" (APA, 2006). When one's gender identity and sex assigned at birth are not congruent, the individual may identify as transgender or as another non-gender conforming identity. A person's gender identity is distinct from sexual orientation.

*Transgender:* Refers to having a gender identity that differs from one's sex assigned at birth. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc.

## **Recent Interpretation of Federal Law on Sex-Based Discrimination, Sexual Orientation and Gender Identity**

Existing federal statutes address discrimination on the protected classes of race, color, sex, religion, disability and national origin; however, federal nondiscrimination laws do not explicitly include sexual orientation or gender identity. As a result, there is limited legal recourse for LGBTQ youth and parents who have experienced discrimination based on their sexual orientation or gender identity.

The U.S. Departments of Justice and Education have issued interpretations of Title VII of the Civil Rights Act of 1964 and [Title IX of the Education Amendments of 1972](#) to include sexual orientation and gender identity under the protected class of sex and are enforcing the law under that interpretation. While these interpretations should guide responses from state and local entities, guidance released on the matter is non-binding and does not provide full protections and/or supports under federal law.

### Title VII

Title VII of the Civil Rights Act of 1964 (Title VII) is a federal law that prohibits employers from discriminating against employees on the basis of sex, race, color, national origin and religion. In December 2014, the U.S. Department of Justice released [guidance](#) stating that under Title VII discrimination based on sex covers gender identity, including transgender status. The guidance came after several federal cases interpreted Title VII to include gender identity. The Equal Employment Opportunity Commission and federal courts have also interpreted sexual orientation discrimination to be an unlawful form of sex discrimination under Title VII.

### Title IX

Title IX addresses sex discrimination in educational institutions. Title IX states that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” Title IX requires that schools and education institutions treat all individuals equally, regardless of their sex.

In April 2014, the U.S. Department of Education released [guidance](#) clarifying that Title IX protects all students— including those who identify as lesbian, gay, bisexual and transgender (LGBT)—from sex discrimination, including sexual violence. The guidance further states that “Title IX’s sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.” Similarly, the actual or perceived sexual orientation or gender identity of an individual facing sex discrimination or violence does not change a school’s obligations under Title IX to treat all students equally.

In May 2016, the U.S. Departments of Education and Justice released joint [guidance](#) on public schools and districts’ obligations under Title IX regarding transgender and gender diverse students. This guidance states that gender identity, including transgender status, is covered under the definition of sex-based discrimination, and therefore, schools and educational institutions receiving federal funds must not treat a transgender student differently from the way it treats other students of the same gender identity under the law.

Although the Departments of Justice and Education have issued guidance around federal statutes protecting individuals and students from harassment and discrimination based on their sex, there are conflicting state laws and local policies across the country. This has led to confusion regarding the rights of students and the obligations of schools to protect LGBTQ students from bullying, harassment and discrimination. Despite the federal guidance issued, the absence of uniform state and local protections means that schools are not adequately equipped with the supports they need to protect LGBTQ youth.

### **Talking Points for PTA Leaders on LGBTQ Resolution**

- National PTA and its constituent associations have long believed that every child deserves to go to school excited to learn in a safe and nurturing environment, without the fear of bullying, violence or discrimination.

- Lesbian, gay, bisexual, transgender and queer/questioning (LGBTQ) students are more likely than their peers to be bullied, physically assaulted and feel unsafe in school because of their real or perceived sexual orientation or gender identity.
- Federal statutes currently address discrimination on the protected classes of race, color, sex, religion, disability and national origin, but do not explicitly include sexual orientation or gender identity. State laws and local policies across the country also are often contradictory. As a result, educators and administrators lack the tools they need to address and prevent the bullying, harassment and discrimination of LGBTQ students.
- PTA was compelled to take action for these marginalized students by adopting a resolution during its 2016 Annual Convention & Expo to advocate for and support federal legislation that specifically protects LGBTQ youth as well as encourage states and school districts to incorporate inclusive policies and practices that create and maintain safe learning environments for all students.
- Enumeration is essential to protecting as many students as possible from bullying, harassment and discrimination. The strength of an enumerated law or policy is that it underscores those students who research shows are most likely to be bullied and harassed and least likely to be protected under non-enumerated anti-bullying laws and policies.
- Enumeration provides teachers and school personnel with the tools they need to implement anti-bullying and harassment policies, making it easier for them to prevent bullying and intervene when incidents occur. The [National School Climate survey](#) shows that LGBTQ students in schools with enumerated policies were more than twice as likely to report that teachers intervened regularly compared to students in schools with generic anti-bullying policies, and more than three times as likely compared to students in schools with no policy at all.
- LGBTQ students in schools with an LGBTQ-inclusive curriculum feel more connected to their school community.

#### Related Resources

- [National PTA Resolution Against Bullying](#)
- [National PTA Resolution: Response to Sexual Harassment And Sexual Violence Affecting Students](#)
- [National PTA Position Statement on Education Emphasis](#)
  - “Provide equal educational opportunities for all students regardless of race, gender, national origin, language, religion, age, disability, or sexual orientation.”
- [National PTA Position Statement on Citizenship and Equality](#)
- [National PTA Statement on Student Gender Identity Guidance](#)
- U.S. Departments of Education and Justice ["Dear Colleague" letter](#) on student gender identity
- GLSEN
  - [Educator Resources](#)
  - [National Reports and Briefs](#)
  - [2013 National School Climate Survey](#)
- [Welcoming Schools](#), Human Rights Campaign
- [Answers to Your Questions About Transgender People, Gender Identity and Gender Expression](#), American Psychological Association
- [Schools In Transition: A Guide for Supporting Transgender Students in K-12 Schools](#), National Education Association
- [Transgender Students in Schools](#), National School Boards Association
- [LGBT Youth and their Health](#), Center for Disease Control
- [Transgender Students and School Bathrooms: Frequently Asked Questions](#), GenderSpectrum