

Fostering Safe & Supportive School Environments

A Whole-Child Approach to the Legal Issues Facing Transgender Youth



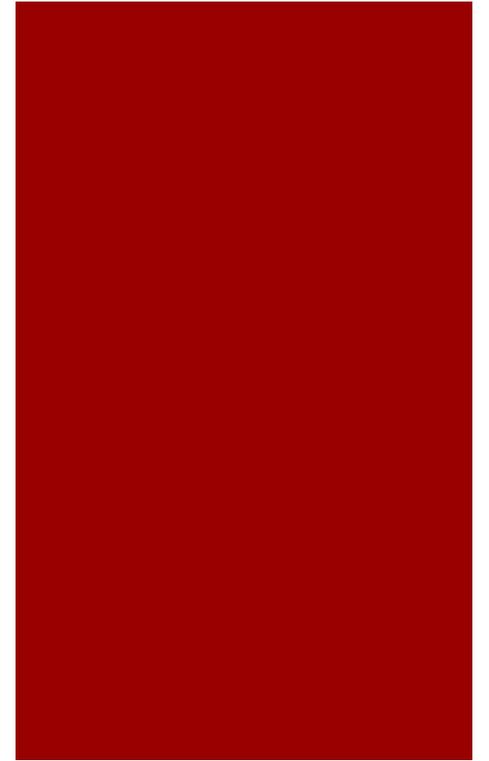
Presentation By:

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Objectives

- Understand the social and legal context surrounding the lives of transgender students
- Identify opportunities to proactively address the needs of transgender students through school-based policies and practices
- Develop tools to implement policies and practices that safeguard the legal rights of transgender students





Transgender Rights Under Trump

A review of recent history in the movement for transgender equality

The Build Up to the 2016 Election

- The Obama administration began recognizing transgender people and the full breadth of their legal rights
 - May 2016 Guidance on Title IX
 - Regulations on the Affordable Care Act
 - Litigation against North Carolina for anti-transgender restroom bill
 - Inclusion of transgender people into federally-funded research
- Change was occurring at the state and local levels
 - Increasing access to accurate identity documents
 - Increasing access to opportunities to participate in sports
 - Increasing awareness of the needs of transgender people



The Rollback was Swift and Broad

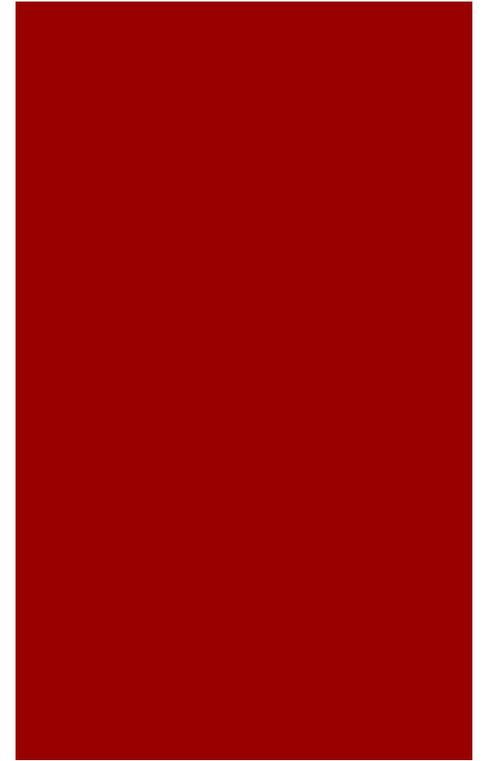
- Trump ended or reversed transgender-inclusive policies
 - Transgender military ban
 - Rescinded May 2016 Title IX guidance
 - Replaced transgender-inclusive regulations and policies
- Trump implemented policies that targeted transgender people
 - Expanded the federal government's definition of religious liberty
 - Permitted recipients of federal funds to discriminate against transgender people
 - Interpreted federal law narrowly in order to exclude transgender people from its protections



The courts helped hold the line

- Federal courts across the country held in abeyance or invalidated many of Trump's administrative actions
 - The Tran Military Ban
 - The Conscience Rules
 - The ACA Regulations
 - The Census Questions
- Federal courts continued to follow the precedent that developed prior to Trump's inauguration
 - Transgender students have a right to access restrooms consistent with their gender identity
 - Transgender students cannot be banned from accessing sports





The Biden & *Bostock* Combo

Charting a path forward for transgender rights

Bostock v. Clayton County, Georgia

- Three consolidated cases that determined whether discrimination based on sexual orientation and gender identity are forms of sex discrimination
- The majority held that Title VII, a federal law prohibiting discrimination in employment, covers LGBT people
 - Sided with lower courts that had consistently reached this same conclusion for decades
 - Clear and unambiguous opinion that rebuked Trump administration's interpretation of Title VII



Bostock, Title IX & Trans Students

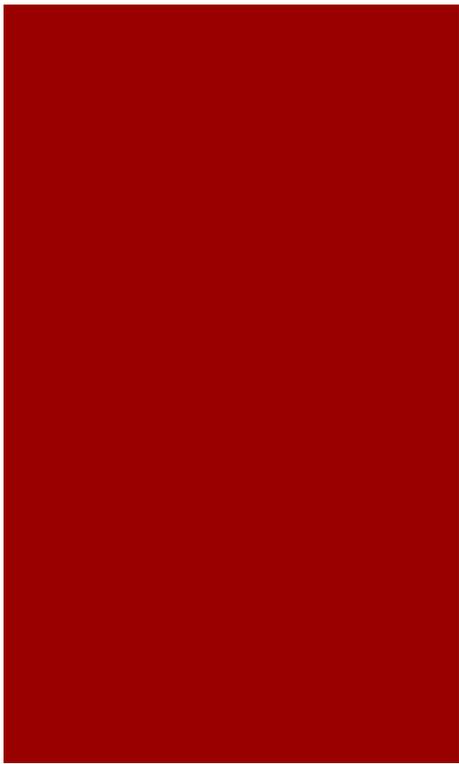
- Courts regularly rely on cases interpreting Title VII to determine the scope of Title IX
- Both prior and after *Bostock*, courts have consistently interpreted Title IX—and other federal sex-discrimination laws—to protect transgender students
- Since 2016, schools have increasingly recognized that their legal obligations required specific policies and practices



Biden's Executive Orders

- Implementing *Bostock* from day one
 - Issued executive order requiring agencies to assess opportunities for protecting transgender people
 - Department of Education is developing its implementation plan, but is already “open for business” and accepting complaint by transgender students
 - Other agencies have already made policy statements
- Biden signed other important orders
 - Reversed ban on transgender people in the military
 - Halted harmful regulations from going into effect
 - Executive order on systemic racism





What does equal access look like?

The starting point and the end goal

The numbers lay bare a harsh reality

- A 2019 study by the CDC found:
 - Two percent of high school students identify as transgender
 - Nearly a third felt unsafe in school
 - Over a third experienced bullying and harassment in school
 - Over a third reported attempting suicide
- GLSEN's 2019 National School Climate Survey found:
 - Transgender students reported high levels of mistreatment at school
 - Correlated with lower academic achievement and aspirations
 - Correlated with missing more school and avoiding certain spaces



The research tells a positive story too

- Transgender young people thrive when they are supported by the authority figures in their lives
 - Transgender children who transitioned at an early age had a nearly identical mental health profile to their nontransgender peers
 - Transgender young adults who transitioned prior to puberty and received transition-related medical care also had mental health outcomes that were similar or better than their peers
 - Parental support is a protective factor for transgender children that helps them cope with the discrimination they may face
- Even though GLSEN's numbers were high, the overall numbers are on a downward trend



Defining Trans Equality in Schools

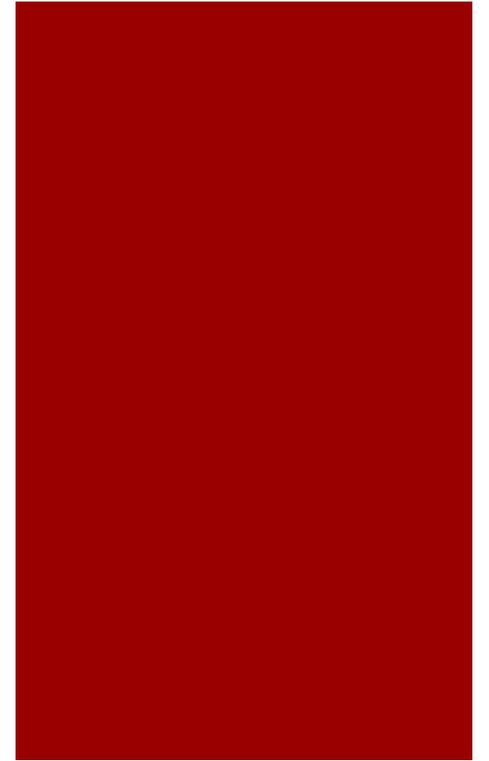
- Names and pronouns
- Privacy
- Sex-separated facilities and activities
 - Restrooms and locker rooms
 - Sports
 - Roommate assignments
- Bullying and harassment
- Disciplinary practices



Defining Trans Equality in Schools (cont'd)

- Inclusive curriculum
- Trans-inclusive resources
 - LGBT and Allied Teachers
 - Gender and Sexuality Alliances
 - Library books
- Explicit and enumerated policies
 - With proper and consistent enforcement





Widening our perspectives on equality

Becoming educators both in—and out of—the classroom

States are Carrying Trump's Torch

- Legislators across the country have introduced a wide range of harmful bills that would:
 - Ban transgender people from participating in sports consistent with their gender identity
 - Criminalize doctors from prescribing or referring transgender young people for gender-affirming care
 - Require school personnel to disclose a student's transgender status to their parents
 - Limit the ability of transgender people to correct their state-issued identity documents
- The effect of this public debate—and the possibility of these bills passing—is palpable



Discrimination Behind Closed Doors

- Misinformation and misconceptions about transgender young people are often perpetuated in private conversations and interactions
- Those private interactions will make their way into the school environment
 - Nontransgender students will repeat information they heard from their parents
 - Innocent spread of misinformation can create an environment where bullying and harassment thrive
 - Parents may mistreat their transgender child, negatively impacting their overall wellbeing and performance in school

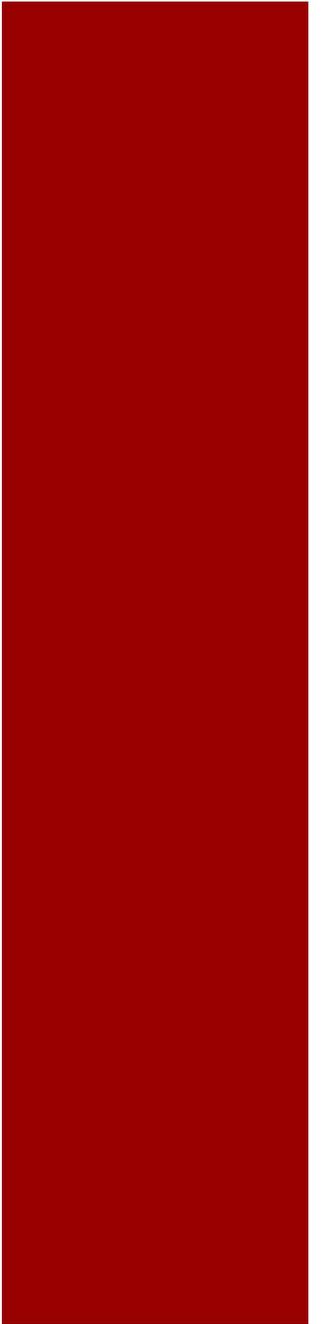


Expanding the educational mission

- Educate the school community, including parents, on the importance of treating transgender people with dignity
- Create professional development opportunities for community-based providers
- Support transgender students in legal proceedings, most likely custody disputes
- Advocate for transgender students outside the school community by opposing legislation that harms transgender people
- Empower transgender students to advocate for themselves and their community



Questions & Answers



The logo for the National Center for Lesbian Rights (NCLR) features the letters "NCLR" in a bold, dark red, sans-serif font. The text is centered within a white rectangular box that has a dark red border.

NCLR

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