



HB 4042 Harms Transgender Students by Prohibiting Their Participation in Team Sports Aligned with their Gender Identity

IDRA Testimony against House Bill 4042, Presented by Chloe Latham Sikes, Ph.D., to the Texas House Public Education Committee, April 20, 2021

Dear Chairman Dutton and Honorable Members of the Committee:

My name is Dr. Chloe Latham Sikes, and I am the Deputy Director of Policy at IDRA, an independent, non-partisan, non-profit committed to achieving equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college. We operate the IDRA EAC-*South*, the largest of four equity assistance centers. It is federally funded under the 1964 Civil Rights Act and provides training to schools across the U.S. South to ensure all students can learn free from discrimination, including discrimination based on gender identity.

IDRA opposes House Bill 4042 because it discriminates against one of the most vulnerable student populations in our country. This bill prohibits transgender and gender nonconforming students from participating in school sports teams, which creates unsafe school climates, harms students' academic achievement, and arguably violates federal protections against gender-based discrimination.

HB 4042 Makes Schools Unsafe for Students

Students in the LGBTQ community experience exclusion, harassment and bullying in schools at much higher rates than their peers due to their gender identity and sexual orientation. In 2019, more than one in 10 LGBTQ students reported being discouraged from school sports and activities, and 59% had experienced discrimination through school policies and practices based on their identities (Kosciw, et al., 2020).

Tragically, 40% of transgender people attempt suicide in their lifetime (compared to less than 1% of the general U.S. population), and 82% seriously consider it (Herman, et al., 2019). Discriminatory policies and practices in schools create unsafe, hostile learning environments for all students. That hurts students' ability to learn, thrive and grow in their education, and it compromises their educational opportunities.

HB 4042 Harms Students' Academic Achievement

Students who experience discrimination based on gender identity or sexual orientation are more likely to miss school days, have lower GPAs and drop out of school (Kosciw, et al., 2020). In Texas, gender-based harassment led 11% of transgender and gender nonconforming students to drop out of their school or university (NCTE & NGLT, 2010). This bill would harm students' academic achievement.

HB 4042 Violates Federal Protections Against Discrimination on the Basis of Sex

In addition to creating unwelcoming, unsafe and unfair barriers for transgender students, this bill goes against the spirit of and is likely preempted by federal Title IX protections against school-

based discrimination on the basis of sex. The U.S. Supreme Court, in its opinion on Title VII in *Bostock v. Clayton County, Georgia*, made clear that discrimination based on sex includes protections based on gender identity or sexual orientation for LGBTQ individuals.

HB 4042 also violates federal protections in President Biden's Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, issued January 20, 2021. These federal protections bar discrimination in athletic activities sponsored by educational institutions, including K-12 schools and postsecondary institutions.

Students' educational success depends on their ability to access equitable educational opportunities – whether in their classrooms, locker rooms or on the athletic field. This Legislature is responsible for protecting all Texas students. It should reject HB 4042 and instead ensure that all students have access to safe and welcoming school environments.

Recommendations

- Support safe and welcoming schools by rejecting HB 4042; and
- Support policies that promote comprehensive anti-bullying/sexual harassment school policies that specifically speak to nonconforming gender youth.

IDRA is available for any questions or further resources that we can provide. Thank you for your consideration. For more information, please contact Chloe Latham Sikes, Ph.D., IDRA Deputy Director of Policy, at chloe.sikes@idra.org.

Resources

- Freedom for All Americans. (2021). Legislative Tracker: Anti-Transgender School Athletics, webpage. <https://freedomforallamericans.org/legislative-tracker/student-athletics/>
- Herman, J.L., Brown, T.N.T., & Haas, A.P. (September 2019). Suicide Thoughts and Attempts Among Transgender Adults – Findings from the 2015 U.S. Transgender Survey. The Williams Institute, UCLA School of Law. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Suicidality-Transgender-Sep-2019.pdf>
- IDRA. (October 2019). Gender Justice. IDRA Newsletter. <https://idra.news/nlOct19p>
- IDRA. (2019). School Climate Affects LGBTQ Student Well-being, infographic. Intercultural Development Research Association. <https://idra.news/iGlgbtq19>
- Kosciw, J.G., Clark, C.M., Truong, N.L., & Zongrone, A.D. (2020). The 2019 National School Climate Survey – The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation's Schools. GLSEN. <https://www.glsen.org/research/2019-national-school-climate-survey>
- National Center for Transgender Equality and National Gay and Lesbian Taskforce. (2010). Findings of the National Transgender Discrimination Survey. https://transequality.org/sites/default/files/docs/resources/ntds_state_tx.pdf
- Shaffer, S., & Lerner, P. (October 2017). Supporting LGBTQ Students Faced with Sexual & Gender Harassment, IDRA Newsletter. <https://budurl.me/IDRAnlOct17c>
- The White House. (January 20, 2021). Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, Presidential Action. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation/>

IDRA is an independent, non-profit organization led by Celina Moreno, J.D. Our mission is to achieve equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college. IDRA strengthens and transforms public education by providing dynamic training; useful research, evaluation, and frameworks for action; timely policy analyses; and innovative materials and programs.



School Climate Affects LGBTQ Student Well-being

60% of LGBTQ students feel unsafe at school.

35% of LGBTQ students missed at least one entire day of school in the past month because they felt unsafe or uncomfortable.

92% of LGBTQ students felt distressed by hearing anti-LGBTQ remarks at school.

57% of students reported hearing homophobic remarks from their teachers or other school staff.

Lesbian, gay, and bisexual youth are **3-5 times more likely** to attempt suicide.

40% of transgender people will attempt suicide in their lifetime.

62%

of LGBTQ students report experiencing LGBTQ-related discriminatory policies or practices at school.

Some schools have policies prohibiting students from...

- ✘ discussing or writing about LGBTQ topics in school assignments;
- ✘ attending a dance or function with someone of the same gender;
- ✘ wearing clothing or items supporting LGBTQ issues; and
- ✘ using the preferred name or pronoun of transgender and gender nonconforming students.

LGBTQ students who experienced higher levels of victimization because of their sexual orientation or gender expression...

- ▶ Were nearly **three times as likely** to have missed school in the past month than those who experienced lower levels;
- ▶ Had **lower grade point averages** than students who were less often harassed;
- ▶ Were **twice as likely** to report that they did not plan to pursue college than those who experienced lower levels; and
- ▶ Were **more likely** to have been disciplined at school.

Students who feel safe and supported at school naturally do better in school

Effective School-based Supports...



Data Sources: The 2017 National School Climate Survey, GLSEN; Side by Side, 2019; The Williams Institute, UCLA School of Law, 2019