



SB 3 Harms Transgender Students by Prohibiting their Participation in Team Sports Aligned with their Gender Identity

IDRA Testimony against Senate Bill 3, submitted by Ana Ramón, to the Texas Senate Health and Human Services Committee, September 21, 2021

Dear Chairwoman Kolkhorst and Members of the Committee:

My name is Ana Ramón, and I am the Deputy Director of Advocacy at IDRA, a national education non-profit committed to achieving equal educational opportunity for all youth. We operate the IDRA EAC-*South*, the largest of four equity assistance centers, which 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.

We oppose Senate Bill 3 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.

SB 3 Makes Schools Unsafe for Students

Students in the LGBTQ community experience exclusion, harassment, and bullying in schools at higher rates than their peers due to their gender identity and sexual orientation. In 2019, over 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 (GLSEN, 2020). Tragically, 42% of transgender people will attempt suicide in their lifetime (GLSEN, 2017).

Discriminatory legislation like SB 3 discourages teachers and school staff from creating safe and welcoming places for their trans students and from incorporating best practices, such as using a students' desired pronouns to acknowledge them (NEA, 2016). 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 compromises their educational opportunities.

SB 3 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 (GLSEN, 2020). In Texas, gender-based harassment led 11% of transgender and gender nonconforming students to drop out of their school or university (National Transgender Discrimination Survey, 2010). This bill would harm students' academic achievement.

SB 3 Violates Federal Protections Against Discrimination on the Basis of Sex

In addition to creating unwelcoming, unsafe, and unfair barriers for transgender students, SB 3 goes against the spirit of and is likely preempted by federal Title IX protections against school-based discrimination on the basis of sex. In its opinion on Title VII in *Bostock v. Clayton County, Georgia*, the U.S. Supreme Court made clear that discrimination based on sex includes protections based on gender identity or sexual orientation for LGBTQ individuals. SB 3 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 SB 3 and instead ensure that all students have access to safe and welcoming school environments.

Recommendations

- Support safe and welcoming schools by rejecting SB 3;
- Support policies that promote comprehensive school policies regarding bullying and sexual harassment 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 Ana Ramón, IDRA Deputy Director of Advocacy, at ana.ramon@idra.org.

Resources

- Freedom for All Americans. (2021). Legislative Tracker: Anti-Transgender School Athletics, webpage. <https://freedomforallamericans.org/legislative-tracker/student-athletics/>
- IDRA. (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. [NCS-2019-Executive-Summary-English_1.pdf \(glsen.org\)](https://www.glsen.org/sites/default/files/2020-07/2019_National_School_Climate_Survey_Executive_Summary_English_1.pdf)
- 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
- NEA. (2016). *Legal Guidance on Transgender Students' Rights*. Washington, D.C.: National Education Association. https://www.nea.org/sites/default/files/2020-07/2018_Legal%20Guidance_Transgender%20Student%20Rights.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.