

## Legal Resources

The law is on the side of public school educators when it comes to supporting ALL students and creating schools that are a safe place for everyone to learn and to grow. Teachers and schools are not only protected by law, but also mandated in some cases.

## Colorado Statewide

1. [Teacher Quality / Effectiveness Standards](#). **QUALITY STANDARD II**

Teachers establish a safe, inclusive and respectful learning environment for a diverse population of students.

2. [HB19-1192 - Inclusion Of American Minorities In Teaching Civil Government](#)

“...include the history, culture, and social contributions of American Indians, Latinos, African Americans, and Asian Americans, the lesbian, gay, bisexual, and transgender individuals within these minority groups, the contributions and persecution of religious minorities, and the intersectionality of significant social and cultural features within these communities, in the teaching and content standards for history and civics.”

▶ [Colorado Anti-Discrimination Act \(CADA\)](#)

▷ Unlawful harassment is severe or pervasive conduct that creates an environment that is subjectively and objectively hostile, intimidating, or offensive **on the basis of sexual orientation**

## Federal

- [Title IX](#)

Title IX prohibits discrimination on the basis of gender identity, including transgender and gender nonconforming status, and sexual orientation

- [Guidelines for Supporting Transgender and Gender-nonconforming Students](#)

- [US Department of Education, Resources for LGBTQI+ Students](#)

- [Civil Rights for ALL students in education](#)

“Discrimination on the basis of race, color, and national origin is prohibited by Title VI of the Civil Rights Act of 1964; sex discrimination is prohibited by Title IX of the Education Amendments of 1972; discrimination on the basis of disability is prohibited by Section 504 of the Rehabilitation Act of 1973; and age discrimination is prohibited by the Age Discrimination Act of 1975”

## Colorado District Policies

- [Boulder Valley School District](#)
- [St. Vrain Valley School District](#)
- [Adams 12 Five Star Schools](#)

## Legal Guidance on Transgender and Gender Nonconforming Students' Rights

By: Nathan Fall

### Colorado Anti-Discrimination Act (CADA):

- ▶ Questions about an individual's sexual orientation
  - ▶ Disclosing to others
  - ▶ Using offensive names or terminology
  - ▶ **Deliberately misusing an individual's preferred name, form of address, or gender-related pronoun**
- 
- ▶ HB21-1108 "Gender Identity Expression Anti-discrimination"
    - ▶ Updated definition of protected class (i.e. sexual orientation) under Colorado law
      - Amends statutory definition of "sexual orientation"
        - Adds "**gender expression**" AND "**Gender identity**"
        - **AQE says:** "Gender Expression" means an individual's way of reflecting and expressing the individual's gender to the outside world, typically demonstrated through appearance, dress, and behavior
        - **AQE says:** "Gender Identity" means an individual's innate sense of the individual's own gender, which may or may not correspond with the individual's sex assigned at birth
- 
- ▶ Names & Pronouns
    - ▶ A student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity.
    - ▶ Court-ordered name or gender change not required
    - ▶ Official records do not need to be changed

- ▶ Intentional or persistent refusal to respect a student's gender identity is a violation of state and federal law
- ▶ Privacy
  - ▶ All students have a right to privacy
    - This includes the right to keep private one's transgender status or gender nonconforming status private at school
  - ▶ School personnel should not disclose information that may reveal a student's transgender status or gender nonconforming presentation to others, including parents and other school personnel, unless legally required to do so or unless the student has authorized such disclosure
  - ▶ When contacting the parent or guardian of a student who is transgender or gender nonconforming:
    - Use the student's legal name and the pronoun corresponding to the student's biological sex assigned at birth unless the student, parent, or guardian has specified otherwise

## Official Records

- ▶ Amend a student's official record to reflect a change in first name and/or to reflect a change in gender upon receipt of appropriate documentation such as
  - ▶ a court order; or
  - ▶ other documentation from the parent or guardian substantiating the change
- ▶ Required by law to use or to report the legal name or biological sex of a student but whose official record has not been amended (i.e. state assessments)
  - ▶ Privacy implication: Avoid inadvertent disclosure of such information

## Dress Code

- ▶ All students have the right to dress in a manner consistent with their gender identity or gender expression
- ▶ Schools may not adopt dress codes that restrict a student's clothing or appearance on the basis of gender.

## Gender Segregated Activities

- ▶ As a general practice, schools should reduce or eliminate the practice of segregating students by gender
- ▶ In certain situations where students are segregated by gender, students should be included in the group that corresponds to their gender identity

## Locker Room

- ▶ Civil Rights Commission Rule 3 CCR 708-1; 81.9 Gender-Segregated Facilities
  - ▶ **Schools must allow students the use of gender-segregated facilities that are consistent with their gender identity.** Gender-segregated facilities include, but are not limited to, restrooms, locker rooms, dressing rooms, and dormitories
  - ▶ If undressing in the presence of others, **schools must make reasonable accommodations to allow access** consistent with an individual's gender identity
- ▶ Case-by-case basis
  - ▶ Goals:
    - Maximize the student's integration and equal opportunity to participate in P.E. classes and sports
    - Ensuring the student's safety and comfort
    - Minimizing stigmatization
    - Avoiding discriminatory practices
- ▶ **Increased need for privacy → provide reasonable alternatives**