Transgender, Nonbinary, and Gender Nonconforming Students:

Legal Issues

State Law Prohibits Discrimination Against Transgender, Nonbinary, and Gender Nonconforming Students

The Illinois School Code requires public schools to provide all students with equal opportunities in all education programs and services. 105 ILCS 5/10-20.12; 23 Ill.Admin.Code §1.240(a). Illinois State Board of Education (ISBE) regulations further state that "no school system may exclude or segregate any pupil, or discriminate against any pupil on the basis of his or her race, color, religion, sex, national origin, ancestry, age, marital status, or physical or mental disability, sexual orientation, pregnancy [775 ILCS 5/1-102(A)], gender identity, or status of being homeless [105 ILCS 45/1-5 and 42 USC 11434a(2)]." 23 Ill.Admin.Code §1.240(b).

The Illinois Human Rights Act (IHRA) prohibits discrimination in places of public accommodation, including schools, based on sex and sexual orientation. 775 ILCS 5/1-102(A), 5/5-101(11). The IHRA defines *sexual orientation* as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). Similar to Title IX regulation 34 C.F.R. §106.33, the IHRA permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103(B).

Even so, school districts may be subject to Illinois Department of Human Rights (IDHR) complaints alleging gender-related identity discrimination in violation of the IHRA. Such complainants may also allege disability discrimination in violation of the IHRA based upon the student's diagnosis of gender dysphoria. As stated in IDHR non-regulatory guidance, "Schools in Illinois may not discriminate against a student because of their gender-related identity, including treating them differently because their gender-related identity does not align with their designated sex at birth." See p. 1 of the IDHR's *Relating to Protection of Transgender, Nonbinary, and Gender Nonconforming Students Under the Illinois Human Rights Act* (December 2021). Unlike complaints filed with the U.S. Department of Education (for example, through the Office for Civil Rights), successful IDHR complainants can seek attorneys' fees and costs in relief. 775 ILCS 5/8A-104(G).

What follows below is a summary of legal issues, resources, and recent school-related cases regarding transgender, nonbinary, and/or gender nonconforming students, grouped into the following subtopics:

A. Student Accommodations and Athletics
B. Student Records
C. Staff Rights
D. Parent Rights
E. Other

Case names appearing in **bold** font are from Illinois, the U.S. Circuit Court for the Seventh Circuit, or the United States Supreme Court.

A. Student Accommodations and Athletics

Under the IHRA, schools cannot deny or refuse a student "full and equal enjoyment" of facilities, goods, or services due to their actual or perceived sex, sexual orientation, or gender-related identity. 775 ILCS 5/5-102.2(2), amended by P.A. 103-472. In practice, this means that students must be granted access to facilities (such as bathrooms and locker rooms) and services (such as participation in athletic activities) that align with their gender-related identity. How this is accomplished is not prescribed in law and is very fact dependent.

Additional Resources

- IASB sample PRESS administrative procedure 7:10-AP1, *Accommodating Transgender, Nonbinary, or Gender Nonconforming Students*.
- Illinois State Board of Education website on *Supporting Transgender, Nonbinary and Gender Nonconforming Students*.
- Illinois Department of Human Rights non-regulatory guidance *Relating to Protection of Transgender, Nonbinary, and Gender Nonconforming Students Under the Illinois Human Rights Act* (December 2021).
- The participation of transgender students in competitive athletic activities and contact sports is governed by the sponsoring organization's policies. See:
    - Illinois High School Association (IHSA) policy #34, *Policy and School Recommendations for Transgender Participation*.
    - Illinois Elementary School Association (IESA) *Policy and School Recommendations for Transgender Participation* (7-1-25).
    - Southern Illinois Junior High School Athletic Association (SIJHSAA) *Transgender Participation Policy* (10-17-18).

Date	Case	Issue	Holding
11/6/25	*Defending Education v. Olentangy Local Sch. Dist.,* 2025 WL 3102072 (6th Cir. 2025)	Whether the school district's bar on students from referring to transgender and nonbinary classmates using the pronouns that match their biological sex violated the 1st Amendment Free Speech Clause.	A school district may not restrict personal speech on matters of public concern unless the speech would "materially and substantially disrupt" school activities or infringe the legal "rights of others" in the school community. The school district fell short of meeting this standard, so the case was reversed and remanded for entry of a properly tailored preliminary injunction barring the district from punishing students for "the commonplace use of biological pronouns." Nothing forecloses the district from enforcing its anti-harassment policies against the abuse of transgender students just as it enforces those policies against the abuse of all other students.
7/3/25 [Athletics]	*Hecox v. Little*, 145 S.Ct. 2871 (U.S. 2025)	Petition for writ of certiorari.	Certiorari granted as to: Whether laws that seek to protect women's and girls' sports by limiting participation to women and girls based on sex violate the equal protection clause of the 14th Amendment.
	Case History *Hecox v. Little,* 104 F.4th 1061 (9th Cir. 2024)	Whether the Idaho federal district court abused its discretion in August 2020 when it preliminarily enjoined the Fairness in Women's Sports Act, holding that it likely violated the Equal Protection Clause of the 14th Amendment.	Affirmed the district court's grant of preliminary injunctive relief to Lindsay Hecox and remanded the case to the district court to reconsider the appropriate scope of injunctive relief in light of the Supreme Court's decision in *Labrador v. Poe,* 144 S.Ct. 921 (2024).
7/3/25 [Athletics]	*West Virginia v. B.P.J.,* 2025 WL 1829164 (U.S. 2025)	Petition for writ of certiorari.	Certiorari granted as to: (1) Whether Title IX prevents a state from consistently designating girls' and boys' sports teams based on biological sex determined at birth; and (2) whether the equal protection clause of the 14th Amendment prevents a state from offering separate boys' and girls' sports teams based on biological sex determined at birth.
	Case History *B.P.J. by Jackson v. W. Virginia State Bd. of Educ.,* 98 F.4th 542 (4th Cir. 2024)		The Appellate Court (Court) held that a West Virginia law prohibiting transgender girls from participating in girls' athletic teams while allowing transgender boys to participate on boys' sports teams violated Title IX's prohibition of discrimination on the basis of sex. The Court found that the commission exercised sufficient control over direct funding recipients to make it a proper defendant under Title IX and that the action was ripe for adjudication. The Court held that the statute's definition of a person's sex was facial classification based on gender identity subject to intermediate scrutiny under Equal Protection Clause however summary judgment on the student's equal protection claim was not warranted and sent the issue back to the trial court for a hearing on the merits of the claim. Vacated in part, reversed in part, and remanded.
	B.P.J. by Jackson v. W. Virginia State Bd. of Educ., 550 F.Supp.3d 347 (S.D. W.Va. 2023)	Whether the legislature's chosen definition of "girl" and "woman" as biologically female for the purpose of secondary school sports is constitutionally permissible	Applying intermediate scrutiny, the court held the definitions of "girl" and "woman" are constitutionally permissible because it is substantially related to the government's important interest in providing equal athletic opportunities for females.

Date	Case	Issue	Holding
11/5/24 [Athletics]	*Soule by Stanescu v. Conn. Ass. Of Schs.,* 755 F.Supp.3d 172 (D. Conn. 2024)		On remand, the District Court held that: • The allegations of the Amended Complaint provided the basis for a disparate-treatment claim within the scope of Title IX's implied private right of action; • Plaintiffs' home schools were potentially liable for subjecting Plaintiffs to discrimination under their athletic programs in violation of Title IX; and • The impact of Pennhurst on the plaintiffs' ability to obtain nominal damages, attorneys' fees and costs cannot be determined at this time as a matter of law. Accordingly, motions to dismiss were denied.
	Case History *Soule by Stanescu v. Conn. Ass. Of Schs.,* 90 F.4th 34 (2nd Cir. 2023)		On rehearing *en banc*, the Court of Appeals held that: • Plaintiffs plausible alleged a concrete injury, as required for injury-in-fact element for Article III standing; • Request for monetary damages satisfied redressability element for Article III standing; • Request for injunctive relief satisfied redressability element for Article III standing; and • District court had discretion to consider merits of Title IX claims before or in tandem with question of whether conference had notice of alleged violation of Title IX and question of applicability of notice requirement for recovery of monetary damages pursuant to implied private right of action under Title IX. District court judgment vacated and remanded.
	Soule by Stanescu v. Conn. Ass. Of Schs., 57 F.4th 43 (2nd Cir. 2022)	Whether the Connecticut Interscholastic Athletic Conference's Transgender Participation Policy, which permits high school students to compete on gender specific athletic teams consistent with their gender identity, violates cisgender females' Title IX rights because the participation of transgender females results in "students who are born female" having materially fewer options for victory, public recognition, athletic scholarships, and future employment "than students who are born male."	• Claim that maintaining records affected plaintiffs' college recruitment and scholarship opportunities was rendered moot; • Plaintiffs were not deprived of "chance to be champions" from maintenance of race records, and thus they did not suffer injury in fact necessary for Article III standing on that ground; • Any injury in fact from loss of chance to be champions was not redressable by injunctive relief to change race records, as element of standing; • Plaintiffs failed to show that alleged future injury to their employment opportunities from maintenance of race records was injury in fact required for Article III standing; • Any injury to plaintiffs' future employment opportunities was not redressable by injunctive relief to change race records; • Defendants lacked adequate notice that they could be liable under Title IX, and thus plaintiffs could not maintain private damages action; and • Policy did not amount to intentional discrimination, and thus plaintiffs were not entitled to maintain private damages action even if there was no clear notice that policy violated Title IX.

Date	Case	Issue	Holding
9/9/24 **[Athletics]**	*Doe v. Horne*, 115 F.4th 1083 (9th Cir. 2024)	Whether the district court erred when it found that Arizona's Save Women's Sports Act, which categorically precluded transgender female students from playing on girls' sports teams, violated the Equal Protection Clause and Title IX.	Affirming, the Court held that: • District court did not clearly err by treating differences between prepubertal boys and girls as insignificant; • District court did not clearly err in finding that transgender girls who received puberty-blocking medication did not have athletic advantage over other girls because they did not undergo male puberty and did not experience physiological changes caused by increased production of testosterone associated with male puberty; • District court did not clearly err in finding that Arizona's Save Women's Sports Act was adopted for purpose of excluding transgender girls from playing on girls' sports teams; • Heightened scrutiny applied to claim that Arizona's Save Women's Sports Act violated equal protection; • Requirement under Arizona's Save Women's Sports Act for transgender female students to be categorically precluded from playing on girls' sports teams likely was not substantially related to achievement of important governmental objectives of ensuring competitive fairness and equal athletic opportunity for female student-athletes; • Arizona's Save Women's Sports Act, which categorically precluded transgender female students from playing on girls' sports teams, discriminated; and • District court did not abuse its discretion in finding that balance of equities tipped in favor of transgender female students and injunction was in public interest.
9/4/24	*D.H. by A.H. v. Williamson Co. Bd. of Educ.,* 2024 WL 4046581 (M.D. Tn. 2022)	Whether case should be reconsidered and dismissed in light of the 6th Circuit opinion in *L.W. v. Skrmetti*, 83 F.4th 460 (6th Cir. 2023) which foreclosed the application of intermediate scrutiny to restrictions stemming from one's transgender status.	The interests of privacy and safety are sufficient to satisfy rational basis review; Defendants' motions to reconsider and dismiss are granted. Case subsequently dismissed.
	<u>Case History</u> *D.H. by A.H. v. Williamson Co. Bd. of Educ.,* 638 F.Supp.3d 821 (M.D. Tn. 2022)	Whether the Tennessee Accommodations for All Children Act, which resulted in 3rd grade transgender female student not being allowed to use girls' restroom because her biological sex at birth was not female, violates the 14th Amendment Equal Protection Clause and Title IX.	Plaintiff didn't meet her burden to show that circumstances warrant preliminary injunction relief regarding Equal Protection claim because, "[g]iven the long history of allowing separate bathroom facilities based on sex, the Court cannot say that it violates the principles of equal protection for the state to impose a sex-based classification which requires individuals in public school buildings to use the restroom corresponding with their biological sex." Plaintiff also didn't meet her burden to show she was likely to prevail on the merits of her Title IX claim.

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6/14/24	*Tennessee v. U.S. Dept. of Educ.,* 104 F.4th 577 (6th Cir. 2024)		Lower court affirmed. • States faced injury-in-fact required for standing to bring pre-enforcement challenge; • States demonstrated substantial likelihood that they faced sovereign injury in absence of preliminary injunction; • Issuance of guidance documents was final agency action subject to judicial review under Administrative Procedure Act (APA); • States' ability to challenge documents' legality in enforcement action did not provide adequate remedy; • Title IX's judicial review provision did not preclude states' pre-enforcement claim; • States were likely to succeed on merits of their claim that documents were invalid for failure to comply with Administrative Procedure Act's (APA) notice-and-comment requirement; • States were likely to suffer irreparable harm in absence of preliminary injunction; • Balance of equities and public interest favored issuance of preliminary injunction; and Injunction was not impermissibly broad.
	Case History *Tennessee v. U.S. Dept. of Educ.,* 615 F. Supp. 3d 807 (E.D. Tenn. 2022)	States brought action against the U.S. Dept. of Education, EEOC, and U.S. Dept. of Justice challenging the legality of guidance documents declaring that "laws that prohibit sex discrimination prohibited discrimination on the basis of gender identity or sexual orientation."	Plaintiffs' motion for preliminary injunction is granted and Defendants' motion to dismiss is denied because: • States had standing to challenge guidance; • Challenge was ripe for pre-enforcement judicial review; • Guidance was reviewable under the Administrative Procedure Act; and Balancing of factors demonstrated that States were entitled to preliminary injunction.
1/12/24	*Eli Bridge v. Oklahoma State Dept. of Education,* 711 F.Supp.3d 1289 (W.D. Ok. 2025)	Whether Oklahoma law requiring that multiple occupancy restrooms and changing areas in public schools be separated for exclusive use based on students' biological sex as identified on an original birth certificate violated the 14th Amendment Equal Protection Clause and Title IX.	• Law classified individuals based on sex, and thus was subject to intermediate scrutiny on equal protection challenge; • Law did not violate transgender students' equal protection rights; and • Law did not discriminate against transgender students based on sex in violation of Title IX.

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8/1/23	***A.C. v. Metro. Sch. Dist. of Martinsville*, 75 F. 4th 760 (7th Cir. 2023)**	Whether the district violated Title IX and 14th Amendment Equal Protection Clause by refusing to allow transgender male student to use the boys' bathroom.	In this consolidated case involving three plaintiffs, the Seventh Circuit upheld the preliminary injunctions which required schools (all in Indiana) to allow students to use the bathroom that matches their gender identity. • Discrimination against transgender students is a form of sex discrimination, as found in 2017 in Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ., 858 F.3d 1034 (7th Cir. 2017) (see below) • In 2020, SCOTUS affirmed this concept in the closely related area of Title VII employment law, in *Bostock v. Clayton Co*., 140 S.Ct. 1731 (2020) (finding that employment discrimination based on transgender status is a form of sex discrimination). • "Narrow definitions of sex do not account for the complexity of the necessary inquiry" (770) • The court noted there is a circuit split on the issue of bathroom access: the Fourth Circuit has held that denying gender-affirming bathroom access can violate both Title IX and the Equal Protection Clause, while the Eleventh Circuit found no violation based on substantially similar facts.
	Case History ***A.C. v. Metro. Sch. Dist. of Martinsville*, 601 F.Supp.3d 345 (S.D. Ind. 2022)**		Southern District of Indiana 2022, granting Plaintiffs' motion for preliminary injunction: • Student was likely to succeed on merits of his claim that district's refusal to allow him to use male restroom violated Title IX prohibition on discrimination on basis of sex; • Student was likely to succeed on merits of his claim that district's refusal to allow him to use male restroom violated his equal protection rights; • Student sufficiently demonstrated that he would suffer irreparable harm in absence of preliminary injunction; • Student sufficiently demonstrated that there was no adequate remedy at law to compensate for harm he continued to suffer as result of district policy; Balance of harms weighed in favor of preliminary injunction; and • Public interest factor weighed in favor of preliminary injunction.

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1/19/23 [Athletics]	*A.M. by E.M. v. Indianapolis Pub. Schs.,* (7th Cir. 2023)		Dismissed 1.19.23 upon consideration of 1.18.23 Dismissal Agreement.
	Case History *A.M. by E.M. v. Indianapolis Pub. Schs.,* 2022 WL 2951430 (S.D. Ind. 2022)	Whether the district violated Title IX and 14th Amendment Equal Protection Clause based on Indiana statute prohibiting transgender females from participating on girls' softball team.	Plaintiffs' motion for preliminary injunction granted. • Transgender student established strong likelihood that she would succeed in showing that school district's application of Indiana statute that prohibited her from participating on girls' softball team constituted discrimination under Title IX based on student's sex, for purposes of whether to issue preliminary injunction to enjoin school district from enforcing that statute; • Emotional harm that transgender student would suffer if she could not play on girls' softball team could not be addressed adequately through remedy at law, for purposes of whether to issue preliminary injunction to enjoin enforcement of statute; • Transgender student would suffer irreparable harm absent preliminary injunction to enjoin school district from enforcing statute; • Harm that transgender student would face absent preliminary injunction to enjoin school district's enforcement of statute outweighed harm that Indiana would face if injunction issued; • Public interest lay with enjoining school district from enforcing statute; and • Requiring transgender student to post a bond before issuing preliminary injunction to enjoin school district from enforcing statute was not warranted.
12/30/22	*Adams by and through Kasper v. Sch. Bd. of St. Johns Co.*, 57 F.4th 791 (11th Cir. 2022)	Whether separating the use of male and female bathrooms in public schools based on a student's biological sex violates the 14th Amendment Equal Protection Clause and Title IX.	• Separating school bathrooms based on biological sex passes constitutional muster and comports with Title IX.
9/28/20	*N.H. v. Anoka-Hennepin Sch. Dist. No. 11*, 950 N.W.2d 553 (Minn. App. 2020)	Whether district violated Minnesota Human Rights Act and Equal Protection Clause of Minnesota Constitution when it required student to use separate area of boys' locker room.	• As a matter of first impression, student had claim of relief for sexual-orientation discrimination under the Minnesota Human Rights Act (MHRA); • Similarly-situated test applied to student's equal-protection claim • Student was similarly situated to his male peers; • As a matter of first impression, intermediate scrutiny applied to student's equal-protection claim; and • As a matter of first impression, student stated an equal protection claim.

Date	Case	Issue	Holding
9/22/20	*Gavin Grimm v. Gloucester Cnty. Sch. Bd.,* 967 F.3d 399 (4th Cir. 2020)	Petition for rehearing en banc.	Petition denied.
	Case History *Gavin Grimm v. Gloucester Cnty. Sch. Bd.,* 972 F.3d 586 (4th Cir. 2020)	Whether: a) the Board's policy that students could only use restrooms matching their "biological gender," and b) the Board's refusal to amend student's school records to reflect his gender, as listed on updated state-issued documents, constituted sex-based discrimination and thus violated the Equal Protection Clause and Title IX.	District court granted plaintiff's motion for summary judgment on both claims, and 4th Circuit Court of Appeals affirmed. • Heightened scrutiny applied to the equal protection challenge to the board's policy prohibiting transgender students from using restrooms that did not match their biological genders as it created sex-based classifications, and sex and transgender were quasi-suspect classes. • The policy violated equal protection as it was not substantially related to the important interest in protecting student privacy. • Specifically, the plaintiff had used the boys' restrooms for seven weeks without incident, after the community became aware of that use privacy actually increased, and there was no evidence that bodily privacy of cisgender boys using the boys' restrooms increased when the plaintiff was banned from those restrooms.
6/7/19	*J.A.W. v. Evansville Vanderburgh Sch. Corp*., 396 F.Supp.3d 833 (S.D. Ind. 2019)	Whether school district's denial of use of boys' restroom to transgender student violated Title IX and the Equal Protection Clause.	• School's practice of requiring transgender students to use a bathroom that did not conform with their gender identity violated Title IX; • School had adequate notice that its practice could subject it to liability; • Genuine issue of material fact existed as to whether transgender high school student was entitled to damages, and when those damages began to accrue, precluding summary judgment; • School's practice was a sex-based classification subject to heightened scrutiny under the equal protection clause of the Fourteenth Amendment; • School's practice violated equal protection; and • Transgender student's claims under Title IX and the equal protection clause were not rendered moot by student's graduation from high school.

3/29/19	***Students and Parents for Privacy et al. v. Sch. Directors of Twp. HSD 211,* 377 F.Supp. 3d 891 (N.D. Il. 2019)**	Whether a school district's policy allowing students to use restrooms and locker rooms in accordance with their gender identity was a violation of Title IX and the 14th Amendment (as it pertained to cisgender students' right to bodily privacy and parental right to control upbringing and education)	Case was ultimately dismissed by Plaintiffs. Prior to that, Defendants moved to dismiss amended complaint (originally Plaintiffs filed for preliminary injunction, but court denied b/c Plaintiffs had not shown a likelihood of success on the merits of irreparable harm). Court ruled the following prior to dismissal: • President of Students and Parents for Privacy dismissed for lack of standing; • Plaintiffs' claims under Title IX (sexual harassment), the Ill. Religious Freedom Act, and the Free Exercise Clause were plausible; and • Plaintiffs' Due Process clause right to direct the education of their children did not extend to right to determine whether their children would share restrooms and locker rooms with transgender children.
	Case History 2016 WL 6134121 (N.D. Il. 2016)	Whether a preliminary injunction, to cease allowing transgender students from using the bathroom that matches their gender identity, should be granted while litigation is proceeding.	The court found that Plaintiffs were not able to show they have a likelihood of success on the merits of their claims and were therefore not entitled to a preliminary injunction. High school students do not have a constitutional right not to share restrooms or locker rooms with transgender students whose sex assigned at birth is different than theirs. In addition, sharing a restroom or locker room with a transgender student does not create a severe, pervasive, or objectively offensive hostile environment under Title IX where privacy protections have been put in place in those facilities and there are alternative facilities available to students who do not want to share a restroom or locker room with a transgender student.
7/26/18	*Doe v. Boyertown Area Sch. Dist. et al.,* 897 F.3d 518 (3rd Cir. 2018)		Affirmed on appeal.
	Case History *Doe v. Boyertown Area Sch. Dist. et al.,* 276 F.Supp.3d 324 (E.D. Pa. 2017)	Whether BASH's policy of allowing transgender students to use bathrooms and locker rooms that matched their gender identities violated cis students' constitutional right to privacy, Title IX and PA tort law.	The court ultimately denied Plaintiffs claims and in declining to take action on the case, allowed BASH's policies allowing trans students to use bathrooms and locker rooms in alignment with their gender identity to continue.

Date	Case	Issue	Holding
5/30/17	***Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034 (7th Cir. 2017)** Abrogation recognized by *Kluge v. Brownsburg Comm. Sch. Corp,* 150 F.4th 792 (7th Cir. 2025)	Whether denying trans students to use bathrooms aligning with their gender identity is a violation of Title IX and equal protection	The court affirmed the preliminary injunction illustrating that trans students should be able to use bathrooms aligning with their gender identity. How elements of injunctive relief were met: • Plaintiffs illustrated irreparable harm (expert testimony on psychological and emotional risks of stigmatization); • Tort damages wouldn't remedy harms caused; and • Equal protections clause and Title IX prohibit gender discrimination by federally funded schools and therefore Title IX claim will likely succeed. In 2023, the Seventh Circuit in *A.C. v. Metro Sch. Dist. Of Martinsville* noted that *Whitaker* "has been the governing decision in our circuit since 2017, and the school districts have not identified any substantial injuries it has caused." 75 F.4th 760 at 771.
2/27/17	*Evancho v. Pine-Richland Sch. Dist.*, 237 F.Supp.3d 267 (W.D. Pa. 2017)	Whether the enforcement of Resolution 2 (2016 policy passed mandating student either use single-user bathrooms OR the bathrooms matching their sex assigned at birth) violates the Equal Protection Clause XIV and/or Title IX	The court concluded that Resolution 2 (as it pertained to the common school restroom) likely violates the Equal Protection clause of the 14th Amendment. The court further concluded that on the facts of this case, Plaintiffs did not show that Resolution 2 violated Title IX.
1/30/14	*Doe v. Regional Sch. Unit 26*, No. 12-582 (Me. 2014)	Whether excluding trans students from communal bathrooms aligning with their expressed gender identity violated the MHRA (Maine Human Rights Act) and discriminated against trans students based on sexual orientation	The court held that excluding trans students from communal bathrooms aligning with their gender identity violated the MHRA and did discriminate against transgender students based off student sexual orientation.

Student Records

Birth Certificate – Name Change

An individual may change the name on his or her birth certificate by submitting a certified copy of a *Court Order of Legal Name Change* to the Illinois Department of Public Health (IDPH), Office of Vital Records. 410 ILCS 535/22(4); 77 Ill.Admin.Code §500.40(l).

Birth Certificate – Gender Change

Prior to July 1, 2023, to change gender on a birth certificate, an individual with an existing Illinois birth certificate was required to submit an *Affidavit and Certification of Correction Request* form along with a *Declaration of Gender Transition/Intersex Condition* form to the IDPH. The *Affidavit and Certification of Correction Request* form was to be signed and notarized. The *Declaration of Gender Transition or Intersex Condition* form was to be completed by either a licensed health care professional or a licensed mental health professional. See 410 ILCS 535/1 and 535/17.

This process changed on July 1, 2023, as P.A. 102-1141 amended 410 ILCS 535/17 to no longer require a declaration signed by a licensed health care professional or licensed mental health professional. Instead, a signed statement by the person requesting the change, in which the person attests to making the request for the purpose of affirming their gender identity or intersex condition, suffices. According to IDPH, individuals born in Illinois with an existing Illinois birth certificate may submit an *Affidavit and Certificate of Correction Request* form to IDPH requesting to have the gender changed on their birth certificate. The form must be signed and notarized. The applicant must be "of legal age (or the parent/co-parent or guardian if not of legal age) to complete the form." The same form may be used by an individual seeking to simultaneously change their gender and name.

Illinois State Board of Education Demographic Data

Gender is a mandatory student demographic data element within the ISBE Student Information System, and two gender options are available: male or female. ISBE advises, however, that "for students identifying as transgender, districts may choose to enter the gender with which the student identifies rather than the student's biological gender. If necessary, the district may also enter the first name the student uses if it differs from the birth certificate." For managing demographic information in the ISBE Student Information System, click here.

Additional Resources

- *A Transgender Advocate's Guide to Updating and Amending School Records* by Lambda Legal, online at: www.lambdalegal.org/know-your-rights/article/youth-ferpa-faq.

B. Staff Rights

Generally, staff are expected to refer to students by their preferred name or nickname and pronouns. Cases challenging this may involve staff asserting free speech rights and/or religious objections to referring to students by their preferred name or pronoun, as well as objections to whether or how they can communicate student preferences to the student's parents/guardians. Receiving feedback, discipline, or dismissal for refusing to call students by their preferred names or pronouns will not necessarily result in a finding of discrimination against the staff member.

Date	Case	Issue	Holding
8/5/25	***Kluge v. Brownsburg Comm. Sch. Corp.*, 150 F.4th 792 (7th Cir. 2025)**		• District court could not sua sponte define school's mission; • Fact issues remained as to whether teacher's use of students' last names only imposed undue burden on corporation's mission; • Fact issues remained as to whether teacher's use of students' last names only subjected corporation to unreasonable risk of Title IX liability; and • Fact issues remained as to whether teacher's purported belief was sincerely held. • Reversed and remanded.
	<u>Case History</u> *Kluge v. Brownsburg Comm. Sch. Corp.*, 2024 WL 1885848 (S.D. Ind. 2024)		Applying ***Groff***, the District Court explained that undue hardship is to be viewed within the context of a particular business, not a particular employee. The Court held that the school corporation is not required under Title VII to continue accommodation that results in substantial student harm and an unreasonable risk of liability, both of which the Court found contradicted the school's mission to foster a supportive environment. The last names only accommodation was an undue burden on the school corporation as a matter of law. Kluge's motion for summary judgment was denied due to factual issues as to whether his religious beliefs were sincere. School corporation's cross-motion for summary judgment was granted.
	***Kluge v. Brownsburg Comm. Sch. Corp.*, 2023 WL 4842324 (7th Cir. 2023)**		Due to the U.S. Supreme Court's clarification in ***Groff v. DeJoy*, 143 S. Ct. 2279 (2023)** of the standard to be applied in Title VII cases for religious accommodations, the opinion and judgment in this case are vacated and the case is remanded to the District Court to apply the clarified standard.

8/5/25 continued	***Kluge v. Brownsburg Comm. Sch. Corp.,* 64 F.4th 861 (7th Cir. 2023)**	Whether the district violated Title VII by failing to accommodate teacher's religious beliefs and retaliating against teacher for his refusal to use students' preferred names and pronouns.	In the District Court, Plaintiff's motion for summary judgment was denied and defendants' motion for summary judgment granted. • Amicus curiae briefs from medical, mental health, and transgender youth support organizations would not be permitted; • Complaints by unidentified students regarding teacher's treatment of transgender students were not inadmissible hearsay; • School did not misrepresent to teacher that he could submit a conditional resignation that could be withdrawn; • School was not required to offer or discuss an alternative accommodation for teacher's religious beliefs; • Teacher's use of transgender students' last names only as an accommodation to his religious beliefs created an undue hardship for school; • Teacher waived any argument in opposition to school's motion for summary judgment on his retaliation claim; and • There was no evidence of a causal connection between the teacher's request for an accommodation and his resignation. District name policy allowed students to change first names in Power School if they presented a letter from a parent and a letter from a healthcare professional, and staff were required to use students' Power School names. **7th Circuit affirmed, holding that:** • The decision to rescind accommodation allowing teacher to address students by their last names only did not violate Title VII's prohibition against religious discrimination; • Teacher failed to establish a but-for causal link between his request for accommodation and district's decision to rescind accommodation; and • Decision to rescind accommodation was not pretextual.

Date	Case	Issue	Holding
5/9/22	*Ricard v. USD 475 Geary Co.*, 2022 WL 1471372 (D. Kan. 2022)	Whether the district violated teacher's free speech, free exercise, and due process rights by: requiring her to refer to students by preferred first names and pronouns; and prohibiting her from referring to a student by their preferred names and pronouns in communications with the student's parents unless the student requests the administration or counselor do so.	Preliminary injunction denied re: preferred names and pronouns policy but granted re: communication with parents policy based on Plaintiff's free exercise rights. Communication with parents policy was evaluated under strict scrutiny and found to be both overinclusive and underinclusive. The court declined to address Plaintiffs' free speech and due process arguments. (Case settled for $95,000 and was dismissed on 8/31/22.)
12/14/23	*Vlaming v. West Point Sch. Bd.*, 895 S.E.2d 705 (S.C. Vir. 2023)		The Supreme Court of Virginia held that teacher's allegation that board terminated him for refusing to violate his religious beliefs by using a transgender student's preferred pronouns stated a legally viable free-exercise claim under the Constitution of Virginia; teacher had a statutory right not to be terminated without just cause; teacher's allegations stated a free-exercise claim under the Virginia Religious Freedom Restoration Act (VRFRA); board's termination of teacher was not exempt from the VRFRA as a governmental action to maintain health, safety, security, or discipline; teacher's allegations stated a "compelled speech" claim subject to special protection; the official-duties doctrine did not apply to teacher's allegations; teacher's allegations stated prima facie claims of viewpoint discrimination and retaliation for his expressed statements, in violation of his right of free expression; teacher's allegations stated an as-applied procedural due process claim under the Constitution of Virginia; and teacher's termination for alleged exercise of his legal rights stated a breach of contract claim. Reversed and remanded.
	Case History *Vlaming v. West Point Sch. Bd.*, 10 F.4th 300 (4th Cir. 2021)		Teacher's motion for remand granted. • Case did not assert any federal causes of action; • Claim under Virginia's Dillon Rule did not necessarily raise a substantial federal question; • Breach of contract claim did not necessarily raise a substantial federal question; • Claims under Virginia's constitution did not necessarily raise substantial federal questions; and • Civil rights removal statute, which was limited to cases involving racial equality, did not apply to support removal.

Date	Case	Issue	Holding
7/8/21	*Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021)	Whether college violated professor's free speech, free exercise, and due process rights by requiring faculty to refer to students by pronouns that reflected their self-asserted gender identity.	Reversed and remanded. • First Amendment protection of free speech rights of professors at public universities, during core activity of teaching, potentially extended to plaintiff's use of pronouns in classroom; • Professor's refusal to use gender-identity-based pronouns during political philosophy class involved a matter of public concern, as element for First Amendment protection; • Professor sufficiently alleged that his speech on matter of public concern outweighed state's interest in promoting efficiency of public services; • Professor plausibly alleged that college's interpretation and application of its gender-pronoun policy was not religiously neutral; but • Professor's clear notice of college's gender-pronoun policy precluded due process vagueness challenge.

C. Parent Rights

In Illinois, courts have not found that parents have a definitive right to know whether their children have requested to be referred to by a different name than the name under which the student was registered for school, or by particular pronouns. Parents generally have the right to opt young children out of lessons regarding gender identity.

Date	Case	Issue	Holding
3/7/24	***Parents Protecting Our Child., UA v. Eau Claire Area Sch. Dist., Wisconsin,* 95 F.4th 501 (7th Cir. 2024)**	Association of public school students' parents brought action alleging that school district's gender identity support policy violated Due Process and Free Exercise Clauses by interfering with its members' exclusive right to make decisions with and on behalf of their children.	The 7th Circuit Court of Appeals (Court) held that association lacked standing to bring action. The Court explained that the plaintiff, Parents Protecting, "seeks to pull a federal court into a range of complex and often emotional challenges on matters of gender identity, where the right policy recipe is not yet clear and the best answers are sure to come in time—through the experiences of schools, students, and families. On these levels, the federal judiciary has no input to provide—no policy perspective to offer and no implementation tips to suggest. Our role is limited to awaiting concrete disputes between adverse parties, and to resolving those disputes under established rules of procedure and familiar methods of legal reasoning. But sweeping pre-enforcement facial invalidation of law is highly disfavored."

Date	Case	Issue	Holding
4/18/23	***Bryan Vesely v. Illinois Sch. Dist. 45 and Susan Hardek-Vesely*, 669 F.Supp.3d 706 (N.D. Il. 2023)**	Whether mother and school district violated father's parental rights under the 14th Amendment and State constitution by facilitating child's gender transition at school.	Case dismissed without prejudice for father's failure to state a claim because: • Rational basis review, rather than strict scrutiny, applied to claim; • District's asserted interest in maintaining a non-discriminatory environment for students and protecting students' privacy was a legitimate state interests that could support district's policy; and • Father failed to plausibly allege that district's policy violated his federal substantive due process rights.
12/14/22	*Foote v. Ludlow Sch. Ctte.*, Case 3:22-cv-30041-MGM (D. Ma. 2022)	Whether a district policy requiring staff to use students' preferred names and pronouns and prohibiting staff from sharing this information with parents violated parents' 14th Amendment rights to 1) direct the education and upbringing of their children, 2) direct the medical and mental health decision-making for their children, and 3) familial privacy.	All parents' claims were dismissed. Referring to a person by their preferred name/pronouns, which requires no special training or skill, cannot be seen as mental health treatment, especially where students in question had no mental health diagnoses; and Though the court found the district's policy prohibiting employees from telling a parent of their child's change of name/pronouns at school without the student's consent to be disconcerting, it did not rise to the level of a constitutional violation.
5/31/23	*Tatel v. Mt. Lebanon Sch. Dist.*, 675 F.Supp.3d 551 (W.D. Penn. 2023)	Defendants moved for reconsideration and to amend judgment	Motions denied: • Finding that parents stated substantive due process claim was not clear error of law; • Finding that parents stated First Amendment free exercise claim was not clear error of law; • Finding that parents stated Fourteenth Amendment familial privacy claim was not clear error of law; • Finding that parents stated Fourteenth Amendment equal protection "class of one" claim was not clear error of law; • District officials were not entitled to qualified immunity from substantive and procedural due process claims and First Amendment free exercise claims at motion to dismiss stage; • Teacher was not entitled to qualified immunity from Fourteenth Amendment familial privacy claim at motion to dismiss stage; and • District officials were not entitled to qualified immunity from equal protection claim at motion to dismiss stage.

5/31/23 continued	Case History *Tatel v. Mt. Lebanon Sch. Dist.*, 637 F.Supp.3d 295 (W.D. Penn. 2022)	Whether teaching first-grade children about gender dysphoria and transgender transitioning without giving parents the opportunity to opt out of instruction violated parents' constitutional rights.	• Teacher's alleged conduct interfered with parents' fundamental rights to control upbringing and education of their children; • Parents stated a substantive due process claim; • Parents sufficiently alleged a procedural due process claim; • Parents stated a 14th Amendment familial privacy claim; • Parents alleged a violation of their rights to free exercise of religion protected by the 1st Amendment; • Parents stated an equal protection "class of one" claim under the 14th Amendment; but • Parents failed to state a right to privacy claim.
9/29/23	*Parents Defending Education v. Linn-Mar Comm. Sch. Dist.*, 83 F.4th 654 (8th Cir. 2023)	1) Whether a school district can maintain a policy of "gender support" that excludes parents from notification regarding their children's gender identities at school, and 2) Whether prohibiting students from disrespecting a student's gender identity is unconstitutionally vague.	On Appeal, the 8th Circuit ruled that: Issue 1 is now moot due to new Iowa state legislation that prohibits school districts from giving false or misleading information to parents. Parents have therefore received their requested relief. For Issue 2, the appeals court reversed the district court's decision, stating that the plaintiff is likely to succeed on its claim that the school policy is void for vagueness and chills student speech in violation of their First Amendment rights. The case was remanded with directions to grant a preliminary injunction against enforcement of the portion of the policy prohibiting an intentional or persistent refusal "to respect a student's gender identity".
	Case History *Parents Defending Education v. Linn-Mar Comm. Sch. Dist.*, 629 F.Supp.3d 891(N.D. Iowa 2022)	Whether district policy on treatment of transgender and gender nonconforming students violated: parents' right to child-rearing under the 14th Amendment Due Process Clause; parents' right to free speech because staff might create a gender support plan without parental consent; and children's free speech would be chilled because they would be punished if they did not respect another child's name or pronouns.	• Organization's alleged future harms were not certain and imminent to occur; • Balance of harms disfavored preliminary injunction; • There was not fair probability that organization had standing; • Organization did not have fair probability of success on claim for violation of the fundamental right of child rearing; • Organization did not have a fair probability of prevailing on claim that policy compelled speech in violation of the 1st Amendment; • Organization did not have a fair probability of success on claim that policy was overbroad; and • Public interest weighed against a preliminary injunction.

Date	Case	Issue	Holding
8/14/23	*John and Jane Parents 1 v. Montgomery Co. Bd. of Educ.*, 78 F.4th 622 (4th Cir. 2023)		Because parents did not allege the type of injury required to show standing to bring this case, the 8/18/22 decision was vacated and remanded for the case to be dismissed without prejudice.
	Case History *John and Jane Parents 1 v. Montgomery Co. Bd. of Educ.*, 622 F.Supp.3d 118 (D. Md. 2022)	Whether the district's Guidelines for Student Gender Identity violate parents' state and federal constitutional rights as well as various state and federal statutes and regulations.	Defendants motion to dismiss granted. • While Guidelines advise personnel to avoid disclosing a student's gender identity to parents w/o student consent, they do not violate the 14th Amendment Due Process Clause because they aren't intended to be inflexibly applied to every transgender and gender nonconforming student. • Guidelines actively encourage familial involvement in developing and implementing gender support plan whenever possible. 14th Amendment DPC does not encompass a fundamental right for parents to be *promptly* informed of their child's gender identity.
10/4/21	*Jones v. Boulder Valley Sch. Dist. RE-2*, 2021 WL 5264188 (D. Col. 2021)	Whether family's 1st Amendment free exercise rights and parents' 14th Amendment rights to care/upbringing of children and Equal Protection rights were violated by district's transgender tolerance programming.	District's motion to dismiss granted and parents' motion to amend denied. Plaintiffs failed to plausibly allege a free exercise claim, due process clause violation, or an equal protection violation.
7/8/22	*Doe v. Madison Metro. Sch. Dist.*, 403 Wis. 2d 369 (Wis. 2022)	Whether a district's policy affirming transgender, non-binary and gender expansive students (entitled 'Guidance & Policies to Support Transgender, Non-binary & Gender Expansive Students') was a violation of Article I, Section 1 and Section 18 of the WI Constitution.	Court did not grant injunctive relief to parents requesting the following policy be suspended: • Enabling children to transition to a different gender identity at school in selecting different affirmed named and pronouns sans parental approval; • Preventing staff from informing parents their child has/wants to change gender identity without the child's consent; and • Deceiving parents by using different names and pronouns around parents than at school.
10/2/23	*T.F. v. Kettle Moraine Sch. Dist.*, Case No. 2021-CV-1650 (Wis. Cir., 2023)	Whether a school district can supplant a parent's right to control the healthcare and medical decisions for their children.	The Court ruled that the district's policy violated parental rights in allowing, facilitating, and affirming a minor student's request to use a different gender identity at school without parental consent. Specifically, a school district cannot supplant a parent's right to control the healthcare and medical decisions for their children.

D. Other

While the following cases do not involve K-12 students, their holdings impact the legal interpretation of laws pertinent to K-12 students.

Date	Case	Issue	Holding
8/16/22	*Williams v. Kincaid*, 45 F.4th 759 (4th Cir. 2022)	Whether the ADA prohibits public entities from discriminating against an individual who has gender dysphoria.	Gender dysphoria is not a *gender identity disorder* within the meaning of ADA's protection exclusion for gender identity disorders. The lower court's dismissal of Plaintiff's ADA claims is reversed because Plaintiff alleged sufficient facts to render plausible the inference that her gender dysphoria results from physical impairments.
8/13/21	***Hobby Lobby Stores, Inc., v. Meggan Sommerville and the Human Rights Commission,* 186 N.E.3d 67 (Ill. App. 2d 2021)**	Whether employer discriminated against transgender woman employee based on gender identity in violation of the Ill. Human Rights Act (IHRA) when it prohibited her from using the women's restroom.	Employer discriminated against transgender woman in violation of the IHRA when it prohibited her from using the women's restroom. IHRA definition of "sex" cannot be construed to include any requirement related to reproductive organs or anatomy. Bathroom exemption to "public accommodation" provision of IHRA does not prevent liability under "employment" provision.
6/15/20	***Bostock v. Clayton Co.,* 140 S.Ct. 1731 (U.S. Supreme Court 2020)**	Whether firing an employee for being gay is prohibited sex discrimination in violation of Title VII of the Civil Rights Act of 1964.	An employer violates Title VII, which makes it unlawful to discriminate against an individual "because of" the individual's sex, by firing an individual for being homosexual or being a transgender person.
4/4/17	***Hively v. Ivy Tech Comm. Coll.,* 853 F.3d 339 (7th Cir. 2017)**	Whether an allegation that the college discriminated against adjunct professor based on sexual orientation stated a Title VII violation.	A person who alleges she experienced employment discrimination on the basis of sexual orientation has put forth a case of sex discrimination for Title VII purposes.