

SEXUAL ORIENTATION AND GENDER IDENTITY AND EXPRESSION DISCRIMINATION

Title 5, Section 4602 of the Maine Revised Statutes bans discrimination based on sexual orientation and gender identity and expression in private and public schools.

The ban makes it unlawful, because of sexual orientation and gender identity and expression, to:

- Exclude a person from, deny a person the benefits of, or subject a person to discrimination in any academic, extracurricular, research, occupational training or other program or activity
- Deny a person equal opportunity in athletic programs or exclude them from any program or activity
- Deny admission to an institution or program
- Deny financial assistance availability and opportunity.

There are some exemptions for educational facilities owned or operated by religious corporations, associations, or societies. Students age 18 or over or their parent/guardian may file complaints of discrimination with the Maine Human Rights Commission within 300 days of the last discriminatory act. See <https://www.maine.gov/mhrc/index.shtml>

TRANSGENDER AND GENDER EXPANSIVE-NONDISCRIMINATION IN MAINE SCHOOLS

The Maine Human Rights Commission's official "guidance" on how schools should apply Maine's anti-discrimination law states that transgender and gender expansive students are entitled to:

- Equal access to and ability to participate on equal terms in all school programs, including extracurricular activities
- Respect for the gender identity of transgender students, including using appropriate names and pronouns, and allowing transgender students to wear clothing consistent with their gender identity
- The right to acknowledge their sexual orientation and gender identity and expression

This 2016 guidance is available at

https://www.maine.gov/mhrc/sites/maine.gov.mhrc/files/inline-files/CCmemo.education.so_.pdf

It is currently being updated.

ANTIDISCRIMINATION PROTECTION UNDER TITLE IX OF FEDERAL LAW

Title IX is a federal law that bans sex discrimination in schools that receive federal funding, which is all public schools, and many private schools, with some exemptions for religious schools. Many courts have interpreted “sex discrimination” protections to apply to discrimination experienced by transgender students, and those who don’t meet gender stereotypes or expectations.

Title IX is enforced by the United States Department of Education. If you have been discriminated against based on your transgender identity, you have 180 days after the discrimination or harassment occurred to file a complaint with the United States Department of Education, Office of Civil Rights, in Boston. See how to file a complaint: <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html> and here <https://transequality.org/know-your-rights/schools>. You can also contact your school’s Title IX Coordinator.

Note: A student’s constitutional rights may be violated by some kinds of discrimination and harassment. We believe Title IX protects transgender students. The Supreme Court has taken up the question as to whether sex discrimination encompasses LGBTQ people, so more guidance is forthcoming.

MAINE LAW PROHIBITS BULLYING

In 2012, Maine passed a comprehensive anti-bullying law, which can be found at <http://www.mainelegislature.org/legis/statutes/20-a/title20-Asec6554.html>). Among other characteristics, the law protects LGBTQ students and identifies sexual orientation, gender, gender identity, and gender expression as factors that may cause students to be targeted by bullying.

Maine’s Dept. of Education publishes a Model Policy for bullying and cyberbullying prevention in schools. You can access it here:

<https://www.maine.gov/doe/schools/safeschools/bullying#law>

Maine’s LGBTQ-inclusive anti-bullying law requires schools to:

- Protect all students, regardless of sexual orientation, gender identity or gender expression, from bullying, cyberbullying, harassment and sexual harassment.
- Develop and enforce specific policies that define and forbid bullying and cyberbullying, and identify reporting and investigation procedures, including a duty for staff to report.
- Administer discipline policies that require consideration of alternative forms of discipline designed to correct and address the root causes of a student’s misbehavior and restorative school practices to repair the harm done to relationships and persons from the student’s misbehavior.
- Provide harm-reduction services and referrals for all students involved.
- Train staff, publicize the policy in the school and to the community, and report on incidents annually to the state Department of Education.

SCHOOL CLUBS AND GSAS:

In general, students have a right to form LGBTQ-related school clubs. This is because of the Equal Access Act, which can be read at <https://www.law.cornell.edu/uscode/text/20/4071>

MAKING YOUR SCHOOL'S POLICY INCLUSIVE OF TRANSGENDER AND GENDER EXPANSIVE STUDENTS

You can advocate for a good bullying policy in your school You can also advocate with your school to make its policies more inclusive!

A good policy, like Portland's:

- States its goals and provides leadership (aka "Purpose and Scope") by recognizing the school's obligation to create a safe and inclusive learning environment by supporting the student's gender identity while at school
- States clear definitions of key terms since many people are hungering for information and vocabulary
- Provides an opportunity to develop an individual support plan for the student, as with all students, and accepts the student's assertion of gender identity when consistently asserted
- Respects the student's wishes about disclosure of their gender identity in school, and abides by the wishes of the student while at school in the event that the student and their parent do not agree on the student's gender identity or expression to provide learning environment without discrimination
- Requires the school district to use the student's expressed name and pronouns on all documents (i.e., school identification, classroom rosters, certificates, diplomas, yearbooks) excluding the student's official record which must bear their legal name unless changed by a court order
- Ensures students are able to use restrooms, locker rooms and changing facilities corresponding with their gender identity
- Requires annual staff training concerning the policy and transgender and gender expansive students, and publishes and disseminates policy on the internet, in handbooks and to the community

The full policy is available at:

<https://www.portlandschools.org/common/pages/DisplayFile.aspx?itemId=12024088>

■ CONSTITUTIONAL PROTECTIONS FOR SPEECH, EXPRESSION, DRESS, LEARNING

When a school system treats an LGBTQ student differently from others, that may constitute prohibited discrimination under state and federal law. In addition, the U.S. and Maine Constitutions both protect freedom of expression, academic freedom and your right to learn. For example:

- The right to express yourself on issues relating to sexual orientation or gender identity and expression within constitutional limits
- The right to learn about LGBTQ issues and have access to pedagogically and age-appropriate information and resources about LGBT issues and people
- The full text of the Maine Human Rights Act, which also prohibits discrimination in housing, employment, and public accommodations

■ WHAT YOU CAN DO IF YOU'RE BEING HARASSED, BULLIED, OR DISCRIMINATED AGAINST

- Tell somebody. You need and deserve support. If you have understanding friends, parents, teachers, or counselors, use them as a support system.
- Keep notes on what's happening (and record who, when, where, and how).
- Get a copy of your school's policies on student conduct and discipline and read it.
- Report the mistreatment to the person designated in your school's policy, which may be a vice principal or the Title IX Coordinator.
- Make your report in writing or electronically and keep a record so you can prove you made the report.
- All teachers and staff must report any bullying they know about and must take action to investigate it, stop it, and prevent it from happening again.

■ ACCESS TO PREP

Connecticut recently passed Bill 819 into law, which allows minors to access PrEP for HIV prevention without parental consent.

■ CONVERSION THERAPY

Maine has signed into law a ban that prohibits licensed health professionals from practicing conversion therapy on youth.

RESOURCES

Portland Outright
portlandoutright@gmail.com
(207) 558-2429
56 North Street, Suite 100
Portland, Maine 04101

Outright Lewiston/Auburn
info@outrightla.org
Mailing address: 134 College Street
Lewiston, ME 04243
Drop-In Address:
169 Pleasant Street Auburn, Me 04210
<http://www.outrightla.org/>

OUT Maine
P.O. Box 1723 Rockland, ME 04841
(800) 530-6997
info@outmaine.org | outmaine.org

Equality Maine
207-761-3732
info@equalitymaine.org
<https://www.equalitymaine.org/>

GLSEN Southern Maine
PO Box 10334 Portland, Maine 04104
207-619-1417
glsensomaine@gmail.com

Maine TransNet
511 Congress Street Portland, ME 04101
207-370-0359

Trans Educational Student Resources
TSER@transstudent.org
<http://www.transstudent.org/>

Trans Youth Equality Foundation
P.O. Box
7441 Portland, ME 04112
(207)-478-4087
[http://www.transyouthequality.org/](http://www.transyouthequality.org/contact@transyouthequality.org)

Portland PFLAG
PO Box 8742, Portland ME, 04104
pflagportlandmaine@gmail.com
<https://www.pflagportlandmaine.org/>

The Trevor Project
1-866-488-7386
<https://www.thetrevorproject.org/>

Trans Lifeline
877-565-8860
<https://www.translifeline.org>

Additional Non-LGBTQ Resources
in Maine:

Pine Tree Legal
P.O. Box 547 Portland, ME 04112
<https://ptla.org/contact-usKids>
Legal (PTLA)
P.O. Box 547 Portland ME 04112
(207) 774-8246
<https://kidslegal.org/>

Maine Human Rights Commission
51 State House Station
Augusta, ME 04330
207-624-6290
info@mhrc.maine.gov
<https://www.maine.gov/mhrc/>

Maine Department of Education
207-624-6600
<https://www.maine.gov/doe/home>

Maine Office of Child and Family
Services
207-624-7900
<https://www.maine.gov/dhhs/ocfs/>

US Department of Education Office
for Civil Rights
(617) 289-0111
OCR.Boston@ed.gov

All the links in this document can be found on this page: GLAD.org/resourcelinks

GET MORE INFORMATION AND LEGAL HELP

For more information about your rights and protections, and for referrals, you can contact GLAD Answers, GLAD's free & confidential legal information line:

Call 800-455-GLAD, Monday - Friday, 1:30 - 4:30 p.m,
Visit: www.GLADAnswers.org anytime
Translation is available in over 200 languages.

www.GLADAnswers.org | GLAD.org | 800-455-GLAD | GLADanswers@GLAD.org

GLBTQ Legal Advocates & Defenders
This handout is not intended as legal advice
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