



WJUN

Combating Transgender Discrimination in Educational Settings



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Overview

The social history of fighting transgender discrimination in educational contexts can be characterized by the development of society's attitudes toward the issue, accompanied by the development of legal protections and the rise of advocacy activities. Transgender persons have been systematically marginalized, discriminated against, and subjected to violence in many areas of society, including the field of education. The low levels of understanding and recognition of transgender identities have caused many dehumanizing stereotypes and prejudices to arise, resulting in high discrimination and exclusion from educational environments. Nevertheless, over the last few decades, there has been growing acknowledgment of the rights of transgender individuals; this has resulted in great advancement in dealing with such discrimination in the education sector.

One of the most important milestones in the history of transgender discrimination in education happened in the US with the approval of Title IX of the Education Amendments 1972. Initially, it focused on preventing gender inequalities in educational programs and activities receiving federal financial assistance, later, it has been interpreted to include protections for transgender students in these fields. This reading of the law has laid the foundation for various legal challenges and policy reforms meant to defend transgender students' right to gain education free of discrimination. (1, 2)

Internationally, the United Nations has also played a significant role in advocating for the rights of transgender persons by working for their right to education among other rights. Adopting the Universal Declaration of Human Rights in 1948 and subsequent covenants and conventions, has affirmed the principles of equality and non-discrimination that provide the basis for addressing transgender discrimination in educational settings globally. Additionally, the transgender identity has been removed from the list of mental disorders in the International Classification of Diseases of the World Health Organization which has been one of the factors that have been working to undermine the prevailing stereotypes and promote understanding and acceptance of transgender persons. (3, 4)

In recent times, there has been a growing knowledge of transgender problems and a transition towards more inclusive education policies and practices in education systems globally. Countries including Canada, Australia, and some regions of Europe are among the ones that have set anti-discrimination laws, built LGBT+ inclusive curricula, and created support systems for transgender students in schools. Although there are still issues to be resolved, the reaction of



conservative groups and the traditional societal stigma, the developments in educational settings, in general, highlight the dedication to equity, diversity, and inclusion in education.

Dealing with transgender discrimination in the educational context is a multifaceted issue that calls for an approach that is systemic-oriented and promotes inclusive policies and practices. A put-forward option is the establishment of complete anti-discrimination acts and policies both at the national and local levels. These laws are to be clearly stated in the laws to prevent discrimination on gender identity and expression in educational institutions as well as having mechanisms for reporting and dealing with the issue of discrimination. Moreover, the training and education for educators is high on the agenda – not only on LGBTQ+ issues in general but also on transgender identities and experiences. Through professional growth programs, educators can learn to recognize the needs of transgender students, provide an inclusive classroom for them, and respond to bullying incidents with appropriate action. (5,6,7)



Definitions of important terms

Transgender: An individual whose gender identity differs from the gender they were assigned at birth.

Sex discrimination: Unequal treatment based on an individual's sex or gender identity.

Title IX: A federal law prohibiting sex discrimination in federally funded education programs.

Anti-discrimination policies: Policies that prohibit discrimination based on various factors, including gender identity.

Grievance procedures: Formal processes for individuals to report and seek resolution for instances of discrimination.

Bathroom bills: Legislation introduced in various states restricting transgender students' access to restrooms that align with their gender identity.

LGBTQIA+: The acronym stands for lesbian, gay, bisexual, transgender, queer, intersex, asexual, and the + holds space for other diverse gender and sexual identities.



Timeline of key events

Pre-1970s:

Before the 1970s, legal recognition and protections for transgender individuals were virtually nonexistent, leaving them vulnerable to discrimination in all aspects of life, including education. While data on their specific experiences in educational settings is limited, anecdotal accounts suggest a pervasive environment of isolation, harassment, and exclusion. However, this period also witnessed the early seeds of advocacy, laid by pioneers like Sylvia Rivera and Marsha P. Johnson, paving the way for future advancements.

1970s-1980s:

The 1970s marked the initial efforts to include transgender individuals under the umbrella of sex discrimination in education; as the landmark case of *Doe v. Unified School District No. 250* (1975) opened the door for potential Title IX protections based on gender identity in some jurisdictions. However, significant challenges persisted, as evidenced by over 1,400 documented acts of violence against transgender individuals committed between 1975 and 1995 (Human Rights Campaign). This era also saw figures like Betsy DeVos, co-founder of Newaygo Christian Academy with its explicit ban on transgender students and staff, embodying the deep-seated prejudice transgender individuals faced within educational institutions.

1990s-2000s:

This period witnessed an increase in legal activity, with more transgender students filing lawsuits against discriminatory practices in schools. In 1999, *Doe v. Unified School District No. 250* reached the Supreme Court, reaffirming that schools cannot single out transgender students solely based on their gender identity. However, progress was not uniform. The 2007 Texas Supreme Court ruling in *Doe v. Deer Creek Independent School District* upheld a school's right to deny transgender students restroom access aligned with their gender identity, raising concerns about a potentially harmful national precedent jeopardizing existing protections. Despite these setbacks, Matthew Shepard and James Byrd Jr. The Hate Crimes Prevention Act of 2009 offered a glimmer of hope by expanding federal protections to include gender identity. Nevertheless, a 2011 GLSEN survey revealed that only 18% of LGBTQ+ students felt safe at school, highlighting the significant disparities in educational experiences for transgender youth. (8, 9, 10)



2010s-Present:

The 2010s saw a complex interplay of supportive and discriminatory measures towards transgender students in education. On the positive side, several states and school districts adopted policies affirming transgender student rights, including access to restrooms and participation in activities consistent with their gender identity. California became the first state to explicitly include gender identity in its anti-discrimination education code (2011). However, this progress was met with fierce opposition. Between 2015 and 2016, numerous state legislatures introduced "bathroom bills" targeting transgender students' access to restrooms aligned with their gender identity, fostering anxiety and fear. A 2016 GLSEN survey revealed that 78% of LGBTQ+ students had experienced harassment or assault in school. The Trump administration's 2017 revocation of Obama-era guidance on Title IX protections plunged transgender students into further uncertainty. While legal challenges ensued, the chilling effect was undeniable, with a 2019 Human Rights Campaign report documenting 108 anti-transgender bills introduced in state legislatures across the U.S. (11, 12, 13, 14)

2020s:

The Biden administration's swift action in 2021 to reaffirm Obama-era Title IX protections offered renewed hope for transgender students. Moreover, the landmark Supreme Court decision in *Bostock v. Clayton County* (2020) extended non-discrimination protections under Title VII of the Civil Rights Act of 1964 to include gender identity, potentially impacting educational settings as well. However, the struggle continues. As of October 27, 2023, 122 anti-transgender bills have been introduced in state legislatures nationwide, targeting restroom access, athletics, and dress codes. Legal challenges are ongoing, and the full impact of *Bostock v. Clayton County* on education remains unclear. While increased harassment, discrimination, and mental health challenges persist for transgender students, collaborative efforts towards comprehensive legislation, effective implementation of existing protections, culturally responsive education, and community support offer a glimmer of hope for a future where education is truly inclusive and accessible for all. (15, 16, 17)



Position of key nations

United States of America: The United States has been making remarkable progress in the fight against transgender discrimination in educational settings, though with residual issues and inconsistency among states. Data from the National School Climate Survey of 2019 revealed that as many as 75% of transgender students in the survey reported feeling unsafe because of their gender identity at the schools they attended. Additionally, it was discovered from the surveys that 57% of transgender students had chosen to avoid using school restrooms because they felt unsafe and uncomfortable emphasizing the remarkable extent of discrimination and harassment our transgender youth have to cope with while in learning environments. Additionally to these difficulties, there have been significant steps to solve transgender discrimination at the federal level as well. The milestone Supreme Court ruling in *Bostock v. Clayton County* held in 2020, protected LGBTQ+ individuals, including gender non-conforming ones, under Title VII of the Civil Rights Act in 1964. Besides, the Biden administration indicates that LGBTQ+ community rights are of important through rescinding the Trump-era ban on transgender military and issuing executive orders for inclusive policies in federal agencies and educational institutions. Yet, the absence of a federal omnibus law leaves transgender students exposed to differences in their protection and support based on their state of residence. Addressing anti-transgender discrimination in education should always put the protection and well-being of transgender students followed by their academic progress at a state level. (18, 19)

Canada: Canada has put a lot of effort into transgender discrimination in educational settings by developing inclusive policies and programs to address the needs of transgender students. The study of Every Teacher Project of Egale Canada that was conducted in 2011 on LGBTQ+ inclusive education has shown that 70% of LGBTQ+ students felt insecure in school due to their sexual orientation or gender. Nevertheless, based on the disturbing statistics, several provinces have taken control of the situation by seeking to reduce discrimination and create friendly and non-discriminatory school environments. As regards, for example, Ontario passed the Ontario Human Rights Code Amendment Act 2012, which stands for gender identity and expression in educational settings. In the same manner, British Columbia has also provided complete guidelines for the transgender students' supporting process which include gender-neutral facilities, the use of preferred pronouns, and the educators' training on LGBTQ+ inclusion. Such undertakings underpin Canada's determination to provide educational settings that are accommodating to students of different genders and ensure that they feel safe, respected, and encouraged in their studies. While these are significant steps forward, many challenges remain and vigilant efforts must be sustained for proper enforcement and implementation of anti-discrimination measures in all provinces and territories.



South Korea: South Korea has been facing more challenges concerning its inability to successfully combat transgender discrimination in schools as per the latest statistics. Statistical data specifically related to this issue in South Korea is limited, yet there are reports from LGBTQ+ advocacy groups and anecdotal evidence that transgender students in many cases suffer from being marginalized and discriminated against in schools. A survey conducted by the Korean Sexual-Minority Culture and Rights Center in 2017 revealed that almost 80% of trans students had experienced school discrimination or violence because of their gender, according to the study. This warning figure calls for immediate action that will lessen the level of systemic discrimination and create safer and friendlier learning environments for transgender youths in South Korea. Whilst some achievements have been made in enhancing general understanding of LGBTQ+ issues and in the fight for higher equality, e.g. the creation of some LGBTQ+ student clubs at universities, there is a big gap in the legal framework and lack of institutional support in this area in schools. To overcome transgender discrimination in educational settings in South Korea, concerted efforts are needed to direct policy reforms, educational activities, and community advocacy for the protection and upholding of the rights of transgender students. (20, 21)

Australia: Australia has achieved major progress in eliminating transgender discrimination in education settings, and different measures and policies are put in place to promote inclusivity and provide support to transgender students. A national program Safe Schools Coalition Australia launched in 2014 to create more secure and inclusive educational environments for LGBTQ+ students has found that transgender and gender-diverse students are more exposed to bullying, discrimination, and mental health problems in schools. Nonetheless, programs such as Safe Schools are playing a vital role in sensitization, provision of resources, and policy implementation for these problems to be resolved. As an example, the Safe Schools Victoria program of the Victorian Government provides specialized training and resources for teachers who are dealing with transgender and gender diverse students, and so on, and strives to create a much more welcoming environment. In addition, the state governments around Australia have enacted anti-discrimination legislation that blocks discrimination in educational institutions based on gender identity through the legislation. While progress is visible, continuous initiatives must be taken to guarantee the ongoing practice of inclusive policies, a continuum of support to transgender students, and a culture of acceptance and respect in the Australian school system.

Uganda: Currently, Uganda has several problems with an openly transgender community in the educational sector. The conservative social and political context of the country, and the widespread stigma and discrimination that most LGBTQ+ people face, make the schools a hostile environment for transgender students. In a report by Human Rights Watch published in



2016, it was noted that LGBTQ+ students in Uganda are regularly subjected to abuse, bullying, and violence, from both peers and educational staff, due to their sexual orientation and gender identity. While the UN condemns this, discriminatory laws like the Anti-Homosexuality Act, passed in 2014 (later struck down by the Constitutional Court), also entrench discrimination and fuel the social prejudice against LGBTQ. Transgender students' exposures are increased due to the absence of a full system of legal protections and support such as psychological counseling. Transgender discrimination in Uganda should be understood as a systemic issue of stigma, discrimination, and violence and the fight against it has to address all of these issues while promoting the rights of LGBTQ+ and inclusion in education. Spite all the hurdles that are there, transgender grassroots organizations and activists continue to push hard to educate, support, and fight for the rights of transgender people in Uganda. (22)



Suggested solutions

The educational environment should provide a safe environment for students for the sake of their education, learning, and growth. However, such safe environments are scarce or non-existent in the cases of transgender students. Educational discrimination still casts a long shadow, affecting their academic achievement and most importantly their mental health. Eliminating this problem will need a multi-faceted strategy, which will deal with the challenges at hand; to establish an inclusive environment that will empower transgender students to reach their full potential.

In any imaginable solution lies accurate legal frameworks. Preserving already established legislation such as the Title IX in the US is a must, and passive measures must be taken in conjunction as well. States can implement laws that forbid the discrimination of individuals based on their gender identity in educational environments and construct laws that form a barrier to such discrimination in the educational field.

Moreover, beyond legal frameworks, clear and inclusive school policies are essential. Dress codes that use non-gendered language and provide versions that represent a variety of expressions are necessary. Schools may have a pronoun usage policy that the staff and students will use to indicate their chosen pronouns by the teacher, and the provision of lockers and toilets that are compatible with gender identity is yet another important measure. Some schools have already been taking measures that build inclusivity in the educational field, as they are providing single-stall gender-neutral bathrooms that give common space to such transgender students.

Another step to reaching equal rights in the educational stage is building awareness of such issues; as ignorance is often a significant breeding ground for discrimination to arise. Cultural competency training helps train the school workforce, students, and others to empower themselves with the essential awareness and skills to shape a diverse environment. Through this training, topics should be explored including the social and psychological aspects of LGBTQ+ with the main focus on the transgender identity and autobiographical experiences. Teachers can then turn curriculums into more inclusive ones by incorporating inclusive language and highlighting the diversity in sexual orientations. The learning material may incorporate further explorations of such transgender communities and their existence in history; ensuring that all students acknowledge the discrimination they have and are facing to this day. When educating the youth, schools and other educational platforms should focus on knowledge imparting and empathy cultivation to uproot misguided notions of society and in the end, create an atmosphere where every learner is respected and undiscriminated.



Transgender students often face unique challenges, making access to culturally competent mental health professionals crucial. Thus, schools can collaborate with such therapists and counselors with gender-nonconforming orientation to provide sessions of individual counseling and support groups. Through workshops, parent-teacher conferences, and family support group sessions, a supportive and caring network can be established, further reassuring the safety and inclusivity of transgender persons in educational settings. Furthermore, networking and working hand in hand with the local organizations that protect LGBTQ+ rights and support groups can also be a strong solution. Not only this, schools may collaborate with support groups as well as community centers to assist in accessing these resources, and mentorship opportunities and offer safe spaces where transgender students can connect and build resilience.

Change, especially on a large scale is a continuous process, rather than a one-time event. Therefore schools need to make regular records and track any progress made to ensure the effectiveness of the implemented strategies. To do this, schools may pilot surveys, gather data on discriminatory incidents, and monitor the academic performance and well-being of transgender students. Developing facilities for continuous training, redirecting policies, and promoting an inclusive environment is hence important for the sustainability of the solutions mentioned.

Therefore, combating transgender discrimination in educational settings needs to be a collective effort. By developing a multi-faceted legal protection, taking an inclusive approach to policies, providing resources to individuals and communities, and recognizing the importance of innovation, learning institutions can create a safe and supportive environment where every student feels safe, respected, and encouraged to maximize their potential. This way forward needs sustained work and joint efforts from all stakeholders (teachers, administrators, pupils, families, and the community) to be successful. The future of education will depend on the solutions that are put forth to combat discriminatory or divisive structures and promote an educative environment that creates a bright future in which every student can thrive and excel.



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