



January 31, 2024

Dear Chair Convirs-Fowler and the members of the House Early Childhood Subcommittee:

The National Center for Transgender Equality (NCTE) is grateful for the opportunity to comment in support of House Bill 536. Transgender students experience pervasive bullying and harassment at school with severe implications for their mental health and academic opportunities and performance. By including gender identity among the enumerated characteristics protected by state anti-bullying policy, HB 536 will make schools safer for transgender students.

According to the 2015 U.S. Transgender Survey, more than half (54%) of people who were out or perceived as transgender at some point in their primary and secondary education experienced verbal harassment, and nearly one in four (24%) was physically attacked.¹ Bullying during these formative years can impact an individual's mental health for the rest of their lives. Transgender survey respondents with adverse experiences at school reported higher rates of attempted suicide (52%) and psychological distress (47%) than those that did not experience bullying or discrimination in school (37% and 37%).²

Students cannot learn in a hostile environment. A school climate survey conducted by GLSEN, a national organization dedicated to promoting LGBTQ+ inclusive schools, found that LGBTQ+ students who were subjected to higher levels of harassment and bullying based on gender expression had lower grade point averages compared to peers that experiences lower rates of victimization (2.76% vs. 3.17%).³ One factor driving this disparity is attendance—about one in three LGBTQ+ students had missed at least one day of school in the past month because they felt unsafe on campus. In the most severe cases, transgender students are driven to change schools or drop out altogether.⁴ Sadly, this experience is all too common—17% of U.S. Transgender Survey respondents who were transgender or perceived to be transgender during their primary or secondary education reported that they left a school due to mistreatment.⁵

Students should not only be safe to attend class and engage in class but be free to participate in the full range of academic and social opportunities that schools provide. Unfortunately, 78.8% of LGBTQ+ students report avoiding a school function or opting out of extracurricular activities due to concerns about their safety.⁶

Enumerating protected characteristics, including gender identity, has proven to be an effective way to reduce bullying on the basis of a child's identity. According to GLSEN, LGBTQ+ students at schools with

¹ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality.

² Ibid.

³ Kosciw, J. G., Clark, C. M., & Menard, L. (2022). *The 2021 National School Climate Survey: The experiences of LGBTQ+ youth in our nation's schools*. New York: GLSEN.

⁴ Ibid.

⁵ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016).

⁶ Kosciw, J. G., Clark, C. M., & Menard, L. (2022).

comprehensive anti-bullying policies that enumerate protected characteristics experience lower rates of harassment. For example, students at schools with such policies are less likely to hear anti-transgender comments (30.6%) than students with generic anti-bullying policies (39.9%).⁷ Moreover, GLSEN found that students at schools with enumerated policies were more likely to report that staff intervene when hearing anti-LGBTQ+ remarks and are more likely to report bullying to staff.⁸

Despite pervasive anti-LGBTQ+ harassment and the effectiveness of comprehensive, enumerated anti-bullying policies, only 12.0% of students reported that their school had an enumerated policy.⁹ By enumerating protected characteristics in state law, HB 536 will extend this security to all students.

Finally, this bill will provide clarity to school administrators and local education agencies about their responsibilities under federal civil rights laws. Title IX of the Education Amendments of 1972 prohibit discrimination based on sex. As established in the Supreme Court of the United States in *Bostock v. Clayton County*, protections against discrimination based on sex include protection against discrimination on the basis of sexual orientation and gender identity.¹⁰ Under Title IX, schools are required to take action against bullying and harassment that becomes pervasive enough to prevent students from participating equally in any educational program. Thus, Virginia schools are required under federal civil rights law to mitigate anti-transgender bullying. Codifying protections against discrimination on the basis of gender identity in state law clarifies and strengthens schools' role in ensuring students a safe learning environment.

NCTE urges the subcommittee to support HB 536 to ensure that every child enjoys the freedom to learn.

Thank you for your time and consideration,

Caius Willingham
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⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ *Bostock v. Clayton County*, 590 U.S. ____ (2020)