



From: Craig White, Supportive Schools Director, Campaign for Southern Equality
To: United States Department of Education, Office of Civil Rights
RE: Public comment on [FR Doc # 2022-13734](#)
Date: 8/23/2022

To whom it may concern:

On behalf of the Campaign for Southern Equality, a nonprofit organization whose mission is to support the legal and lived equality of LGBTQ+ people in the South, I urge the Department of Education to approve as written the proposed rule *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*.

As the Director of the Supportive Schools Program at CSE, my role is to support schools and school districts in the thirteen Southern states in developing policies and practices that will make them welcoming and inclusive for staff and students of every gender identity and sexual orientation. Inevitably, part of my role involves advocating for students and staff who are experiencing anti-LGBTQ+ discrimination, which ranges from peer bullying at school to harassment legislation being passed by various state governments.

There are LGBTQ children and youth in every community and every school in the South, and yet only a handful of school districts have passed proactive policies to protect and support LGBTQ+ students. Conversely, there are hundreds of districts where LGBTQ+ students have little or no support and protection, and in fact may be intentionally targeted for discrimination by faculty, administration, or school board members. The most fortunate of these students have supportive parents or caretakers, who find an advocacy organization like ours that will help them fight for their rights and safety at school.

We know, however, that there are tens of thousands of students who do not receive the support they need. Because of the scale of the problem, we desperately need policy at the federal level that clearly and definitively protects all members of the school community from discrimination and harassment on the basis of sex, including gender identity and sexual orientation. The proposed rule of the Department of Education serves that purpose, by stating:

§ 106.10 Scope. *Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.*

Even the Notice of Interpretation of the *Bostock* ruling, released by the DOE in June of 2021, has begun to change the landscape of LGBTQ+ protections in dramatic and tangible ways. Previous to that Notice, it might take me weeks or months of working with a principal or

superintendent to address discrimination or harassment of an LGBTQ+ student or faculty member at their school. Even if they were personally supportive, they needed clear and unambiguous policy support for their position, to face the inevitable hostility from anti-LGBTQ+ activists. Once the Notice was released, however, in most cases it only took a single communication from me, with a link to the Federal Register or one of the DOE's informational handouts, and the principal or superintendent would be ready to cooperate. And in many of the South's most populous school districts, the Notice created the opportunity for administrators to develop policies for supporting LGBTQ+ students, for the first time.

The Notice of Interpretation alone, however, does not have the implementation and enforcement mechanisms that are provided by the proposed Rule, which is why it is critical for the policy to be approved, and for the Department of Education to continue its journey of learning how to support diverse populations of students.

In addition to approving the proposed Rule, we encourage the Department of Education, Office of Civil Rights, to be sure to dedicate adequate resources for implementation, including both education and enforcement. Education is needed because the wave of anti-LGBTQ+ legislation being proposed across the country in the last few years has been accompanied by a similar wave of anti-LGBTQ+ propaganda and disinformation, and as a result many people, including school administrators and faculty, have little accurate understanding of human diversity around sexual orientation and gender identity. (As evidence, please note hundreds of the other public comments submitted for this document, which evince significant misunderstandings not only of the rule, but of a basic understanding of what it means to be transgender or gender non-binary.) Resources for enforcement are needed because many, perhaps even most, school districts in the South, to say nothing of other parts of the country, are violating the proposed rule in major and minor ways that will need to be addressed.

We understand, of course, that the Department of Education has gotten and will continue to get resistance and pushback from public officials and members of the public. As people who work with LGBTQ+ young people every day, we urge you to hold fast to the principle that all people in the US deserve the equal protection of the laws. We hope that you see the pushback in your public comments as evidence of the biased attitudes, hostility, and willful discrimination that these young people experience every day at school.

The US Department of Education Office of Civil Rights is the last, and often the only, line of defense protecting the rights and safety of LGBTQ+ students in the United States. Thank you for your commitment to ending and addressing discrimination in all its forms.

Kindly,

Craig White

Director, Supportive Schools Program, Campaign for Southern Equality