

# **BEYOND BATHROOMS: Transgender & Gender Non-Conforming Student Policies In Rhode Island**

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## Executive Summary

- In February, President Donald Trump rescinded federal civil rights protections for transgender students that had been adopted by the Obama administration. As a result, it has become critical for states and local school districts to fill the void that action has left.<sup>1</sup>
- In Rhode Island, the state Department of Education has adopted a thorough “policy protocol” to serve as a model for school districts to follow in protecting transgender students, but the protocol is purely advisory in nature. In the absence of formal state regulations, it is up to local school districts at the present time to adopt policies guaranteeing that transgender students will be treated fairly and that their privacy and other rights will also be respected.
- An ACLU of Rhode Island Access to Public Records Act (APRA) request earlier this year shows that too many school districts have not yet accepted that responsibility. Our APRA request revealed that only twenty-one out of thirty-three school districts had implemented meaningful policies to address basic issues regarding transgender students. Since the APRA request was completed, three more districts have advised the ACLU that they have initiated the process of adopting a formal policy. But even if those policies get enacted, *it means that more than one-fourth of all school districts in the state will still be without a substantive policy addressing the rights of transgender students.* Such a troubling situation demands action and leadership at the state level.
- As a result, this report calls on the state Department of Education to require school districts to adopt a formal policy governing transgender students that should be based on the Department’s helpful and detailed model protocol. Without such a mandate, too many transgender students will face discrimination and inequitable treatment in too many school districts. The time for presently apathetic school districts to adopt a policy that addresses such critical transgender student issues as confidentiality, staff training, and equal access to school facilities and programs is now, not when they are directly confronted with having to address the issue.
- The report also calls for an annual re-evaluation by school districts of their school activities, policies, and rules that are gender-based in order to make necessary changes to those that do not have a pedagogical purpose.

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<sup>1</sup> That action notwithstanding, the ACLU believes that federal civil rights laws banning sex discrimination in schools still apply to protect transgender students. But the rescission of the federal guidance has created confusion in school districts across the country.

## Introduction

In 2016, the U.S. Departments of Justice and Education sent letters to every public school district in the country, notifying administrators that discrimination against transgender students violates federal civil rights law and clarifying the protections available to them under the law. The letter offered a detailed guidance for educators on addressing the rights of transgender students. Earlier this year, however, in one of his first official acts, President Donald Trump rescinded that guidance, and his Secretary of Education publicly expressed support for that decision.

In February 2017, in the wake of the Trump Administration's action, the ACLU of Rhode Island sent Access to Public Records Act (APRA) requests to all school districts in the state, asking them to send copies of any policies they had, whether adopted administratively or by their school committee, addressing the rights and protections of transgender students. School districts that did not have a policy in place were asked to send any information and documentation they had regarding their discussion of possible implementation of a policy.

This open records request revealed that only twenty-one out of thirty-three school districts had implemented substantive policies regarding transgender students. Of the 21 policies, five were approved administratively, twelve were approved by the school committee, and it was not specified how the other four were approved. Notably, fifteen of the 21 districts with policies implemented the RI Department of Education's "Transgender, Gender Non-Conforming and Transitioning Students Policy Protocol" model, a detailed guidance paper that was released by the state agency in June 2016. The other six districts – Cumberland, East Greenwich, Johnston, Providence, Scituate, and South Kingstown – implemented policies and procedures based on the RIDE model but with some differences. Since our APRA request, three more districts have advised us they are now working on policies, but even if adopted, *that still would leave more than a quarter of school districts in the state without transgender-protective policies.*

The RIDE model, though widely used by school districts, remains just a model. RIDE has not required school districts to adopt it, or anything like it, leading to a situation where too many school districts in the state have no detailed policy at all regarding transgender students. The ACLU of RI believes that this leaves too many students at risk of discrimination.

***More than a third of school districts in the state had no policy at all.***

This report briefly summarizes the responses that we received from school districts that have no policy or that have adopted policies at some variance with the RIDE model. In light of the large number of school districts that still have no policy on the subject, the report calls on the state Department of Education to require school districts to adopt one based on its helpful detailed model guidance. We also call for an annual re-evaluation by school districts of their school activities, policies, and rules that are gender-based in order to make necessary changes to those that do not have a pedagogical purpose.

**Policy Breakdown by School District**

SCHOOL DISTRICT	RIDE POLICY	DIFFERENT POLICY	NO POLICY	HOW WAS IT PASSED?	WORKING ON POLICY
Barrington	X				
Bristol	X			School Committee	
Burrillville	X			School Committee	
Central Falls			X		X
Chariho			X*		
Coventry			X*		
Cranston	X			School Committee	
Cumberland		X		School Committee	
E. Greenwich		X		School Committee	
East Providence	X			School Committee	
Exeter-W. Greenwich			X*		
Foster-Glocester			X		
Jamestown			X		
Johnston		X		School Committee	
Lincoln	X			Administratively	
Little Compton	X			Administratively	
Narragansett	X				
Newport			X*		
New Shoreham			X		X
North Kingstown	X			Administratively	
North Providence	X			Administratively	
North Smithfield	X				
Pawtucket			X*		X
Portsmouth	X			School Committee	
Providence		X		School Committee	
Scituate		X		School Committee	
Smithfield	X				
South Kingstown		X		School Committee	
Tiverton			X*		
Warwick	X			School Committee	
West Warwick	X			Administratively	
Westerly			X		
Woonsocket			X*		

*\*Districts that sent anti-bullying and anti-discrimination policies or a copy of a 2010 Board of Regents "Policy Statement on Discrimination Based on Sexual Orientation and Gender Identity/Expression"*

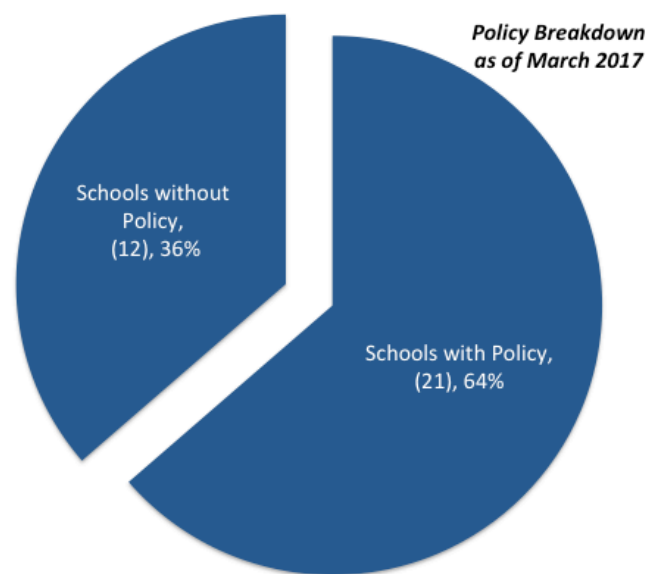
## Schools without Policies

According to the information we received in February and March in response to our APRA request, twelve school districts did not have in place specific policies regarding the rights of transgender or gender non-conforming students, although it is possible that number may soon be down to nine.<sup>2</sup>

Those districts indicating they had no policy were: Central Falls, Charliho, Coventry, Exeter-West Greenwich, Foster-Glocester, Jamestown, New Shoreham, Newport, Pawtucket, Tiverton, Westerly, and Woonsocket.<sup>3</sup> Four of the districts – Exeter-West Greenwich, Newport, Tiverton, and Woonsocket – sent copies of other policies, such as ones governing non-discrimination and anti-bullying, which they considered to be sufficient and appropriate in dealing with transgender and gender non-conforming students. *They are not.*

Those non-discrimination and anti-bullying policies include definitions of harassment, bullying and, in the case of Woonsocket, definitions for gender identity and gender non-conformity. While the policies also include reporting procedures and disciplinary actions when harassment or bullying takes place, rights for transgender students encompass many more issues than protection from harassment. A meaningful policy needs to address such issues as confidentiality, staff training, and equal access to school facilities and programs, to name a few.

The districts of New Shoreham and Jamestown stated that they had no policy because the topic of transgender students had never been brought to the attention of either the administration or the school committee. Now that it has been brought to their attention, however, school officials in New Shoreham appear to be working on a policy. On the other hand, Westerly provided us with copies of school committee meeting minutes from 2014 when a policy for transgender and gender non-conforming students was discussed and ultimately tabled without resolution. The motion to table the proposed policy passed unanimously. Unfortunately, based on school committee minutes and news reports, the reason seems clear: dozens of residents came to the meeting to express vehement opposition to the policy.<sup>4</sup> That type of response highlights the need for the state Department of Education to do more than merely offer “policy guidance” to districts.=



<sup>2</sup> In late May prior to the release of this report, the ACLU touched base once again with the twelve school districts that indicated they did not have a policy. Three districts - Central Falls, New Shoreham, and Pawtucket - advised us that, since the time they responded to our APRA request, a policy has been drafted for review and, hopefully, adoption.

<sup>3</sup> But see fn. 2 above.

<sup>4</sup> “Westerly School Committee tables controversial transgender proposal,” by Anna Marie Lemoine, *Westerly Sun*, October 16, 2014. <http://www.thewesterlysun.com/news/latestnews/5864208-129/westerly-school-committee-tables-controversial-transgender-proposal.html>. The School Committee was apparently the first in the state to consider adopting a policy on the subject.

Jamestown indicated that while they did not have a policy in place, it “does not preclude the possibility of a policy being considered in the near future.” Foster-Glocester and Tiverton, in defending their lack of a policy, simply stated that they were sensitive to the rights of students and had taken steps to ensure that schools are safe for all. In Foster-Glocester, this meant conducting training for staff, and in Tiverton, the establishment of anti-bullying policies. Obviously, these are woefully deficient.

Three districts in particular – Coventry, Chariho, and Pawtucket – did not have a policy in place, but instead provided a copy of a 2010 Board of Regents “Policy Statement on Discrimination Based on Sexual Orientation and Gender Identity/Expression.” That statement urges school districts to review programs, services and activities to assure that they are not biased against students’ sexual orientation or gender identity. Nevertheless, it does not set in place any standards or guidelines for what appropriate policies should look like, and is quite outdated in light of RIDE’s more detailed 2016 model policy. As with anti-bullying policies, the 2010 statement does not serve as a substitute for a more comprehensive policy explaining the rights and accommodations available to transgender and gender non-conforming students. While these three districts do not have a specific policy in place, they advised that they are engaged in ongoing reviews of their policies. Since then, Pawtucket has in fact begun working on passage of a more detailed transgender policy.

We followed up in late May with the 12 school districts that had provided no detailed transgender policy in response to our APRA request. While three districts – Central Falls, New Shoreham and Pawtucket - confirmed that policies had since been drafted for consideration; others reiterated their stance against adoption of a policy.<sup>5</sup>

Chariho, Coventry and Tiverton all responded that while they were sensitive to the issue, they would rather deal with the subject on a case-by-case basis rather than adopting a policy. Coventry’s superintendent specifically mentioned, like Jamestown, that while the district had no plans at the moment to implement a policy, they were not against the idea in the future. Similarly, Westerly’s superintendent highlighted that while they have had an internal procedure in place to deal with this issue in a case-by-case manner rather than through policy, the district is once again undergoing a policy review process.

The district of Exeter-West Greenwich mentioned that since they responded to our request back in March, they have made some internal changes in their procedures and have modified two policies to specifically reference “gender identity.” Nevertheless, conversations and meetings with the community regarding the implementation of a specific Transgender and Gender Non-Conforming policy have proven to be difficult since there are parents and school committee members on both sides of the issue.

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<sup>5</sup> Jamestown, Newport, Foster-Glocester and Woonsocket did not respond to our follow up requests.

The ACLU's recommendation, based on these APRA responses, is strong but simple: every school district should have a formal, detailed policy to address the many privacy, confidentiality and equality issues the needs of transgender and gender non-conforming students present. The policy should include an annual review of gender-based activities.

In order to achieve this goal, we urge the RI Department of Education to adopt regulations mandating that all school districts adopt such a policy, whether RIDE's own model guidance or one based on it. Without such a mandate, we fear that these school districts will not touch the topic out of misguided or discriminatory concerns, or inappropriate fears of community backlash, as happened three years ago in Westerly.

Local control of schools is a fine thing, but there are few topics more worthy of state regulation and oversight than ensuring that students' equal rights are protected in school.

***Every school district should have a detailed policy to address the many privacy, confidentiality and equality issues that the needs of transgender and gender non-conforming students present.***

## The RIDE Policy and School District Variations on It

The rest of this report briefly examines how RIDE’s model guidance addresses some key issues, and how the six school districts with their own policies vary from it.

Our findings below break down the policies to demonstrate how they handled such key issues as privacy and confidentiality, the use of restrooms or locker rooms, dress codes, gender based activities, and staff training. Each district that adopted a policy also set up specific protocols to attend to students who are transgender or gender non-conforming. Such protocols include processes and information regarding resources, privacy, names and pronouns, school records, restroom use, and discipline.

### *Student Transitions*

*RIDE Model Guidance: The RIDE model used by fifteen school districts sets specific roles for administrators when dealing with elementary school students and secondary school students.<sup>6</sup> According to the policy, if school staff believes that a gender identity issue is presenting itself with an elementary school child, or if the parents indicate the child’s intention to transition, the school must make efforts to work with the parents in creating a transition plan. When it comes to children in middle or high school, the school should make every effort to work with the student if they themselves assert an intention to transition, or if a parent indicates it. Unlike elementary school students, however, notification to the parents is generally not mandated unless they’re already aware and supportive; if the student does not want their parents to know, the issues will be addressed on a case by case basis to balance the goal of supporting the student and keeping parents informed.*

*Other District Policies:* The policies regarding transgender or non-conforming students for Providence, Johnston, and South Kingstown contain specific guidance as to when “schools shall accept a student’s assertion of their gender identity.” This usually takes place when a student has made a consistent assertion of their gender identity or when the school has any other evidence that the student’s gender identity is sincerely held. Two of these districts in particular, Providence and South Kingstown, set standards for the next steps that the student, parents, and administrators need to take, by setting up support teams. These teams consist of staff such as the principal, counselor, social worker, and teachers who put together meetings with the student and the parents, if they’re involved in the process, to ascertain their desires and concerns. The team also discusses the student’s transition timeline and helps create a supporting and safe environment at school.

Cumberland, East Greenwich, and Scituate do not state in their policies a specific process or provide guidelines as to when a student’s assertion of their gender identity will be considered.

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<sup>6</sup> Barrington, Bristol-Warren, Burrillville, Cranston, East Providence Lincoln, Little Compton, Narragansett, North Kingstown, North Providence, North Smithfield, Portsmouth, Smithfield, Warwick, West Warwick.



## **Privacy & Confidentiality**

*RIDE Model Guidance: Guaranteeing the protection of students' privacy is critical to the policies set by the school districts in regards to transgender and gender non-conforming status. All districts with RIDE policies explicitly highlight that "transgender and gender non-conforming students have the ability, as do all students, to discuss and express their gender identity and expression openly and decide when, with whom and how much of their private information to share with others." Additionally, in regards to a student's confidential medical information, the RIDE policy outlines that only the school nurse and licensed professionals will have access to any health information about the student.*

*Other District Policies:* The policies for Cumberland, Scituate, Providence, South Kingstown and East Greenwich have very specific language regarding using the name of the student while contacting their parents, stating that "District staff should use the student's legal name and the pronoun corresponding to the student's gender assigned at birth, unless the student, parent, or guardian has specified otherwise." This approach is important to the privacy and confidentiality of the transgender or gender non-conforming student since there can be situations when the student has not shared with their family their intention to transition, perhaps due to fears of rejection or even abuse.

The privacy protections under these policies very closely resemble those of the RIDE model in regards to staff and personnel not disclosing or revealing a student's transgender status. However, none of the policies contain specific information about how a transgender student's status may be considered medical information and how that would affect who has access to that information. The RIDE model specifically details that only a licensed professional or nurse will have access to the student's medical information in order to ensure that they receive the appropriate and confidential care they may require.

Unlike the other districts, Johnston does not make any specific mention about a student's privacy in regards to their transgender status or how it would be handled with staff, parents and students within their policy.<sup>7</sup>

## **Names & Pronouns**

*RIDE Model Guidance: The ability to be addressed by their preferred name and pronoun is an essential part of a transgender or gender non-conforming student's rights. The RIDE model outlines some basic guiding points as to how to address the issue of preferred names and pronouns with students, including students who legally change their name to be reflected in their school records. The model highlights that when a student asks to be called by their preferred name, the school should develop a plan alongside the student and parents, if they're involved, as to how to communicate and share that information with staff and other students in a manner that benefits the student.*

<sup>7</sup> The Johnston school district's two-page policy contains only a "request for accommodations" and a brief policy statement.

*Other District Policies:* The school policies for Cumberland, Scituate, Johnston, Providence, South Kingstown and East Greenwich set in place specific guidelines as to how and when to address the issue of a student’s preferred name and pronouns. Guidelines for Cumberland, East Greenwich, and South Kingstown focus on privately meeting with the student at the beginning of the school year and asking how they would like to be addressed in class, in correspondence with parents, and when contacting their family. The Johnston school district provides parents and students with a “Request for Accommodations” application, which is used to detail the student’s preferred name and pronoun, which restroom and locker room they prefer to use, and which staff and faculty should be aware of the student’s transgender status. All six policies assert that a court order is not necessary to have school administrators, teachers, and other students address students by their preferred name and pronoun.<sup>8</sup>

One of the issues we observed within the policies for Johnston and Scituate is that both schools use the pronouns he/him/his or she/her/hers when referring to their students and completely overlook they/their/them as a pronoun option. This is problematic since there are students that may be gender non-conforming and for which non-binary pronouns may be more appropriate. The policies for Cumberland, East Greenwich, South Kingstown, and Providence mirror the RIDE model by referring to students throughout the policy in a gender-neutral manner.

## **Official School Records**

*RIDE Model Guidance: When it comes to school records and other documents, according to the RIDE model the school should use the name and gender preferred by a student. Records that legally require the use of a student's legal name and gender can be changed only once the necessary documentation, such as a birth certificate or passport, is presented. Additionally, in cases where the school is required by law to use or report a transgender student's legal name or gender, the administrators will adopt practices to avoid inadvertent disclosure of confidential information. Students are also guaranteed that the school department will not include their transgender status as part of the directory information under FERPA, the federal privacy law that gives parents certain protections with regard to their children's education records, such as report cards, transcripts, disciplinary records, contact and family information, and class schedules, since doing so can be an invasion of their privacy.<sup>9</sup>*

<sup>8</sup> Two districts, Cumberland and East Greenwich, indicate within their policies that “the intentional or persistent refusal to respect a student’s gender identity – by referring to them by a name or pronoun that does not correspond to the student’s gender identity – is a violation of this policy.” While there is no explanation as to what type of actions would be taken against those who refuse to use a student’s preferred name and pronoun, no other policies – including the RIDE model – have guidelines like these. Depending on how such a policy was implemented, specifically in the context of other students, it could raise potential First Amendment or other legal concerns.

<sup>9</sup> FERPA defines “directory information” as information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Typically, “directory information” includes information such as name, address, telephone listing, date and place of birth, participation in officially recognized activities and sports, and dates of attendance. <https://www2.ed.gov/policy/gen/guid/fpco/faq.html#q4>

*Other District Policies:* The policies for Cumberland, Scituate, Providence, East Greenwich, and South Kingstown highlight that they will only use the student’s legal name and gender in documentation where it is mandated by law. Otherwise, the school will make efforts to only use the preferred name and gender of the student. In order to change a student’s official record to reflect a change in legal name and gender documentation, they must present the same documentation detailed by the RIDE model. Only the East Greenwich and Cumberland school policies contain information about how former students can have their school records, diploma, and transcripts amended to reflect a legal name and gender change.

The Providence school district is the only one with a policy that highlights more broadly how they will allow transgender and gender non-conforming students to use their preferred name and pronoun, by stating that “the district will make every effort to use the name and gender preferred by the student on school IDs, classroom rosters, certificates, programs, announcements, communications, team and academic rosters, diplomas, the yearbook and other site-generated unofficial records and documents. Additionally, the district’s student information system shall note a student’s preferred name and pronouns.”

## **Dress Code**

*RIDE Model Guidance:* According to the RIDE model, schools may enforce dress codes pursuant to school department policy; however, the district cannot enforce a dress code more strictly against transgender or non-conforming students.

*Other District Policies:* The policies for Providence and South Kingstown include non-discriminatory dress code language like the RIDE policy. However, this directive is missing from the other non-RIDE policies.

## **Restroom, Locker Rooms and Changing Facilities**

*RIDE Model Guidance:* The RIDE policy states that “all students are entitled to have access to restrooms, locker rooms and changing facilities that are sanitary, safe and adequate, so that they can comfortably and fully engage in their school program and activities.” A student will not be forced to use a locker room or restroom that conflicts with their gender identity. In the same manner, any student, not just transgender or non-conforming students, requesting to use a specific restroom or changing facility must be provided reasonable alternative arrangements.

*Other District Policies:* Policies for Cumberland, Scituate, Providence, East Greenwich, and South Kingstown mirror the RIDE model regarding a student’s use of restrooms and changing facilities that conform with their gender identity. The only mention of changing facilities or restrooms in the Johnston policy is within its “Request for Accommodation,” which the parent must complete.

The policies for Cumberland and East Greenwich also include a very important statement regarding other students who may feel uncomfortable sharing a restroom, locker room or changing facility with transgender or gender non-conforming students, stating that “this discomfort is not a reason to deny access to the student who is transgender or gender non-conforming.” Instead the school administrators and counseling staff will work with the student to address the discomfort “to create a school culture that respects and values all students.” This statement and assertion that transgender and gender non-conforming students can use the locker room and restroom that aligns with their gender identity without having to feel harassed, disrespected, or excluded are key to successfully creating an environment of respect, understanding, and equality in our schools.

### ***Physical Education Classes, Interscholastic Athletics, and Gender-based Activities***

*RIDE Model Guidance: When it comes to physical education and athletics, the RIDE model outlines that “all students should be allowed to participate in sex-segregated physical education classes or athletic activities, including intramural and interscholastic athletics, in a manner consistent with their gender identity.” If the student wants to participate in interscholastic sports, they must be provided with a copy of the RI Interscholastic League’s (RIIL) policy on Gender Identity Participation and they can develop a plan for a school administrator or athletic director to start a gender identity eligibility appeals process as mandated by the RIIL.*

*According to the RIIL Gender Identity Policy, all students should have the opportunity to participate in activities in a manner that is consistent with their gender identity. When a student and/or the parents indicate to the school’s athletic director/administrator that the student wants to participate in an activity consistent with their gender identity, they will help the student prepare for the appeals process. The appeals process consists of a hearing in front of the Gender Identity Eligibility Committee, which was specifically established to hear gender identity appeals. The student should then provide the committee with documentation and information such as transcripts, documents affirming the student’s gender identification (such as statements from the student and/or parent or health care provider). There is a second level of appeals through the Executive Director of the RIIL if the student is not satisfied with the initial decision.<sup>10</sup>*

*An important section of the RIDE policy states that the school department shall evaluate all gender based polices, rules and practices to maintain only those that serve an academic purpose. Activities such as overnight field trips, in which students may be separated by gender, should be evaluated to make sure that transgender and gender non-conforming students are permitted to participate.*

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<sup>10</sup> The RIIL Gender Identification Policy can be found in this document: [www.riil.org/index.php/download\\_file/1125/203/](http://www.riil.org/index.php/download_file/1125/203/).

*Other District Policies:* In a very similar format, Cumberland, Scituate, Providence, East Greenwich, and South Kingstown policies regarding physical education classes, athletic activities, and other gender based activities or practices mirrored that of the RIDE model. According to the Scituate policy, “all students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity.”

In regards to other gender based activities, only the districts of South Kingstown, Providence, East Greenwich, and Cumberland made any mention of such activities being evaluated, as encouraged by the RIDE model. None of those districts however, specify when such reviews of their policies would take place.

## ***School Discipline***

*RIDE Model Guidance: The guidance provides that “students will not be disciplined or excluded from participating in activities for appearing or behaving in a manner that is consistent with their gender identity or that does not conform with the stereotypical notions of masculinity and femininity. This will include yearbook photos, school dances, graduation ceremonies and any other school events or activities.”*

*Other District Policies:* None of the six districts with variations on RIDE’s model guidance addressed the issue of school discipline. Yet this protection is an important one, particularly in light of research suggesting that LGBT students, like students of color and students with disabilities, may be victims of disproportionate disciplinary sanctions.<sup>11</sup>

## ***Staff Education and training***

*RIDE Model Guidance: In an effort to continue to enhance and improve the systems, policies, and procedures in place as they relate to the needs of transgender and gender non-conforming students, the RIDE model recommends that professional development and training opportunities for staff be made available. These trainings aim to build the skills of all staff members to prevent, identify, and respond to bullying, harassment, and discrimination.*

*Other District Policies:* The Providence and South Kingstown school district policies include the formation of “Transgender and Gender Expansive Student Point Teams.” These teams are designed to serve as visible resources for students who have questions or concerns regarding issues related to gender identity and expression. The team consists of individuals in all areas of the school community, including teachers, social workers, parents, health and physical education staff, and other support staff. These two districts also highlight that staff members will be trained to develop knowledge regarding terms, concepts, and developmental understandings of gender identity, expression, and diversity.

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<sup>11</sup> “GLSEN warns of ‘school to prison pipeline’ for youth,” by Lou Chibbaro, Jr., *Washington Blade*, January 29, 2014, at <http://www.washingtonblade.com/2014/01/29/glsen-warns-school-prison-pipeline-youth/>

## Conclusion

When the federal guidelines protecting transgender students were released in 2016, the Departments of Education and Justice highlighted that, “as a condition of receiving Federal funds, a school agrees that it will not exclude, separate, deny benefits to, or otherwise treat differently on the basis of sex any person in its educational programs or activities unless expressly authorized to do so under Title IX or its implementing regulations. The Departments treat a student’s gender identity as the student’s sex for purposes of Title IX and its implementing regulations. This means that *a school must not treat a transgender student differently from the way it treats other students of the same gender identity.*” Less than a month after the release of these guidelines, the RI Department of Education adopted guidelines to help local school districts ensure that their schools were supportive of transgender and gender non-conforming students.

A year later, only about sixty percent of the school districts in the state have adopted similar policies to protect their students. *This is unacceptable.* Today, as the federal government seeks to dismantle the protections afforded to transgender students, all school districts in Rhode Island, along with the state Department of Education, must step up and take action. By stating that they are “sensitive” to the needs of transgender students but without taking any action to address it, school districts like Foster-Glocester and Tiverton are part of the problem rather than the solution.

Just as troublesome are the excuses given by school districts like Jamestown, that they have yet to encounter any cases or indications that a transgender student in the district needs specific protections. Rather than wait until a student’s rights are violated, these districts must be proactive in protecting them. When the Westerly school district discussed the implementation of a policy to protect transgender and gender non-conforming students in 2014, there were no federal or state guidelines yet to persuade and direct districts on how to effectively implement such policies. That is no longer the case, and excuses no longer exist for the failure of school districts to take action.

Over the decades, school districts have recognized the need for addressing issues of discrimination in the school setting. For years, girls faced blatant discrimination when it came to school class assignments and participation in sports activities. In recent decades, schools came to recognize the discriminatory treatment that students with disabilities often faced in the class setting. It is now time for districts to address the rights of transgender students, just as they have done for these other once-marginalized students.

***As the federal government dismantles protections for transgender students, school districts and the state must step up and take action.***

## Recommendations

### ***The RI Department of Education Must Ensure that Every School District Adopts and Implements a Policy for Transgender and Gender Non-conforming Students***

Every school district in Rhode Island should be committed to ensuring a “safe and supportive learning environment for all students”<sup>12</sup> where they are free from discrimination due to their sexual identity or expression and their gender identity is respected. It is essential that all districts implement a policy to guarantee the protection of all students. RIDE does not impose on school districts a requirement that they adopt a policy on this subject, much less the detailed model the agency has prepared. At this point, especially with the repeal of the federal guidance, it is important for RIDE to take the lead and acknowledge that, at a minimum, a policy based on the state’s model guidance should be implemented by every school district, since it is comprehensive, while allowing for any additions that the district may see necessary.

After seeing that over 60% percent of districts have in place policies to protect transgender and gender non-conforming students, there should be no hesitation from the remaining districts to follow their lead in adopting similar policies. Districts that claim that they don’t have a policy in place because either the issue has never been brought up or because there was community opposition in the past should reevaluate their stance, especially due to the political climate that exists and the recognition of the importance of non-discrimination in the school setting.

### ***Regular Evaluation of Gender-based Activities, Policies, and Rules within the Districts Should Take Place***

Based on the RIDE model and the policies for South Kingstown, Providence, East Greenwich, and Cumberland, many districts appear set to reevaluate their school activities, policies, and rules that are gender-based, and to make necessary changes to those that do not have a pedagogical purpose. However, none of the districts made any specific mention of a timeline for when such changes and evaluations would take place.

As part of an evaluation, each school should set a timeline to examine their internal policies, rules, and procedures for activities or programs that may have some gender based components such as dances, field trips, classes, sports, or extra-curricular activities, and then regularly review them. Additionally, RIDE should provide guidance to school districts to assist them with this evaluation.

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<sup>12</sup> RIDE’s Guidance for Rhode Island Schools on Transgender and Gender Nonconforming Students. Available at: <http://www.thriveri.org/documents/Guidance.for.RhodeIsland.Schools.on.Transgender.and.Gender.Nonconforming.Students-2016.pdf>