What Parents Need to Know
to Deal With
School Officials

By Vernadette Broyles, Esq., Ernie Trakas, Esq., and Joel Thornton, Esq.



Child & Parental Rights
CAMPAIGN

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What are your rights as a parent/guardian?

This is a critical question that in recent years has been seriously challenged by school officials. Since COVID-19, we have learned there is much going on in our public schools that is driven by agendas that do not have the best interest of our children in mind.

As a parent you have constitutionally protected rights to oversee your child's education, upbringing, and medical / mental health decision-making. It is important to remember that federal and state laws and local school district policies or guidelines cannot infringe upon or take away constitutional rights. Therefore, the right you have as a parent to control the educational, upbringing, and health-related decisions for your child cannot be simply denied.

The U.S. Supreme Court has been clear on a parent's right to control the education, upbringing, and health care of their child. You do not have the right to decide on the curriculum used, but in many states you have the right to opt your child out of questionable instruction on topics such as sex education and "gender identity" that advance this ideology.

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Social affirmation of a minor as something other than their sex is a significant mental health intervention with potentially life-altering consequences. It, therefore, should not be done in school without your knowledge and express permission. Many school officials, however, will insist that they have the right to make these decisions based solely on a child's assertion and do not need parental permission or even knowledge. Nothing could be further from the truth.

You should put school officials on notice that you do not give permission for them to transition your child or to give your child any instruction, information or counseling on these matters. Then you should monitor the activities of teachers and administrators to ensure that they are honoring your rights and your instructions concerning your child. Do not simply take the word of school officials. Always verify that they are honoring your requests and directions.

You should always remain pleasant but firm in dealing with school administrators. Clarity and diplomacy will get you the best results and make it easier to deal with problems in the future as you assert your parental rights.

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Title IX and the Biden Administration

Title IX of the 1972 Education Amendments prohibits discrimination in the educational setting on the basis of "sex". However, the Federal Department of Education has advised school officials that Title IX includes nondiscrimination based on "gender identity" and sexual orientation. This is causing tremendous confusion as to what the law requires in school districts around the country. As a result, many local school

districts erroneously believe that, pursuant to Title IX, schools have a mandate to affirm a child's imagined sexual identity even without parental consent, causing parents to have to assert their rights against this inappropriate expansion of the school's authority.

Asserting your parental rights regarding your child with your school.

You need to resolve your own identity as your child's primary decision-maker. No one knows and loves your child as you do. Gender dysphoria seldom occurs in a vacuum and it is your decision how your child is to be treated, not school officials. If your child begins to express confusion concerning his or her sex, you should immediately cut off the influences contributing to their confusion and seek the assistance of a mental health professional who shares your beliefs and understanding of biological reality.

As parents you are the ones in charge of the educational decisions for your minor child. This means that you can choose whether your child goes to public school or private school or is homeschooled. You have the right, in many states, to opt your child out of objectionable classes like sex education that promotes gender identity ideology.

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KNOW WHAT IS GOING ON AT SCHOOL.

It is your responsibility to know what is going on at school. Read the documents that are being sent home. Attend meetings with teachers. If possible, volunteer at the school and take note of what is going on. Ask your child about what is happening at the school.

Do not be afraid to call and set up a meeting with the principal of your child's school to discuss things that concern you related to this issue. Ask what is being taught in classes or programs concerning "transgenderism" or "gender identity" in school. Inquire about the school policies or practices concerning this issue, such as name and pronoun use, bathroom access, overnight accommodations during field trips, and sports teams. Most importantly, ask when and how parents will be notified if their child expresses distress with their sex or asked to be treated as something other than their sex.

EDUCATE YOUR SCHOOL CENTRAL OFFICE AND BUILDING LEVEL LEADERS WITH ACCURATE INFORMATION REGARDING GENDER IDENTITY IDEOLOGY AND ITS IMPACTS ON CHILDREN.

Do not assume that the information school officials have is accurate. Most often school officials have been given incorrect and ideologically-driven information concerning "transgender" identities in children and adolescents by education unions and advocacy groups. Because of an excessive concern over liability and threats from advocacy groups, the school attorneys often give school leaders inaccurate information as well.

You should take the opportunity to educate your school principal, vice-principal, and counselor and your school district leaders with accurate information concerning the transgender phenomenon and its serious repercussions in children and adolescents.

An excellent resource for this purpose is *Navigating The Transgender Landscape¸ School Resource Guide*." *https://childparentrights.org/product/navigating-the-transgender-landscape-free-download/*

COMMUNICATE TO YOUR SCHOOL ADMINISTRATORS YOUR PARENTAL INSTRUCTIONS, OPT OUTS, AND FAMILY'S BELIEFS IN WRITING.

When you are discussing your parental instructions with teachers and administrators on matters related to "gender identity", you should follow all verbal communications with written instructions so that there is no confusion as to what your parental wishes are concerning your child and whether school officials were made aware.

If you have any cause for concern, you should consider sending your school leaders a letter communicating your parental instructions concerning issues related to "gender identity" and your child at school.

Here is some important information to include:

- *You demand to be immediately notified if your child requests to be treated as something other than his/her biological sex, including using different sexed names or pronouns.*
- *You do not consent to any manner of your child being socially transitioning at school.*
- *You do not consent to your child receiving instruction or information concerning transgender identities or gender identity ideology.*
- *You do not consent to your child meeting with any teachers, counselors, or other school officials or third parties regarding transgender or gender identity issues, or to be referred to any counselor, medical or mental health professional, social worker, including School Based Health Clinics ("SBHC") without your express written consent.*

Request that you be given prior written notice and that your child be given alternative academic instruction during any presentation or instruction on gender identity.

If appropriate, your letter should also put the school on notice that such matters are directly contrary to your family's faith (in addition to being medically controversial) and that exposing your child to these materials, gatherings, or meetings violates your family's sincerely held religious beliefs.

If the school district interprets Title IX to require affirmation of a child's asserted gender identity, in your letter you should note that your constitutionally-protected parental rights to direct the upbringing, education, and medical / mental care of your child cannot be superseded by Title IX or any other statute.

Finally, your letter should request that this notification be placed in your child's permanent file and be provided to all adults instructing or interacting with your child during the school year.

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CONTACT AN ATTORNEY IF YOU HAVE CAUSE TO BELIEVE THERE MIGHT BE AN ISSUE.

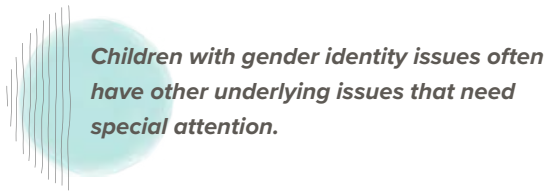
Do not be afraid to seek legal advice if you believe your rights are being violated. The point of your communications is to place the school on notice should violations affecting your child's well-being occur and it becomes necessary to consider filing a lawsuit. It does not always take a lawsuit to resolve issues, but it can take an attorney getting engaged to show school officials that you are serious about defending your right to protect your child.

Applying for Section 504 of the Rehabilitation Act of 1973 or the IDEA (Individuals with Disabilities Education Act) status can help you protect your child.

Children with gender identity issues often have other underlying issues that need special attention. Therefore, it is important for you to do everything you can to get them the extra help they need, while protecting them from errant school officials.

Section 504, 29 U.S.C. Sec. 701 et seq. ("Sec. 504"), and the IDEA, 20 U.S.C. Sec. 1400 et seq., are federal laws that require public school districts to accommodate unique needs of qualified students so that they have access to a free, appropriate public education. The nature of disability status means that your child will be getting more attention than children who do not have a Sec. 504 Accommodation plan or are not protected by the IDEA. It also means there is a written plan about how school officials are going to work with your child to hold school officials more accountable.

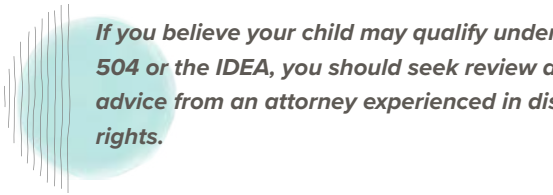
These federal laws create a higher standard of care that school officials must observe when dealing with these children. All of this can work to your advantage, because school officials and activists often believe that the only issue they should be concerned about is gender discordance. A 504 plan or Individualized Education Program ("IEP") developed pursuant to the IDEA means that school officials are on notice of other potential health or learning issues that impact major life activities of your child, and they cannot ignore them.



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The need to accommodate children who have been identified as needing particular accommodations, or specialized instruction and programming is engrained in school officials. The school district administration and staff are legally responsible to adhere to and implement all components of a Sec. 504 Accommodation Plan or an IEP under the IDEA. If your child qualifies under either of these Acts this is likely the best way to set it up so that you have more control over the educational plans, services and interactions with your child. It is also very much an under-utilized area of parental control in matters affecting their child's education.

Thus, you can use Sec. 504's Accommodation Plan or the IDEA's IEP processes to require additional student assistance, services and programming, improve parent-school communications, create structure and accountability, and place school officials on notice that other issues are involved and not merely gender discordance. If you believe your child may qualify under Sec. 504 or the IDEA, you should seek review and advice from an attorney experienced in disability rights.



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Information is power -- How to get information from school officials concerning your child

Family Educational Rights and Privacy Act ("FERPA") is the federal law that sets forth basic privacy requirements and access protocols for personally identifiable information contained in educational records created or maintained by public K-12 school districts.

There are exceptions, however, to what constitutes educational records. An important exception is records kept in the sole possession of the creator (administrator, teacher or counselor) and used only as a personal memory aid, and are not accessible or revealed to any other person. This can include lesson plans or private notes kept by a teacher or counselor.[1]

Another exception includes test instruments or question booklets that do not contain the student's name or other personally identifiable information.[2] Also, some courts and administrative tribunals have found that emails that briefly reference a child, but are used only as a communication tool, and were not maintained as part of the student's records are not FERPA records.[3]

The rights of students and parents are covered.

Both parents are accorded full rights of access to a student's records under FERPA, even if divorced, unless the school district has been provided with a court order, statute, or legally binding document that specifically revokes a parent's rights.[4] A school district must comply with a parent's request to access a student's educational records without unnecessary delay and no later than 45 days after the request is made.[5]

When a student reaches the age of majority or enrolls in a post-secondary institution, the rights afforded to parents under FERPA transfer to the student.[6] This includes Individuals with Disabilities Education Act ("IDEA") eligible students, unless a court has determined the student to be incompetent.[7]

There are limitations on access to records.

Parents can only obtain information about their child. So, if a record contains information about more than one student, it must be redacted before the parents can obtain access, parental consent must be obtained from all other parents, or the parent can be allowed to access to only the portion of the record relating to their child.[8]

Enforcement of FERPA is done through the U.S. Department of Education

The ultimate enforcement action against a school district is termination of all federal financial assistance, where the DOE is unable to secure compliance by voluntary means.[9] Parents or eligible students can file written complaints regarding alleged violations of FERPA with the Family Policy Compliance Office ("FPCO") at:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-4605

The complaint must state specific allegations of fact giving reasonable cause to conclude that a violation has occurred. Complaints must be submitted within 180 days after the date of the violation or the date on which the complainant knew or should have known of the violation.[10] School districts must be notified in writing of the complaint and are also asked to submit a written response.[11] The FPCO will issue written findings after allowing the parties to submit additional information and argue their case.[12] There is no right to a hearing for the school district and the FPCO's decision is final.[13]

If the school district is found in violation, FPCO's findings will include the steps required for compliance and provide a reasonable timeline for the school district to comply. If a school district fails to comply, the Department of Education can withhold further payments of federal assistance, issue a cease-and-desist order, or terminate eligibility to receive federal funding.[14]

The way to get a broad set of information is through submitting Open Records Requests.

Filing Open Records Requests – getting information about your school district

The way to get a broad set of information, including relevant policies, practices, and directives in place at your school, what clubs are in your school, and getting school wide or system wide information is through submitting Open Records Requests.

These requests must be made in writing. There is usually a place on the district's website that directs where to file your requests. You must be very specific about what you are requesting. And you typically will be required to pay for the cost of compiling and/or copying the records requested. Nevertheless, Open Records Requests are a very useful tool to get written information about policies, practices, and activities at your school and within your district, which have been used effectively by parents and their allies.

How do you assert your parental rights at the district level.

There is strength in numbers and courage begets courage. So it's important to gather other like-minded parents. For meetings involving school or district policies or practices (not involving your child's private concerns), it would be helpful to come to a meeting with the principal or school Superintendent with several other parents who are similarly situated. In private meetings concerning your child, the knowledge that other parents support your concerns arms you with the knowledge that you have others standing with you.

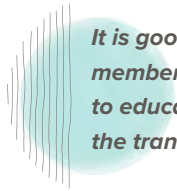


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Advocating with the school district's Board of Education

Attending school board meetings is another way to assert your rights as a parent. Whenever possible, bring supportive parents with you to the meeting. As few as 5-10 people at a board meeting with a shared concern is often enough to get the board's attention. Take the time they allot for public comments and go on record with your concerns. Remember to remain conversational and respectful. You should request to know what practices are being implemented, communicate parental concerns, and make a record.

Keep in mind that it may be the school board's attorney that is behind the resistance you are seeing from the board. It is good to have meetings with individual board members who may be sympathetic to your issues to educate them with accurate information on the transgender issue, find out how you can support them, and help them bring these issues to the attention of the full board.

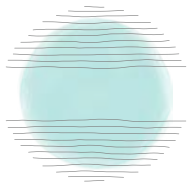


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resources

Contact ***www.childparentrights.org*** for the following additional resources:

- *Navigating the Transgender Landscape, School Resource Guide*
- Sample Parental Notice concerning your child and issues related to Gender Identity Ideology
- Sample Open Records Request
- *What Parents Need To Know To Deal With School Officials* Pamphlet
- *What Parents Need To Know To Deal With Child Protective Services* Pamphlet



endnotes

1 *Letter to Ruscio*, 115 LRP 18601 (FPCO 2014); *Irvine (CA) Unified School District*, 14 EHLR 353 (OCR 1989).

2 *Letter to Anonymous*, 111 LRP 18281 (FPCO 2010); *Montgomery County Pub. Schs.*, 111 LRP 55173 (SEA Maryland 2011); *Letter to Shuster*, 108 LRP 2302 (OSEP 2007); *Letter to MacDonald*, 20 IDELR 1159 (OSEP 1993); *FPCO Policy Letter* (FPCO—October 2, 1997).

3 Brownsburg Cmty. Sch. Corp., 59 IDELR 146 (SEA Indiana 2012); Washoe County Sch. Dist., 114 LRP 25728 (SEA Nevada 2014)(since school never printed the e-mails of a child's recreational activities observation, maintained them as part of the educational records, or kept them in storage or a secure database, they were not FERPA records); Middleton-Cross Plains Area Sch. Dist., 115 LRP 31928 (SEA Wisconsin 2015) (school was not required to provide parents with access to e-mails not maintained in the student's cumulative file). In S.A. v. Tulare County Office of Educ., 53 IDELR 111 (E.D. Cal. 2009), the federal district court held that e-mails are only education records if saved on a permanent secure database or printed and stored in the student's file.

4 34 C.F.R. §99.4

5 34 C.F.R. §99.10(b), 34 C.F.R. §300.613(a)

6 20 U.S.C. §1232g(d), 34 C.F.R. 99.5(a)

7 34 C.F.R. §300.625(b)

8 *Letter re: Regional Multicultural Magnet Sch. Dist.*, 108 LRP 29577 (FPCO 2008); *Letter to Anonymous*, 113 LRP 14615 (FPCO 2013)

9 20 U.S.C. §1232g(g)

10 34 C.F.R. §99.64(c); *Letter to Anonymous*, 113 LRP 28738 (FPCO 2013).

11 34 C.F.R. §99.65

12 34 C.F.R. §99.66

13 *Letter to Sanders*, 107 LRP 64190 (FPCO 2007)

14 34 C.F.R. §99.67

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