Inclusive Schools
Student Support Guide

Believe, Empower, Achieve
ONE BROWARD

Established 1915
BROWARD
County Public Schools

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School Board of Broward County (SBBC) Nondiscrimination Statement

The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender identity, gender expression, genetic information, marital status, national origin, race, religion, sex or sexual orientation. The School Board also provides equal access to the Scouts and other designated youth groups. Individuals who wish to file a discrimination and/or harassment complaint may call the Director, Equal Educational Opportunities/ADA Compliance Department & District's Equity Coordinator/Title IX Coordinator at 754-321-2150 or Teletype Machine (TTY) 754-321-2158.

School Board of Broward County Policy 4001.1

Introduction

Broward County Public Schools is "committed to educating all students to reach their highest potential." Creating a safe and inclusive school environment is crucial for students' overall academic and personal success. Unfortunately, studies have shown that vulnerable student populations are more likely to face bullying, harassment, and exclusion from their peers and even from their teachers, which can negatively impact their mental health and academic outcomes.

Creating an inclusive school environment requires a commitment from school administrators, teachers, staff, and students to promote the District's eight character traits, including citizenship, cooperation, honesty, kindness, respect, responsibility, self-control, and tolerance. This can include policies that explicitly prohibit discrimination based on sex, race, color, religion, national origin, age, disability (physical, mental, or educational), marital status, socio-economic background, ancestry, ethnicity, genetic information, gender, gender identity or expression, linguistic preference, political beliefs, sexual orientation, or social/family background. Providing resources and support for students and offering training and education for staff and students on critical issues is also essential.

Executive Summary:

All students have the right to feel safe and supported in their learning environment, and creating an inclusive and supportive atmosphere can have significant positive impacts on their academic and personal success.

This student support guide is a valuable tool for promoting a comprehensive approach to creating a positive climate for all students. It includes action items for faculty, staff, students, and families to work together in promoting the District's eight-character traits in schools.

By implementing existing Federal, State, and local laws and policies concerning harassment and discrimination, schools can ensure that students are both protected and supported. This can help address issues such as bullying, stigmatization, and discrimination, which can negatively impact the mental health and academic outcomes of all students.

Guide Implementation

It is important for school leadership and personnel to use Broward County Public Schools' Inclusive Schools Student Support Guide with a student-centered approach that includes parental involvement and engagement when navigating the unique needs of our youth. The guide provides action items for administrators, faculty, and staff to promote a safe and inclusive learning environment for students. The use of this guide, along with its action items, will ensure that students' experiences are equitable across schools and handled with consistency. The District encourages school administrators, faculty, and staff to use the guide to promote a safe and supportive school climate where all students can thrive.

It is essential to ensure that any changes or modifications in services or monitoring for students are made with parental consent. This helps ensure that parents are informed and engaged in their child's education and well-being.

It is important to note that this guide is not intended or designed to be utilized in "classroom instruction" or as part of any prekindergarten through grade 12 curriculum. Faculty and staff should always use their professional judgment, with support from their administration, when seeking age-appropriate resources, tools, or materials for classroom use.

Please note the following important definitions were provided in the SETTLEMENT AGREEMENT of 3.11.24 and are provided here to assist all district personnel in further understanding their meanings in the context of student support:

- **Instruction** – "the action, practice, or profession of teaching."
- **Classroom Instruction** – "the formal work of teaching that occurs in a classroom setting."

For additional support and guidance, please reach out for assistance.

Contact Information:
Department of School Culture and Student Support
754-321-1600

Summary of Actions to Support Youth

Topic	Summary
Americans with Disabilities Act (ADA)/ Section 504/Individuals with Disabilities Act (IDEA)	These three Federal laws provide equity for persons with disabilities. Collectively, they ensure equitable access to free and appropriate education, reasonable accommodations, specialized instruction, related services, and due process in accordance with the provisions of each law.
Bullying/Harassment	Allegations and instances of bullying and/or harassment (including sexual harassment) shall be handled in accordance with SBBC Policy 5900.
Classroom Instruction	Florida Statute 1001.42(8)(c)3 and Rule 6A-10.81 Principles of Professional Conduct for the Education Profession restrict classroom instruction on sexual orientation or gender identity from prekindergarten through grade 12. The SETTLEMENT AGREEMENT of 3/11/2024 provides clarification for school personnel in the areas of "classroom instruction," "classroom references," "non-discrimination," "third parties," "debate," "families," "bullying," "extracurricular activities," and "library books." The full SETTLEMENT AGREEMENT can be found in Appendix D.
Clubs and Organizations	All students have the right to form and participate in clubs that comply with the SBBC policies governing Clubs and Organizations (SBBC Policy 5201 and Policy 6205). This includes, but is not limited to, those grounded in varied religious beliefs and those named for specific races/ethnicities/identities (e.g., Black Student Union, Latinos in Action, Muslim Student Association, Gay/Straight Alliance, etc.).
Dress Code	All students may dress in ways that are consistent with their ethnic heritage, culture, and/or gender expression during school and while attending any school-sponsored events and functions, including proms and dances, while still abiding by the district's dress code policy.

Topic	Summary
Field Trips	Field trips can be an integral part of the learning process in many areas of education. All students are guaranteed the right to be afforded an equal opportunity to participate in all school-sponsored social and/or extracurricular activities when they are otherwise qualified to participate. Reasonable accommodations must be made to allow all qualified students to attend and participate in a safe and equitable manner.
Names and Pronouns for Students	School staff shall honor the use of a chosen name, preferred name, or nickname by any student and handle it consistently per the guidance below. For parents who wish to have their child's preferred pronouns used, upon receipt of written consent, staff may honor this request in accordance with the guidance on page 9. Per F.S. §1000.071, faculty and staff must not ask students to provide their preferred personal titles or pronouns.
Participation in Athletics	Fla. Stat. §1006.205 stipulates how students can participate in athletics at school.
Religious Expression and Practice	Students may express their religious beliefs in school consistent with the School Board Policy 5000.
Restrooms/Changing Facilities	The SBBC separates multi-user restrooms and changing facilities according to sex assigned at birth. This does not include single-user, unisex restrooms and/or changing facilities.
Student Privacy	All students' privacy rights will be respected. As defined by FERPA, personal information about the student will not be shared without the parent's consent or that of an eligible student, defined as an emancipated minor or student over 18 years of age unless allowed by law.
Title IX	Title IX states that no person in the United States shall, based on sex, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Americans with Disabilities Act (ADA)/Section 504/Individuals with Disabilities Act (IDEA)

The three Federal laws named above provide equity for persons with disabilities. Collectively, these laws ensure equitable access, free and appropriate education, reasonable accommodations, specialized instruction and related services, and due process by the provisions of each law.

Under federal law, students with disabilities are afforded protections to ensure equitable access to all aspects of the educational experience. All provisions within this guide apply to students with disabilities. Administrators must strive to create an inclusive school environment by involving students with disabilities in all aspects of the educational experience to which their non-disabled peers have access. Additionally, all schools are expected to have a peer mentoring group to support students with disabilities further.

Bullying and/or Harassment

Allegations and instances of bullying and/or harassment shall be handled by SBBC Policy 5900.

The SBBC believes that all Board members, District employees, students, agents, consultants, contractors, visitors, volunteers, or other persons are entitled to a safe, equitable, and harassment-free school experience. Bullying, harassment, sexual harassment, or discrimination will not be tolerated for any reason and shall be just cause for disciplinary action. SBBC Policy 5900 shall be interpreted and applied consistently with all applicable State and Federal laws, and the Board's collective-bargaining agreements. Conduct that constitutes bullying, harassment, sexual harassment, or discrimination, as defined in policy, is prohibited. SBBC's Nondiscrimination policy statement, SBBC Policy 4001.1, addresses requirements for discrimination against defined Federal, State, and local protected categories of persons.

Resources, information, and training are available on the School Culture and Student Support Department's webpage at https://www.browardschools.com/Page/36252. Additional support is also available by contacting 754-321-1655.

Classroom Instruction

Florida Statute 1001.42(8)(c)3 and Rule 6A-10.81 Principles of Professional Conduct for the Education Profession restrict classroom instruction on sexual orientation or gender identity from prekindergarten through grade 12. The SETTLEMENT AGREEMENT of 3/11/2024 provides clarification for school personnel in the areas of "classroom instruction," "classroom references," "non-discrimination," "third parties," "debate," "families," "bullying," "extracurricular activities," and "library books." The full SETTLEMENT AGREEMENT can be found in Appendix D.

Florida law prohibits the teaching of sexual orientation and gender identity in a classroom setting. After the Parental Rights in Education Act (HB1557) was signed into law in 2022, a lawsuit was filed to stop its enactment. There has since been a settlement agreement between the parties. In the resulting settlement agreement, the State of Florida has taken several positions about the scope and meaning of the statute. The full settlement agreement can be found within Appendix D; however, to summarize the contents of the settlement agreement, the following would most likely be determined **NOT** to be classroom instruction on sexual orientation or gender identity, and therefore ***permissible***:

- Grading or commenting on an assignment on a topic chosen by the student, including if the student self-selects the topic of sexual orientation and/or gender identity;
- Keeping a photograph of the teacher's family on the teacher's desk or referring to their own spouse or family or children;
- Being the faculty advisor of a GSA (Gay Straight Alliance/Gender Sexuality Alliance);
- Being a Safe Badge holder and displaying a Safe Badge on a lanyard;
- Posting a "safe space" or rainbow sticker and/or wearing a rainbow button, pin, etc;
- Intervening when a student is being harassed or bullied because they identify as LGBTQ+ or are perceived as being LGBTQ+;
- Responding to students discussing their families or family life;
- References in literature to LGBTQ identities;
- Lines referring to LGBTQ issues in musicals, plays, or other performances; and
- Student-to-student speech.

All District employees are encouraged to read the full settlement agreement in Appendix D, as it contains additional definitions and concrete examples beyond what is summarized above. Faculty and staff should always use their professional judgment when addressing students'

questions or needs. Similarly, faculty and staff should always reach out to the leadership at their school if there are any questions about the lessons or practices within their classroom. Additionally, employees can contact the Department of School Culture and Student Support for assistance with any questions or concerns they may have.

Clubs and Organizations

All students have the right to form and participate in clubs that comply with the SBBC policies governing Clubs and Organizations (SBBC Policy 5201 and Policy 6205). This includes, but is not limited to, those grounded in varied religious beliefs and those named for specific races/ethnicities/identities (e.g., Black Student Union, Latinos in Action, Muslim Student Association, Gay/Straight Alliance, etc.).

School-based clubs and organizations such as the examples listed above are student-initiated and allow students with a common interest to get together and have events or discussions about that interest. These clubs and organizations are made up of students of any race, ethnicity, religious belief, sexual orientation, and/or gender identity. In fact, many clubs include members with different backgrounds and beliefs who are or wish to be allies to those with different lived experiences. Participation in clubs with individuals of varied backgrounds and identities promotes diversity, acceptance, and perspective building.

Parents have the right to learn about the nature and purpose of clubs and activities offered at their minor child's school, including those that are extracurricular. To ensure parents are fully informed, it is recommended that schools place information about each extracurricular club offered for their students on their website. Furthermore, Rule 6A-10.089, F.A.C. requires parent permission for student participation in school-sponsored events and activities, including extracurricular clubs and extended learning opportunities. A permission form for all clubs and activities must be on file for any student participating; see Appendix A. The permission form must include, at minimum, the following information:

1. The nature of the event or activity.
2. The date(s) and time(s) of the event or activity.
3. Specific location(s) and type(s) of sponsors/guests at the event or activity.
4. The method of student supervision is provided, such as the anticipated number of chaperones.

Dress Code

All students may dress in ways that are consistent with their ethnic heritage, culture, and/or gender expression while still abiding by the District's dress code policy during school and while attending any school-sponsored events and functions, including proms and dances.

Students may wear clothing, head coverings, and/or jewelry of their ethnic heritage and culture that follows the dress code in the Code of Student Conduct. Furthermore, in alignment with the Code of Student Conduct policy, "all students have the right to wear stylish clothes of their choice as long as those clothes are appropriate for school, are not dangerous to health and safety, and do not create a substantial and material disruption of the school." As outlined in the Code of Student Conduct, the dress code is gender-neutral, with a single set of standards for all students. A school with a unified dress code must follow SBBC Policy 5309: School Unified Dress.

Enforcement of policies that address dress codes cannot be enforced in a manner that impacts students in a discriminatory or disparate manner.

Field Trips

Field trips can be an integral part of the learning process in many areas of education. All students are guaranteed the right to be afforded an equal opportunity to participate in all school-sponsored social and/or extracurricular activities when they are otherwise qualified to participate. Reasonable accommodations must be made to allow all qualified students to attend and participate in a safe and equitable manner.

SBBC Policy 6310 Field Trips govern field trips in Broward County Public Schools. The school administration shall work with students and families of qualified students to ensure all reasonable accommodations are made to allow for full attendance and participation of any student otherwise qualified to attend, including students with disabilities. Reasonable accommodations may include but are not limited to, wheelchair-accessible modes of transportation, nurses, and additional aides. On all overnight trips requiring lodging, single-gender sleeping quarters for students must be instituted. Field Trip permission forms disseminated to parents must indicate whether room assignments for overnight lodging are not separated by biological sex at birth.

Names and Pronouns for Students

The use of a chosen name, preferred name, or nickname by a student may be honored by school staff and handled with consistency in accordance with the guidance below. For parents who wish to have their child's preferred pronouns used, upon receipt of written consent, staff may honor this request in accordance with the guidance below. Per F.S. §1000.071, faculty and staff must not ask a student to provide their preferred personal title or pronouns.

A chosen name, preferred name, or nickname is a name selected by an individual to use in lieu of their legal name. With parental consent, educators shall honor the requests of students if they express the desire to use a name that is different from the name under which they are registered (Rule 6A-1.0955, F.A.C.). Parental consent is obtained using the annually completed Emergency Contact Card. Upon written consent, the student information system (SIS) will be updated to reflect the student's chosen, preferred, or nickname on all unofficial documents. Regardless of whether a court order for a legal name change has been provided, all unofficial records and verbal communication should reflect the student's preferred name or nickname.

For parents who wish to have their child's preferred pronouns used, upon receipt of written consent, staff may honor this request; however, are not required to do so. Such consent can only be obtained by the parent by visiting the school and obtaining and completing the appropriate request form (see Appendix B). If a student requests to use pronouns other than those aligned to their sex assigned at birth, the student must be advised to have their parent visit the school to complete the required documentation. Per F.S. §1000.071, faculty and staff must not ask a student to provide their preferred personal title or pronouns.

A student's legal name and/or gender marker cannot be changed on any ***official legal*** documents, including State reporting and transcripts, without appropriate legal documentation, i.e., court order, amended birth certificate, or passport. Upon receipt of appropriate legal documentation, the official record in the District student information system (SIS) will be updated to reflect the student's new legal name and/or gender marker for use on official records.

Participation in Athletics

Fla. Stat. § 1006.205 stipulates how students can participate in athletics at school.

Pursuant to Florida Statute §1006.20, the Florida High School Athletic Association (FHSAA) is designated as the governing nonprofit organization of athletics in Florida public schools. The FHSAA is responsible for adopting and promulgating the rules regarding eligibility requirements for all students who participate in high school athletics in Florida.

In June of 2021, the Florida legislature enacted F.S. §1006.205(3)(a), which states "athletic teams or sports designated for females, women, or girls may not be open to students of the male sex." It also states that, "athletic teams or sports designated for males, men, or boys may be open to students of the female sex" (F.S. §1006.205(3)(b)). This law precludes all transgender female students from participating in athletics in accordance with their gender identity; however, does not preclude transgender males from participating in athletics in accordance with their gender identity.

Religious Expression and Practice

Florida Statute 1002.206 and SBBC Policy 5000 address religious expression in public schools. It is the policy of the SBBC that the District will not discriminate against a student, parent, or school personnel based on a religious viewpoint or religious expression.

The SBBC upholds students' rights to express religious viewpoints in the same manner as secular ones. Students may freely express their religious beliefs in assignments, artwork, and oral presentations without facing discrimination, and their work will be graded based on academic standards, not religious content. They may also wear religious clothing, jewelry, and accessories if secular equivalents are permitted. Students are allowed to engage in religious activities, including prayer and organizing religious groups, before, during, and after school hours, in the same manner they would with secular activities. SBBC employees may participate in student-initiated religious activities outside of instructional time, provided it doesn't interfere with their duties, and the district must comply with federal laws prohibiting religious discrimination. Religious groups are granted equal access to school facilities and may advertise their meetings as secular groups. Additionally, SBBC must establish a limited public forum for student speakers at school events, ensuring religious viewpoints are not excluded, and that

speaker selection is based on neutral criteria. Student speeches must avoid inappropriate content, and SBBC must clearly state that such speeches do not represent the district's views.

Students absent for religious holidays shall be excused in accordance with School Board Policy 5.5: Attendance. For guidance on religious-based student clubs and organizations, see the section above for Clubs and Organizations.

Restrooms/Changing Facilities

The School Board of Broward County separates multi-user restrooms and changing facilities according to sex assigned at birth. This does not include single-user, unisex restrooms and/or changing facilities.

Broward County Public Schools personnel will maintain and monitor restrooms and changing facilities to ensure the safety of all students. In addition to multi-user restrooms, all schools must provide students with access to single-user, unisex restrooms. Any student desiring additional privacy shall be granted access to a unisex restroom or changing facility.

Any questions related to facility usage and/or specific student accommodations should be resolved on a case-by-case basis through dialogue with the student, their parent(s)/guardian(s)/caregiver(s), and school/district leadership to ensure safe and supportive environments are maintained.

Student Privacy

All students' privacy rights will be respected. Personal information, as defined by FERPA, about the student will not be shared without the parent's consent or that of an eligible student, defined as an emancipated minor or student who is over 18 years of age unless allowed by law.

Parents or eligible students have the right to decide when, with whom, and to what extent personal and private information is shared unless otherwise allowed by law. As students navigate various situations at school, school counselors and other staff should be mindful of the available support and resources to help ensure student success.

While most students have supportive parents, some students may experience rejection from their families as the result of a variety of reasons, including but not limited to their sexual orientation, gender identity, gender expression, and/or religious beliefs. For students who experience familial rejection, it is imperative to provide support to their parents and family members to help ensure they are equipped with the tools and resources needed to support their loved one. The goal of the District is always to ensure the safety and well-being of each student. Resources for parents and families can be found in Appendix C.

The simple knowledge of a student's sexual orientation and/or gender identity, without related concerns about the student's health, safety, or well-being, would not be considered a change in services or monitoring. For parent(s)/guardian(s)/caregiver(s) who have questions about their child's sexual orientation and/or gender identity and have contacted the school or District, faculty, and staff must not intentionally withhold information unless a reasonably prudent person would believe that disclosure would result in abuse, abandonment, or neglect, as those terms are defined by the law.

Students should be encouraged to and supported in speaking with their parents about sensitive and personal information. Resources should be made available to any families who have questions about their child.

Title IX

Title IX states that no person in the United States shall, on the basis of sex, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

What is done for one student must be done for all students with regard to equal treatment on the basis of sex. For example, if you are going to honor the preferred name/nickname of one student, you must honor it for all students whose parents have made the request. The example provided is intended to be an illustration of the provision of Title IX. District/school personnel must not discriminate on the basis of sex in any circumstance.

Appendix A

Afterschool Club/Activity Parent/Legal Guardian Authorization Form

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THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Afterschool Extracurricular and Supplemental Programs Parent/Legal Guardian Authorization Form

Required for participation in any and all afterschool clubs, events, activities or supplemental programs

Student Name: _____ Telephone: _____

Club/Activity/Event Name: _____

Description or nature of the club, activity or event:

_____

_____

_____

Date the club, activity or event will begin: _____

Date the club, activity or event will end: _____

Location of the club, activity, or event: _____

Name(s) of club, activity, or event sponsor(s): _____

Types of guests that may attend the club, activity, or event: _____

Scheduled Days of the Week: (Circle all that apply)

Monday Tuesday Wednesday Thursday Friday Saturday

Scheduled Time: From _____ To _____

I give my child permission to participate in the above named extracurricular activity or supplemental program during the dates and times listed above for the 2023-24 school year.

Name of Parent:_____Telephone:_____

Signature of Parent: _____ Date: _____

Scheduled days of the week and times may vary throughout the school year. Club/activity sponsor will contact parents through pre-determined forms of communication to notify of any change in meeting time or day.

EMERGENCY CONTACT

Name: _____Telephone: _____

Relationship to Student: _____

This form must be submitted and retained by the club, activity, or event sponsor prior to student participation.

Appendix B

PreK-12 Preferred Title and Pronoun Request Form

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Parent/Legal Guardian
PreK-12 Preferred Title and Pronoun Request Form

Broward County Public Schools (BCPS) supports the fundamental right of parents to direct the upbringing of their children. BCPS personnel understand that there may be instances when a parent wants to request the use of a preferred name, title, or specified pronouns for their child; however, Florida Statute §1000.071 does not allow school personnel to ask students for their preferred title or pronouns. As such, this form has been developed to allow parents to fully inform the District and their child's school of their child's preferred personal title and/or pronouns*. ***This form shall ONLY be provided to parents upon request and be completed in the presence of a school official.***

Rule 6A-1.0955, F.A.C. requires school districts to obtain parental consent for use of any deviation from their child's legal name in school. The annually completed Emergency Contact Form allows for parents to designate any names by which school/ district staff may use when addressing their child. **If a parent wishes to designate a preferred name for their child, they must do so using the Emergency Contact Form.**

By completing this form, you are granting District and school personnel permission to utilize the personal title and/or pronouns specified below on all unofficial school records and during school-related events*.

Student Information (Please Print):

Student's legal name as shown on their birth certificate: _____

Student's Date of Birth (MM/DD/YYYY): ____/____/_____

Student's ID #: _____ Student's Grade: _____ School: _____

What is the personal title staff may use when referring to your child in school?

School personnel may refer to my child by the following preferred title(s) (i.e., Miss, Ms., Mr., Mx. etc.)*: _____

What pronouns may staff use when referring to your child in school?

School personnel may refer to my child by the following preferred pronouns*: _____

**Please note that staff cannot be required to use preferred titles and/or pronouns for your child that are not consistent with their sex assigned at birth (F.S. §1000.071).*

By signing this form, I am requesting that school and District staff do their best to recognize and use my child's preferred personal title and/or pronouns at school and when contacting home. I understand that this information, as collected, will be shared with school administration, teachers, counselors, and other support staff for them to be able to use my child's preferred name and/or pronouns.

_____ _____

Printed Name and Signature of Legal Parent/Guardian Date

_____ _____

Legal Parent/Guardian Phone Number Email Address

_____ _____

Name and Signature of Witness to Parent Signature (Must be a school official) Date

Appendix C

Support Resources

The resources linked below are not meant to be used by teachers for lesson planning, classroom instruction, or during any part of the instructional cycle. These resources are meant to provide parents and families with National, State, and Local resources to support their child.

Resources for Parents and Families

- **U.S. Department of Education**, Office of Civil Rights - resources that may be of interest to LGBTQI+ students and allies, including rights and protections under Title IX.
- **Florida Department of Education – provides resources for school districts and families.**
- **Equality Florida,** LGBTQ+ Safe & Healthy Schools initiative - provides tools and resources to help create safe and affirming environments for all students.
- **Human Rights Campaign**, Welcoming Schools - resources, lessons, and ideas for creating an inclusive school environment.
- **GLSEN -** provides guides to students and educators to support their school experience.
- **Learning for Justice** - age-appropriate lessons around race, class, gender, sexual orientation, gender identity, religion, and ability.

Local Resources for Parents and Families

- **Community Foundation of Broward, Broward Pride –** The goal of Broward Pride is to unite our diverse community to ensure equality, justice, and inclusion of our LGBTQ neighbors throughout Broward.
- **PFLAG Broward** - provides support, information, and resources for LGBTQ+ people, their parents and families, and allies.
- **The Pride Center at Equality Park** – The Pride Center meets the distinct health, social, educational, socio-economic and safety needs for the LGBTQ+ community and our allies.

Suicide-Prevention Resources for Parents, Families, and Students

- **9-8-8 Suicide and Crisis Lifeline** – In 2020, Congress designated the new 988 dialing code to be operated through the existing National Suicide Prevention Lifeline. SAMHSA sees 988 as a first step towards a transformed crisis care system in America.
- **2-1-1 Broward -** 211 Broward is the live, 24-hour comprehensive helpline, providing all people with crisis, health and human services support, and connecting them to resources in our community.
- **Crisis Text Line –** Text FL to 741741
- **The National Suicide Prevention Lifeline -** has a resource section specific for LGBTQ+ people and those who care for them. Hotline: 1-800-273-TALK (8255).
- **The Trevor Project** – has trained counselors supporting 24/7 for young people in crisis, feeling suicidal, or in need of a safe and judgment-free place to talk. Trevor Lifeline now at 1-866-488-7386.

Appendix D

Settlement Agreement

Execution Version

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into between and among Plaintiffs and the State of Florida. As used in this Agreement, "Plaintiffs" refers to Equality Florida, Family Equality, Amber Armstrong and her child, M.A., Ivonne and Carl Schulman and their child, S.S., Lindsay McClelland and her child Jane Doe, Rabbi Amy Morrison, Cecile Houry, Dan and Brent VanTice, Lourdes Casares, Kimberly Feinberg, Lindsey Bingham Shook, Anh Bolmer, Scott Berg, and Myndee Washington. As used in this Agreement, "the State of Florida" and "the State" refer collectively to the Florida Department of Education, the Florida State Board of Education, and the members of the Florida Board of Education in their official capacities.

RECITALS

A. On or about March 31, 2022, Plaintiffs commenced an action in the United States District Court for the Northern District of Florida, Tallahassee Division (the "Court"), Case No. 4:22-cv-134-AW-MJF (the "Case"), challenging the constitutionality of Section 1001.42(8)(c)3., Florida Statutes (the "Statute"), which limits "[c]lassroom instruction by school personnel or third parties on sexual orientation or gender identity" in Florida's public schools "in kindergarten through grade 3 or in a manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards."

B. On May 25, 2022, Plaintiffs filed their First Amended Complaint. DE47.

C. The State of Florida defended the litigation and sought dismissal in part because, in the State's view, all the conduct and speech that Plaintiffs alleged they sought to engage in was not covered by the Statute's restriction of "classroom instruction" "on sexual orientation or gender identity."

D. On or about September 29, 2022, the Court dismissed Plaintiffs' complaint for lack of standing in part because the Court agreed with the State that Plaintiffs' "asserted future actions" did not "involve classroom instruction on sexual orientation or gender identity," which is all the Statute restricts. DE120 at 11. The

Court gave Plaintiffs another opportunity to amend their complaint. Plaintiffs took that opportunity and filed their Second Amended Complaint. DE123.[1]

E. On or about November 30, 2022, the State sought dismissal of the Second Amended Complaint because its view that the Statute restricts only "classroom instruction" "on sexual orientation or gender identity" had not changed.

F. In both sets of publicly filed briefs arguing that the conduct and speech that Plaintiffs engaged in, or sought to engage in, was not covered by the Statute's restriction of "classroom instruction" "on sexual orientation or gender identity," the State explained that the scope and meaning of the Statute is as follows:

Background

- "As legislative staff noted," the Statute was enacted against the background that "'multiple school districts in Florida maintain[ed] policies that exclude[d] parents from discussions and decisions on sensitive topics related to students.'" DE 68 at 5.

- "[S]ome Florida school boards had published 'Guidelines for Curriculum' that . . . referred to, for example," an "infographic . . . designed to teach young children the concepts of sexual orientation and gender identity." *Id.* at 7.

- "Broward County was directing teachers to respond to kindergarteners 'when answering classroom questions that may arise'" that "[t]ransgender people change their gender once they are old enough to explain to others how they feel about their own gender. This person may change their name or pronoun." *Id.* at 10.

- "The Florida Legislature responded by enacting H.B. 1557," *id.* at 11, which restricts "[c]lassroom instruction by school personnel or third parties on sexual orientation or gender identity."

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[1] Plaintiffs originally named the Governor and Commissioner of Education as defendants in their official capacities. DE1. Plaintiffs later withdrew their claims against the Governor (DE91 at 30 n.11), and the district court dismissed the Commissioner as an improper defendant (DE120 at 20). Plaintiffs did not appeal that ruling.

"Classroom Instruction"

- "Instruction" is "the action, practice, or profession of teaching." DE68 at 17. And the Statute restricts only "instruction" that occurs in a "classroom" setting. *Id.*

- "Classroom instruction" is "the formal work of teaching that occurs in a classroom setting," and the Statute restricts "classroom instruction" only if it is "*on* sexual orientation or identity." DE134 at 16. Accordingly, the Statute restricts only teaching on the topics of sexual orientation and gender identity in a classroom *setting*. *Id.*

- The Statute restricts only classroom instruction on particular subjects—"sexual orientation" and "gender identity." That means that teachers must not "teach[] the subjects of sexual orientation or gender identity." DE 68 at 19. Those subjects are "naturally understood in terms of the underlying concepts." *Id.* The Statute would thus limit "teaching an overview of modern gender theory or a particular view of marriage equality." *Id.*

- The Statute "thus restricts *instruction* on particular *subjects* (sexual orientation and gender identity), not mere discussion of them." *Id.* at 18. Consistent with that view, the Legislature rejected a restriction on 'encourag[ing] classroom instruction about' the prescribed subjects in favor of a limited restriction on "classroom instruction.'" *Id.* at 18-19.

- "[T]ypical class participation and schoolwork are not 'instruction,' even if a student chooses to address sexual orientation or gender identity." *Id.* at 20.

- The Statute would also leave teachers free to "respond if students discuss . . . their identities or family life," "provide grades and feedback" if a student chooses "LGBTQ identity" as an essay topic, and answer "questions about their families." *Id.* For kindergarten through grade three, "they simply must not handle these situations by teaching the subjects of sexual orientation or gender identity." *Id.*

Classroom References

- Moreover, "just as no one would suggest that references to numbers in a history book constitute 'instruction on mathematics,'" the Statute "would not prohibit[] incidental references in literature to a gay or transgender person or to a same-sex couple. Such references, without more, are not 'instruction on' those topics." *Id.* at 19.

- The Statute "does not prohibit stories where a prince and princess fall in love; it does not prohibit instruction against bullying people with one mom or two; and it does not prohibit mere references to moms and dads (or any combination thereof)." DE105 at 5-6.

- The Statute restricts the use of books "to instruct" "students on the concepts of sexual orientation or gender identity." DE134 at 22-23. But the Statute does not restrict mere "literary references to a gay or transgender person or to a same-sex couple." *Id.* at 17. "'[R]eferences to LGBTQ identity' do not violate the [S]tatute, as they are not 'instruction on' sexual orientation or gender identity any more than a math problem asking students to add bushels of apples is 'instruction on' apple farming." DE152 at 5.

Non-Discrimination

- The Statute does not target "sexual *orientations* and gender identities that differ from heterosexual and cisgender identities." DE68 at 17. "To the contrary, instruction on the 'normalcy of opposite-sex attraction' would equally be 'instruction on sexual orientation.'" *Id.* The Statute "is neutral on the proscribed subjects." *Id.*

- The Statute "applies equally, regardless of viewpoint." DE134 at 17. Put differently, the Statute "restricts classroom instruction on 'sexual orientation' and 'gender identity,' not homosexuality and transgender identity." DE152 at 5. "For example, it would violate the statute to instruct students that heterosexuality is superior or that gender identity is immutable based on biological traits." DE134 at 17-18.

"Third Parties"

- The Statute's reference to "third parties" in addition to "school personnel" simply means that "schools cannot evade the [Statute's] limits by delegating 'classroom instruction' on the prescribed topics to an individual other than a teacher, be it a parent, student, guest lecturer, or anyone else." DE68 at 20.

- The Statute restricts classroom instruction by "school personnel" as well as "third parties," but only third parties "to whom the school has delegated responsibility for such teaching—*i.e.*, agents of the public school system, not parents or students acting in the ordinary course." DE134 at 18.

Debate

- The Statute "does not restrict 'debate,' only 'classroom instruction.'" DE68 at 31. For instance, the Statute does not restrict "student-to-student speech." *Id.* at 49.

Families

- The Statute "does not prohibit … mere classroom references to a person's family—whether gay or straight, transgender or cisgender." *Id.* at 3.

- The Statute does not restrict gay and transgender teachers from "put[ting] a family photo on their desk" or "refer[ring] to themselves and their spouse (and their own children)." DE68 at 17.

Bullying

- The statute does not "prohibit intervention against LGBTQ bullying." DE68 at 18.

- The Statute does not "require[] the removal of 'safe space stickers,'" which are not "classroom instruction." DE134 at 20-21.

Extracurricular Activities

- The statute does not "prohibit participation in extracurricular activities (such as 'Gay-Straight Alliances' or book fairs)" or "after-hours tutoring." ECF68 at 18.

- Likewise, the Statute does not restrict "lines referring to LGBTQ issues" in "musicals," "dancing between persons of the same gender" at a school dance, or "wearing clothing inconsistent with students' gender assigned at birth." DE134 at 20-21 (cleaned up). "None of that is 'classroom instruction.'" *Id.* at 21.

Library Books

- "Library books, without more, are not 'classroom instruction' and thus are not covered by the [S]tatute."[2]

G. On or about February 15, 2023, the Court dismissed the Case, concluding again that Plaintiffs lacked standing. DE158.

H. On or about March 15, 2023, Plaintiffs filed a Notice of Appeal in the United States Court of Appeals for the Eleventh Circuit, Case No. No. 23-10866-B (the "Appeal").

I. The Parties have reached an agreement that resolves the need for further proceedings in this matter. In consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Conditioned upon paragraph (2) below, Plaintiffs agree to:

   a. Dismiss the Case and their Appeal with prejudice as to all Defendants no later than seven (7) days after the State, through counsel, confirms in writing that its obligations under paragraph (2) have been satisfied and provides copies of such transmittals to Plaintiffs' counsel; and

   b. Release and forever discharge the State of Florida and any officers thereof for any claims or causes of action that any Plaintiff raised or could have raised in the Case, including any claim that Section 1001.42(8)(c)3., Florida Statutes is facially unconstitutional.

[2] Library materials are separately governed by Section 1006.28, Florida Statutes.

2. Through counsel, the Florida Department of Education shall provide a copy of this Agreement, including the Recitals set forth above, to the school board of each of Florida's school districts. In so doing, counsel shall note that Recital F above sets forth considered positions the State of Florida has taken in court about the scope and meaning of the Statute and shall encourage the school districts to send a copy of this Agreement to the principals of the schools within their respective districts.

3. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

4. Each Party to this Agreement represents that it freely and voluntarily entered into this Agreement without any degree of duress or compulsion.

5. This Agreement is governed by the laws of the State of Florida. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Northern District of Florida.

6. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

7. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

8. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

9. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

10. This Agreement is binding on Plaintiffs' successors, transferees, heirs, and assigns.

11. All Parties consent to each other's disclosure of this Agreement, and information about this Agreement, to the public.

12. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date of this Agreement"). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

Date: March 5, 2024

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For Plaintiffs

Date: March 11, 2024

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