



# Connecticut Association of Boards of Education

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## PRESENTS POLICY HIGHLIGHTS

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### Title IX Judicial Decision

#### Restorative Practices Policy

#### Reading the Policy Tea Leaves

According to the Senior Staff Attorney for the National School Boards Association, a federal judge struck down the 2024 Title IX Regulations yesterday, ruling that the regulations, which had sought to expand nondiscrimination protections for LGBTQ students, violate the Constitution. The ruling extends nationwide.

Attorney Jordan Cooper wrote and posted the following:

*In a 15-page opinion, Chief Judge Danny C. Reeves of the Eastern District of Kentucky wrote that the Education Department could not lawfully expand the definition of Title IX to prohibit discrimination based on gender identity. Citing the Supreme Court's decision in Loper Bright Enterprises v. Raimondo last year, which limited the regulatory power of federal agencies, Judge Reeves wrote that the Biden administration had overstepped when it sought to enforce its new interpretation of Title IX through federal rulemaking.*

*The judge also rejected the regulation on free-speech grounds, writing that it "offends the First Amendment" by potentially requiring educators to use names and pronouns associated with a student's chosen gender identity.*

*Lastly, he firmly rejected the Education Department's position that the protections for gay and transgender workers from workplace discrimination established in Bostock v. Clayton County should also apply in schools.*

#### Restorative Practices Mandated Policy

Public Act 23-167, Sections 47-55, 70-71, and 86-87 require boards to adopt and implement the new **School Climate Policy** ([CABE Policy #5131.911](#)). In addition to this mandated policy, Section 74 of the same Act requires boards of education to adopt a “**restorative practices response**” policy. Unlike the Climate Policy, which requires boards to adopt the exact wording of the State policy, boards can adopt their own restorative practices policy, which must be implemented by school employees for incidents of “challenging behavior” or student conflict that is nonviolent and does not constitute a crime. In addition, this policy cannot involve School Resource Officers (SROs) or other law enforcement officers unless the behavior or conflict becomes violent or criminal.

As boards of education are required to adopt a restorative practices policy for school employees to implement for the school year beginning July 1st, 2025, CAFE's [Policy 5144.12](#) has received extensive updating to coordinate with the language and definitions in the CT School Climate Policy and fulfill the requirements of the Public Act. To ensure alignment between both model policies - the CT School Climate and CAFE's Restorative Practices policies - the definition is the same: Evidence and research-based system-level practices that focus on building high-quality, constructive relationships among the school community, holding each student accountable for any challenging behavior, and ensuring each such student has a role in repairing relationships and reintegrating into the school community.

With this focus on building relationships, schools are encouraged to involve a wide range of people in the restorative practices process, including the victims, who are often teachers, school staff, bystanders, other students and the school community. Notably, inclusion in the discipline process is a basic tenet of restorative practices. Students, teachers, and school staff should be included as members of the school community, as these disciplinary practices within the school are designed to be more supportive, inclusive and educational than other more reactive and punitive approaches.

In reaching the goals of the restorative disciplinary approach, experts recommend:

- Creating caring climates to support healthy communities.
- Understanding the harm and developing empathy for both harmed and the person being harmed.
- Encouraging accountability and responsibility through personal reflection within a collaborative environment.
- Reintegrating the harmer into the community as a valuable, contributing member.
- Changing the system when it contributes to harm.

While adopting a board policy on restorative practices prior to July 1, 2025, brings a district in compliance with state statutes, professional development will be essential for any hope of sustained success and continuous improvement. Restorative practice programs typically operate under formal guidelines and incorporate trained individuals to deal with conflict and violations of school rules. Such programs allow for the reparation of harm and have the potential to influence school climate and strengthen positive social connections between students and staff.

Moving toward such an approach requires fundamental change – changes in beliefs and how we interact. Therefore, the move towards a restorative approach is a comprehensive systems approach, one requiring training, commitment, more training, and more commitments. Fortunately, there are many resources available to districts.

In a recent New Haven Register article, Cris Villalonga-Vivoni reports on why some Connecticut schools are turning away from discipline with behavioral issues. (December 26, 2024). The article references the work of the Child Health and Development Institute (CHDI), which has worked over the past 15 years with districts on implementing an intervention framework to reduce exclusionary discipline and arrests.

In her article, Villalonga-Vivoni notes that since launching the school-based diversion initiative, 73 schools across 26 districts have reduced court referrals by 29% and connected 55% more students to behavioral health services through 2-1-1 Mobile Crisis Intervention Services. As Senior Project Coordinator Yecenia Casiano articulates, “If you do restorative practices correctly, kids are getting consequences, but they’re getting their consequences tailored to what they did.”

Significantly, as costs related to training remain an obstacle for many districts, the article notes, “The school-based diversion initiative framework is offered and implemented at no cost to districts by the Child Health and Development Institute, a statewide nonprofit working to address a growing children’s behavioral health crisis.”

### **Reading the Policy Tea Leaves**

As a new presidential administration begins on January 20<sup>th</sup>, it’s not unusual for educational leaders to look ahead and prepare for regulatory rule changes, court challenges, and executive orders that would impact school policies.

In a recent *New York State School Boards Association* article, Attorney Tara Moffet, a partner in the law firm Girvan & Ferlazzo, shared seven predictions for public education during the second Trump presidency. Among her predictions, she addresses areas that may directly impact policy.

Whether President Trump will keep his promise to dismantle the Department of Education, she contends that eliminating the DOE appears unlikely. Beyond the fact that Congress would have to approve such a measure, she notes, “If Trump wants to pursue his other stated goals such as altering curriculum and interpreting Title IX, DOS has regulatory mechanisms to control how federal education money is spent and interpret civil rights laws.”

She goes on to point out, “Currently, schools must agree to comply with DOE’s rules and regulations to receive various federal monies, which gives any presidential administration a lot of influence on public education. DOE also offers interpretive guidance documents that clarify how laws enacted by Congress affect schools.” Attorney Moffet continues, “Sometimes DOE can change district practices just by sending a letter. DOE’s Office of Civil Rights can threaten to withhold money from school districts, often resulting in voluntary compliance.”

Related to DEI and transgender rights, Tara Moffit shares that “All levels of education should anticipate a change of policy and guidance related to DEI, transgender rights, and Title IX civil rights protections.” In fact, we’ve already seen such judicial weakening in the Biden administration’s move to broaden protections under Title IX. We can expect to see continued efforts to narrow protections and increase the burden of proof thresholds at least back to the first Trump administration requirements. Similar to New York, Connecticut has its own statutes and protections. As a result, changes in federal regulations affecting certain groups of students will likely have little or no effect in our state.

Finally, regarding policy, Attorney Moffit asserts the Supreme Court will be a wild card. “If a Trump policy involving schools is challenged and it reaches the Supreme Court, how much will the court honor precedent?” Perhaps this is a more challenging tea leaf-reading task, as the Court recently cited precedents and reversed decades of jurisprudence in deciding highly publicized and consequential cases.

As they say, stay tuned.