



Guidance on Parental Bill of Rights aka Don't Say Gay Law

## Parental Bill of Rights aka Don't Say Gay Law

All of us can agree that educators work hard to create a safe and caring environment for all who work and learn in our public schools. We also believe in protecting LGBTQ+ students and staff from being silenced or marginalized. Unfortunately, certain politicians are attacking LGBTQ students and staff to divide communities and to divert attention away from Florida being near the bottom in the nation in school funding and educator salaries. But we will not lose focus on making sure that every student feels safe, welcome, respected, and loved while at school — no matter their race, income, ZIP code, sexual orientation or gender identify. Together, we will make sure that every student in Florida attends a school that is worthy of them.

The law was intentionally written to be confusing and vague. School districts have received little to no guidance on how to implement the law. The state of Florida's most comprehensive response so far to concerns about the law's implementation was issued in response to a lawsuit against the bill, but official rules and guidance have yet to be provided. In short, from what we know right now, you can continue with the same practices and procedures you used last year unless given a directive to do otherwise.

That being said, you should follow any directive given to you by an administrator. You should also reach out to your local union if you believe a directive you have been given is unjust. Your local union will review the complaint and determine a suggested course of action. The best way to change these policies is to vote for politicians who will uphold our values and are committed to protecting all of Florida's students and educators.

### You and your students are protected under federal law

Federal law trumps state law. As such, public school employees are protected under Title VII of the Civil Rights Act (Title VII), which prohibits discrimination against employees based on numerous characteristics, including sex, inclusive of gender identity and sexual orientation. Employers cannot consider an employee's sexual orientation or gender identity when deciding who to hire, fire or promote, or in assigning responsibilities, setting salary, providing benefits, or determining any other significant aspect of employment.

Furthermore, employers cannot harass employees based on their LGBTQ+ status or allow others to create a hostile work environment for LGBTQ+ employees. If you believe you have been discriminated against or harassed based on your LGBTQ+ status, you may file a complaint with the [Equal Employment Opportunity Commission \(EEOC\)](https://www.eeoc.gov/how-file-charge-employment-discrimination) [https://www.eeoc.gov/how-file-charge-employment-discrimination]. Because Title IX of the Education Amendments of 1972 (Title IX) also prohibits discrimination on the basis of sex, you also have the option of filing a complaint with the [U.S. Department of Education's Office of Civil Rights \(OCR\)](https://ocrcas.ed.gov/) [https://ocrcas.ed.gov/].

Title IX also protects students from harassment and discrimination based on sexual orientation or gender identity and protects students and educators from retaliation for complaining about such discrimination or harassment. That means schools cannot discriminate against students by, for example, prohibiting access to extracurricular activities, school sports, bathrooms and applying dress codes consistent with a student's gender identity.

For steps schools can take to confront anti-LGBTQ+ discrimination and harassment in schools and examples of such harassment, see [guidance](https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-tix-202106.pdf) [https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-tix-202106.pdf] from the U.S. Department of Education and the U.S. Department of Justice. You can report such harassment and discrimination to the U.S. Department of Education Office of Civil Rights, [here](https://www2.ed.gov/about/offices/list/ocr/complaintintro.html), [https://www2.ed.gov/about/offices/list/ocr/complaintintro.html] or to the U.S. Department of Justice, [here](https://civilrights.justice.gov/) [https://civilrights.justice.gov/].

## Recommendations

Here are some recommendations for keeping your classrooms safe and welcoming for all students while recognizing the challenges of the new law.

- Use only materials for instructional and educational purposes that have prior approval through state standards or the school administrator. Having material previously approved by the district or school puts the member in a better position.
- Nothing in the law prohibits the display of Pride flags, stickers, or any other LGBTQ+ symbols. If you receive a directive from an administrator to remove any inclusive symbols from a classroom, ask for the directive to be put in writing, follow the directive, and contact your local union immediately. We will have your back. Anti-bullying efforts have long been critical to our work as a union, and we will not back down when it comes to making sure every student feels seen, heard, and respected on their school campuses.

## Making your voice heard

- If you are engaging in protest activity, do so outside the classroom and school and, preferably, with one or more of your union colleagues. Acting with other colleagues provides an additional level of protection, as you are engaging in a union-organized activity.
- While students may engage in student-led and organized walkouts and protest movements at school, school employees should not use their position in school to participate in, encourage or discourage student activism.

## What do I do if a parent objects or complains under the new law?

One aspect of the law that didn't generate as much media coverage is that now schools must adopt a complaint procedure through which parents may raise "concerns" with the principal or principal's designee regarding student welfare. There must be a process for resolving those concerns within seven calendar days after notification by the parent.

If your administrator notifies you that you are the subject of a parent complaint, contact your union representative right away. Because of the strict timeframes laid out in the law, your administrator may try to force you to meet without your union representative, but it is essential that you enforce your Weingarten rights.

- **Remember:** If a reasonable person would believe that discipline could result from the meeting, you have the right to representation.
- **Ask:** "What is the purpose of the meeting?" Could discipline result from the meeting? If so ...
- **State:** "I want union representation." You can ask for representation at any time during the meeting.
- Do not be insubordinate if denied representation.
- Attend the meeting.
- Keep asking for union representation.
- Take good notes.
- Do not sign or agree to anything.
- Do not make or write statements.

Call [your local union office or service unit](#) immediately for assistance.