

## **Gender Identity and Gender Expression: The Importance of Enumerating Protected Categories in Nondiscrimination Policy**

It is critical that Illinois schools (K-12 as well as postsecondary) make it clear that they protect against discrimination and preserve the right to equal educational opportunities for all people protected by law, including on the bases of their gender identity and gender expression.

### **What is gender identity and gender expression?**

Gender identity is an internal sense of who you are as a gendered person. Gender expression is how you express your gender identity. Discrimination based on gender identity and gender expression is pervasive in schools.

### **Why is it important to include gender identity and gender expression explicitly?**

- **Because comprehensive policies more effectively protect the people they are intended to protect.** Research demonstrates that students in schools with comprehensive policies report less discrimination and more supportive environments than students in schools whose policies that do not specify what discrimination is unacceptable.
- **Because policies reflect the shared values of a school's community.** Including gender identity and gender expression in your policies is a clear message to school personnel, students, and the school community that discrimination on these grounds will not be tolerated in your school environment.
- **Because Illinois law protects school personnel and students on the basis of gender identity.** The Illinois Human Rights Act explicitly protects people on the bases of “race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service” and defines sexual orientation to include “gender-related identity, whether or not traditionally associated with the person’s designated sex at birth.” (775 ILCS 5/1-103) Commonly conflated, sexual orientation and gender identity and gender expression are distinct concepts.
- **Because by failing to name gender identity as a protected category policy leaves an educational institution vulnerable to legal liability.** If your nondiscrimination, equal educational opportunity, or other policies exclude gender identity as an explicitly protected category, you have left your school personnel without clear notice of their legal obligations to protect the rights of faculty, staff, and students on the basis of gender identity. Ignorance of the law is not a defense to liability.

### **How can you take action?**

- **Adopt model language.** [Name of Educational Institution] does not discriminate against any person on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender identity or expression, or unfavorable discharge from military service. This policy applies to all employment practices, admissions procedures, and educational programs and activities, and is intended to be consistent with the provisions of applicable State and Federal laws and other [Institution] policies.
- **Borrow from the examples of other educational institutions.** Illinois Wesleyan University does not discriminate on the basis of age, race, religion, sex, sexual orientation including gender identity and expression, disability, or national origin in its admissions policies, educational programs and activities, or employment policies. (<http://www.iwu.edu/statement.shtml>)
- **Publicize the changes to your entire school community.** Once your policies are amended to include gender identity and expression, make an announcement to school personnel and students and post them to your website.