

Wasteful Weaponization: Federal Investigations of Trans-Inclusive School Policies

The U.S. Department of Education was established in 1980 as a civil rights agency, charged with ensuring high-quality and equal educational opportunities for all students. The Trump administration's misleading framing that dismantling the Department is necessary to "return education to the states" is a harmful narrative that cloaks a broader agenda to dismantle civil rights protections and obscure the real-world impacts of nonenforcement for students and families navigating discrimination in K-12 schools.ⁱ The Trump administration is undermining equal educational opportunity for all students through its unsupported and politicized use of federal law to attack school districts that refuse to discriminate against transgender, nonbinary, and gender-expansive students.

Since January 2025, Trump's federal agencies have launched over 100 investigations into school districts, universities, state departments of education, and statewide athletic associations with trans-inclusive policies. These investigations are part of a targeted pressure campaign to reject the existence and dignity of trans students by distorting federal law and imposing the administration's discriminatory views of trans people. Trump's federal investigations have largely been sham processes meant to force schools to abandon their inclusive policies. Agencies have sped through investigations, overstated or misrepresented the law, and presented school districts with sweeping resolution agreements that reject supports for trans students and encourage discrimination against trans youth in every facet of the school community.ⁱⁱ

Schools with trans-inclusive policies that have been targeted for investigation are not alone and should not shirk from their obligation to provide a safe learning environment for all, including trans youth.

Many schools have rejected the Trump administration's pressure campaign and refused to capitulate with demands that inclusive policies be rolled back and substituted with exclusionary policies that would foster greater discrimination and harm for trans students. Schools should continue to honor their obligations under the law and ensure trans students can learn, grow, and thrive in a school environment free from discrimination.

Trump agencies are prioritizing anti-trans investigations at the expense of their mission.

Most federal civil rights investigations in schools historically originated from individual complaints of discrimination filed with the U.S. Department of Education's Office for Civil Rights (OCR). Even as the Trump administration seeks to dismantle the federal Education Department, OCR was established by federal law and cannot be dissolved without an act of Congress.ⁱⁱⁱ Nonetheless, Secretary Linda McMahon and other Trump appointees worked to gut OCR's investigative capacity throughout 2025 by closing field offices and firing more than half of OCR's staff.^{iv} The Government Accountability Office estimated that these ham-fisted efforts to undermine OCR ultimately wasted \$38 million of taxpayer dollars.^v

Diminished capacity at OCR has left marginalized communities without a civil rights watchdog. In the first year of Trump's administration, OCR resolved zero cases involving sexual harassment, sexual violence, or racial harassment.^{vi} In 2025, OCR was dismissing upwards of 90% of individual discrimination complaints without fully investigating and resolving their claims.^{vii} In the face of students' languishing complaints and OCR's excessive focus on targeting trans students, students, parents, and advocates alike have lost faith in OCR as a credible institution and abandoned any hope of it delivering meaningful recourse.^{viii}

In February 2026, NWLC and over 100 organizations representing student survivors of sexual violence urged the U.S. Department of Education to abandon its anti-trans investigations and instead prioritize resolution of complaints of sexual abuse or violence.^{ix} Sixteen months into the administration, Trump's OCR has yet to resolve a single complaint of sexual abuse or violence.

These capacity issues are exacerbated by OCR's inordinate focus on the Trump administration's ideological priorities to attack trans students and the schools that protect them. From March to September 2025, OCR received more than 9,000 complaints of individual discrimination.^x At the same time, OCR was dedicating limited resources on a number of "directed investigations" into school districts for trans-inclusive policies, sometimes based on little more than "local reporting."^{xi} From January 2025 to May 2026, the first sixteen months of the Trump administration, federal agencies launched over 100 investigations into schools maintaining trans-inclusive policies, but OCR ultimately resolved only 31 cases related to sex-based discrimination under Title IX—two of which were OCR-initiated investigations into trans-inclusive sports policies.^{xii}

In April 2025, the Education Department formed a Special Investigations Team in partnership with the U.S. Department of Justice (DOJ).^{xiii} Instead of leveraging interagency agreements to support the staggering gaps in OCR's investigative capacity and output, this partnership is exclusively focused on investigating trans-inclusive policies.^{xiv} Due to this interagency agreement and OCR's severely reduced capacity, DOJ's involvement in investigations of trans-inclusive school policies can be expected moving forward.

Trump agencies are pushing bizarre and untested legal theories.

Trans people have always existed, and explicit legal protections for trans people date back more than three decades.^{xv} Federal courts have a long history of recognizing that prohibitions on sex-based discrimination likewise protect trans individuals, most notably with the 2020 decision by the U.S. Supreme Court in *Bostock v. Clayton County*.^{xvi} More than twenty states have explicit policies that protect trans students from discrimination in schools.^{xvii} It is therefore a disturbing departure from the existing legal landscape when Trump’s federal agencies launch investigations premised on a rejection of trans identity and inclusion.

Trump-era investigations into trans inclusion are focused on narrowly defining sex in a manner that simply erases trans people, reducing everyone to their reproductive organs at birth and using this as a basis to decide who is entitled to safety and dignity.^{xviii} Such a narrow definition not only harms trans individuals by ignoring their specific barriers to equal opportunity, but also discards the realities faced by intersex individuals who possess varied sex characteristics.^{xix} Reducing people to their reproductive organs at birth also encourages schools and even individuals to strictly police gender in sex-separated spaces in a manner that ultimately harms all women and girls—trans and cisgender alike. Indeed, policing sex in this way reinforces the notion that if someone does not look “feminine enough,” that is a basis to deny them access to a sex-separated space—including school activities and facilities. This opens the door to harmful and intrusive questioning of women and girls of all gender identities—indeed, there have already been numerous examples of cis women accused of not belonging in women’s restrooms because they had short hair or wore masculine clothing, with many being cornered and forced to disrobe to “prove” their gender.^{xx}

Even though the Trump administration now attempts to narrowly define sex, federal courts have long recognized that trans students are protected under Title IX. In 2017, the Seventh Circuit Court of Appeals found that “[a] policy that requires an individual to use a bathroom that does not conform with his or her gender identity punishes that individual for his or her gender non-conformance, which in turn violates Title IX.”^{xxi} Even though this remains binding precedent in Wisconsin, Trump’s OCR launched a directed Title IX investigation into New Richmond Public Schools for inclusive bathroom policies.^{xxii}

Courts have pushed back against the Trump administration’s attempts to unilaterally rewrite the law and erase protections for trans students. In April 2026, the Eighth Circuit Court of Appeals made clear that “executive guidance and agency findings, in and of themselves, do not reflect settled law” and that “the Executive Branch’s views ... may guide its own enforcement approach, but they cannot independently establish” legal claims under Title IX.^{xxiii} Therefore, school districts can and have refuted Trump agency investigations by asserting their legal obligations under existing law.^{xxiv}

Trump agency investigations into trans-inclusive policies have largely focused on four different areas:

- **ATHLETICS:** Trump agencies allege that including trans girls on girls' sports teams violates Title IX. In June 2026, the U.S. Supreme Court is expected to rule as to whether bans on trans inclusion in school sports violate either Title IX or the Equal Protection Clause of the U.S. Constitution, with lower courts having previously found that excluding trans students constitutes unlawful sex discrimination.^{xxv} Fourteen states have policies that require trans inclusion in school sports, with many states highlighting how such policies comply with state-based nondiscrimination laws.^{xxvi}
- **BATHROOM/FACILITIES ACCESS:** Trump agencies allege that allowing trans students to use bathrooms or locker rooms consistent with their gender identity violates Title IX. Trump agencies assert vague privacy and safety concerns, even though federal courts have repeatedly ruled that mere discomfort with the presence of a trans person in a bathroom or locker room does not constitute a privacy or civil rights violation.^{xxvii} Trump agencies have even brought investigations in states where there is binding legal precedent requiring schools to provide bathroom access in a manner consistent with a student's gender identity, showing flagrant disregard for current law.^{xxviii}
- **PARENTAL NOTIFICATION/STUDENT SUPPORT PLANS:** Trump agencies are misrepresenting federal law in an attempt to encourage schools to automatically out students to their families regardless of any individual context or circumstances. Trump agencies have brought investigations under both Title IX and FERPA, a student privacy law. FERPA requires that schools provide parents with the ability to review and inspect a student's educational record, but parents have to actually request records before FERPA rights come into effect.^{xxix} School districts have developed thoughtful policies—such as student support plans—that can support a student with their gender transition, encourage family engagement, and comply with federal laws. Yet, Trump agencies have sought to frame these student support plans as nefarious and unlawful under civil rights and privacy laws.^{xxx}
- **INCLUSIVE CURRICULUM:** Trump agencies—most notably the Department of Justice—are asserting that parents should have a blanket right to opt-out of curricular instruction related to sexual orientation and gender identity. These investigations are premised on the *Mahmoud v. Taylor* decision in 2025 by the U.S. Supreme Court, which allowed opt-outs based on religious objection to storybooks featuring LGBTQI+ characters in early elementary grades.^{xxxi} DOJ's investigations are far more expansive, suggesting that opt-outs should be available through grade 12 and even without a specific religious objection to content.^{xxxii} Eight states have proactive laws that require LGBTQ-inclusive curricular standards.^{xxxiii}

School districts are increasingly seeing OCR and other agencies abuse administrative process.

Federal investigations are intended to secure compliance and favor voluntary resolution of complaints. But school districts have increasingly signaled that the Trump administration is departing from past OCR practices under previous administrations by rushing investigations and pressuring schools to accept broad resolution agreements that implicate all policies that could affect trans students. School districts should be cautious of an abuse of administrative process by federal agencies while ensuring their own fidelity with their obligations under the law.

For example, the Civil Rights Office at the U.S. Department of Health and Human Services launched a Title IX investigation into the Maine Education Department in February 2025 for its inclusive sports policy

and issued a finding of violations four days later, after having conducted no interviews, data requests, or negotiations.^{xxxiv} Similarly, Denver Public Schools was “met with vague responses,” “[i]gnored,” and “completely disregarded” for more than six months while attempting to resolve a complaint about their all-gender bathroom.^{xxxv} Even after repeated efforts to engage OCR on the complaint, Denver was issued an adverse Title IX finding.^{xxxvi}

OCR’s Case Processing Manual outlines certain standards for investigations, resolution agreements, and timeframes. However, school districts have signaled that OCR has departed from the standards set in the Case Processing Manual—even though the Manual was revised in February 2025 under the Trump administration. For example, Denver Public Schools was provided only 10 days to review a proposed resolution agreement after an adverse finding, even though the Case Processing Manual expressly outlines a 90-day negotiations period.^{xxxvii}

In May 2026, Shawnee Mission School District rejected a proposed resolution agreement and outlined a dynamic that is consistent across these investigations: “The ‘investigation’ which has led to these conditions was never a constructive effort to reach a mutually agreeable resolution, consistent with the traditional approach of the Department. Rather, it was a sham process designed to reach a predetermined outcome untethered to the facts or controlling standards of law.”^{xxxviii}

The abuse of administrative process results in increased costs and measures that must be taken by school districts, especially when Trump agencies are raising concern about policies that are fully compliant with the law. School districts have to pay additional legal fees to manage these investigations, and the national press attention encouraged by the Trump administration may necessitate additional security precautions—including hiring additional security officers for school board meetings.^{xxxix} In 2024, for example, school districts spent more than \$3.2 billion on security, communications, and legal fees associated with challenges to inclusive school policies.^{xl}

The Trump administration has also leveraged the threat of terminating federal funds for schools as a further pressure tactic in these investigations. In Maine, Trump agencies attempted to withhold federal funding as punishment for an inclusive athletics policy, notably freezing \$3 million in child nutrition funding that supported meals for 172,000 children.^{xli} But the Trump administration folded in court, settling with Maine weeks later and restoring the funding.^{xlii} Efforts to shift Virginia school districts to high-risk status for reimbursements have also been challenged in court.^{xliii} However, in the forty-six years of the U.S. Department of Education, OCR has never successfully terminated federal funds for a school district.^{xliv}

Inclusive school policies remain the best practice to support students.

The Trump administration’s relentless pressure campaign distracts from the critical efforts to support student success and well-being. There are over 723,000 trans students in the United States, each with immense potential and possibility.^{xlv} Policies that affirm students in their gender identity remain a best practice for ensuring that trans youth can learn, grow, and thrive at school.

Inclusive policies can be a high-impact intervention, especially given the isolation, violence, and stigma disproportionately faced by trans youth, which increases the risk of adverse mental health outcomes. In 2025, 68% of LGBTQIA+ students reported harassment based on their gender identity or expression.^{xlvi} Indeed, anti-LGBTQIA+ hate crimes in K-12 schools have been increasing in recent years, especially in states with exclusionary or restrictive policies.^{xlvii} The U.S. Centers for Disease Control and Prevention (CDC) have repeatedly raised the alarm that exclusion and violence may contribute to mental health

disparities—with 72% of trans youth reporting markers for depressive symptoms and 26% of trans students having attempted suicide.^{xlviii} But there is nothing inevitable about the mental health struggles trans youth face. Schools can support trans youth by adopting policies that recognize a student’s chosen name and pronouns, permit access to bathrooms consistent with a student’s gender identity, or allow participation in school activities—including school sports—that align with a student’s gender identity. Ultimately, inclusive school policies have a profound impact on trans youth—improving learning and attendance, reducing bullying and harassment, and yielding better mental health outcomes.^{xlix}

No matter the pressure coming from the Trump administration, schools have a duty first and foremost to support the students in their district.

Endnotes

- i Executive Order 14242, “Improving Education Outcomes by Empowering Parents, States, and Communities, 90 Fed. Reg. 13679 (Mar. 25, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-03-25/pdf/2025-05213.pdf>.
- ii Letter from Timothy Heaphy, on behalf of Shawnee Mission School District, to Jennifer Brooks and Frank E. Miller (May 4, 2026), available at <https://www.scribd.com/document/1037880433/2026-05-04-SMSD-Letter-to-Dept-of-Education> (“Shawnee Mission SD Letter”).
- iii Dep’t of Educ. Organization Act, Pub. L. 96-88 § 203 (Oct. 17, 1979) (“There shall be in the Department an Office for Civil Rights...”).
- iv Gov’t Accountability Office, GAO-26-108320, Dep’t of Education: Full Costs and Savings Estimate Needed for Reduction-in-Force and Restructuring of the Office for Civil Rights (Jan. 29, 2026), <https://www.gao.gov/products/gao-26-108320> (“GAO Report”).
- v *Id.*
- vi U.S. Senate Comm. on Health, Educ., Labor, and Pensions, “Justice Denied: How Trump’s Office for Civil Rights Reached a 12-Year Low in Protecting Students from Discrimination” (Apr. 28, 2026), https://www.sanders.senate.gov/wp-content/uploads/04.24.26-Justice-Denied-How-Trumps-Office-for-Civil-Rights-Reached-a-12-Year-Low-in-Protecting-Students-from-Discrimination_FINAL.pdf (“Senate HELP Report”).
- vii *Id.*
- viii Letter from Nat’l Women’s Law Ctr. to Sec’y Linda McMahon and Ass’t Sec’y Kimberly Richey (Feb. 23, 2026), available at <https://nwlc.org/wp-content/uploads/2026/03/Letter-from-112-survivor-advocates-to-McMahon-Richey-re-Title-IX.pdf>.
- ix *Id.*
- x GAO Report, *supra* n.4.
- xi See Letter from Craig Trainor to Dr. Alex Marrero, Superintendent of Denver Public Schs. (Jan. 28, 2025), available at <https://ocrcas.ed.gov/sites/default/files/ocr-letters-and-agreements/08255901-a1.pdf>.
- xii See Senate HELP Report, *supra* n.6.
- xiii U.S. Dep’t of Educ., “U.S. Department of Education and U.S. Department of Justice Announce Title IX Special Investigations Team” (Apr. 4, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-and-us-department-of-justice-announce-title-ix-special-investigations-team>.
- xiv *Id.*
- xv Minn. Stat. § 363A.11 (1993).
- xvi *Bostock v. Clayton Cnty.*, 590 U.S. 644 (2020); *Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034 (7th Cir. 2017); *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020).
- xvii Movement Advancement Project, School Nondiscrimination (last updated June 5, 2026), <https://mapresearch.org/map-sections/school-nondiscrimination/>.
- xviii Executive Order 14168, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” 90 Fed. Reg. 8615 (Jan. 30, 2025).
- xix interact: Advocates for Intersex Youth, “The Fight Must Include Intersex Rights: Intersex Justice is LGBTQIA+ Justice (May 2025), <https://interactadvocates.org/wp-content/uploads/2025/05/FOR-DIGITAL-THE-FIGHT-MUST-INCLUDE-INTERSEX-RIGHTS.pdf>.
- xx Ryan Adamczeski, “Lesbian teen cornered by server in bathroom and forced to prove gender files charges,” *Advocate* (Aug. 13, 2025), <https://www.advocate.com/news/minnesota-cisgender-girl-restaurant-bathroom>; Daniel Wu, “Walmart fires woman who reported anti-trans threats from man in bathroom,” *The Washington Post* (Mar. 27, 2025), <https://www.washingtonpost.com/nation/2025/03/27/walmart-fires-woman-trans-hate-bathroom/>; Brandon Truiett, “Woman says security guard at Liberty Hotel in Boston confronted her in bathroom, asked to prove gender,” *CBS News* (May 7, 2025), <https://www.cbsnews.com/boston/news/women-boston-liberty-hotel-bathroom-gender/>.
- xxi *Whitaker*, 858 F.3d at 1049.
- xxii U.S. Dep’t of Educ., “U.S. Department of Education Initiates Title IX Investigation into Wisconsin School District Over Alleged Use of Women’s Restrooms by Biological Men” (Mar. 5, 2026), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-title-ix-investigation-wisconsin-school-district-over-alleged-use-of-womens-restrooms-biological-men>.
- xxiii *Female Athletes United v. Ellison*, 172 F.4th 1019, 1029 (8th Cir. 2026).
- xxiv Shawnee Mission SD Letter, *supra* n.2.
- xxv *B.P.J. by Jackson v. W. Va. State Bd. of Educ.*, 98 F.4th 542 (4th Cir. 2024); *Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024).
- xxvi Glisten, Trans and Nonbinary Athletic Inclusion Policies, <https://maps.glsen.org/trans-and-nonbinary-athletic-inclusion-policies/>.
- xxvii *Cruzan v. Special Sch. Dist.*, No. 1, 294 F.3d 981 (8th Cir. 2002); *Parents for Privacy v. Barr*, 949 F.3d 1210 (9th Cir. 2020); *Doe ex rel. Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518 (3d Cir. 2018).
- xxviii *Whitaker*, 858 F.3d at 1034; *Grimm*, 972 F.3d at 586.
- xxix Nat’l Women’s Law Ctr., FERPA and LGBTQIA-Inclusive Policies Work Together to Support Students and Families (Apr. 2026), <https://nwlc.org/wp-content/uploads/2026/06/FERPA-Explainer-4.2026.pdf>.
- xxx Letter from Sec’y Linda McMahon (Mar. 28, 2025), https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Secretary_Comb_SPPO_DCL_Annual%20Notice_0.pdf.

xxxi *Mahmoud v. Taylor*, 606 U.S. 522 (2025).

xxxii See Letter from Harmeet Dhillon, Ass't Attorney General, to Jessica Benavides, Interim Superintendent of Lansing School District (Feb. 18, 2026), <https://www.justice.gov/crt/media/1428096/dl>.

xxxiii Movement Advancement Project, LGBTQ Curricular Laws (last updated June 4, 2026), <https://mapresearch.org/equality-map/lgbtq-curricular-laws/>.

xxxiv Eesha Pendharkar, "Maine was found guilty of violating Title IX. What does that mean, and what happens next?" *Maine Morning Star* (Mar. 7, 2025), <https://mainemorningstar.com/2025/03/07/maine-was-found-guilty-of-violating-title-ix-what-does-that-mean-and-what-happens-next/>.

xxxv Letter from Rep. Diana DeGette to Sec'y Linda McMahon (Oct. 2, 2025), <https://degette.house.gov/sites/evo-subsites/degette.house.gov/files/evo-media-document/letter-to-ed-ocr-re-dps-title-ix-violation-findings.pdf>.

xxxvi *Id.*

xxxvii *Id.*

xxxviii Shawnee Mission SD Letter, *supra* n.2.

xxxix John Rogers, et al., The Costs of Conflict: The Fiscal Impact of Culturally Diverse Conflict on Public Schools in the United States (Oct. 2024), <https://idea.gseis.ucla.edu/publications/files/costs-of-conflict-report>.

xl *Id.*

xli Office of Governor Janet Mills, "Governor Mills Statement on Maine's Settlement with the U.S. Department of Agriculture" (May 2, 2025), <https://www.maine.gov/governor/mills/news/governor-mills-statement-maines-settlement-us-department-agriculture-2025-05-02>.

xlii *Id.*

xliii U.S. Dep't of Educ., "U.S. Department of Education Places Five Northern Virginia School Districts on High-Risk Status and Reimbursement Payment Status for Violating Title IX" (Aug. 19, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-places-five-northern-virginia-school-districts-high-risk-status-and-reimbursement-payment-status-violating-title-ix>.

xliv Eesha Pendharkar, "Despite Trump's threats, withholding federal funds from schools easier said than done," *Maine Morning Star* (Feb. 27, 2025), <https://www.chalkbeat.org/2025/02/27/despite-threats-withholding-federal-funds-from-schools-is-hard/>.

xlv Williams Institute, How Many Adults and Youth Identify as Transgender in the United States? (Aug. 2025), <https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/>.

xlvi Glisten, The 2025 National School Climate Survey (Mar. 2026), <https://glisten.org/nscls2025/> ("Glisten School Climate Survey").

xlvii Laura Meckler, et al., In states with laws targeting LGBTQ issues, school hate crimes quadrupled, *Washington Post* (Mar. 13, 2024), <https://www.washingtonpost.com/education/2024/03/12/school-lgbtq-hate-crimes-incidents/>.

xlviii Ctrs. for Disease Control and Prev., Disparities in School Connectedness, Unstable Housing, Experiences of Violence, Mental Health, and Suicidal Thoughts and Behaviors Among Transgender and Cisgender High School Students—Youth Risk Behavior Survey, United States, 2023, 73 *Morbidity and Mortality Weekly Report* 50 (Oct. 10, 2024), <https://www.cdc.gov/mmwr/volumes/73/su/su7304a6.htm>.

xlx See Glisten School Climate Survey, *supra* n.46.