



IMPACT OF EXECUTIVE ORDER IMPOSING RESTRICTIONS

on Transgender Students in K-12 Schools

BRIEF / FEBRUARY 2025

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On January 29, President Trump signed an executive order aimed at eliminating protections for transgender students and restricting instruction related to race, gender, and other topics in K-12 schools.¹ The order targets transgender students in five main ways:

- **Restricting the recognition of gender identity and use of names and pronouns in schools.** The order calls on federal agencies to rescind and withhold funding from K-12 schools that support transgender students by recognizing their gender and using their names and pronouns.²
- **Limiting access to shared facilities and programs, such as restrooms, in schools.** The order calls on federal agencies to rescind and withhold federal funding from K-12 schools that allow transgender students to use shared facilities such as restrooms and locker rooms consistent with their gender identity.³
- **Barring participating in sports teams.** The order also calls on federal agencies to rescind and withhold federal funding from schools that allow transgender students to participate on sports teams consistent with their gender identity.⁴
- **Forced outing of students.** The order makes multiple references to protecting parental rights under federal educational privacy laws⁵ and calls on agencies to rescind and withhold federal funding from schools that

¹ *Ending Radical Indoctrination in K-12 Schools*, THE WHITE HOUSE (Jan. 29, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-indoctrination-in-k-12-schooling/>

² *Id.* § 3(b)(iii).

³ *Id.* §§ 3(b)(iii), 2(e).

⁴ *Id.* §§ 3(b)(iii), 2(e).

⁵ *Id.* § 1 (“For example, steering students toward surgical and chemical mutilation without parental consent or involvement or allowing males access to private spaces designated for females may contravene Federal laws that protect parental rights, including the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA), and sex-based equality and opportunity, including Title IX of the Education Amendments of 1972 (Title IX).”); § 3(a)(ii) (“...protecting parental rights, pursuant to FERPA, 20 U.S.C. 1232g, and the PPRA, 20 U.S.C. 1232h, with respect to any K-12 policies or conduct implicated by the purpose and policy of this order.”)

“deliberately conceal” from a child’s parents the child’s wishes to use a different name or pronouns in school.⁶

- **Banning schools from teaching topics related to gender identity.** The order calls on agencies to rescind and withhold federal funding for K-12 schools that teach topics related to gender identity.⁷

The order further directs the Attorney General to “coordinate with State attorneys general and local district attorneys in their efforts to enforce the law and file appropriate actions against K-12 teachers and school officials who violate the law by” affirming a student’s transgender identity.⁸

ESTIMATES OF TRANSGENDER K-12 STUDENTS AND TEACHERS

An estimated 300,100 youth ages 13 to 17 identify as transgender in the U.S.⁹ Transgender youth live across the country, with similar proportions of youth identifying as transgender across states and regions.¹⁰

Many teachers and school staff also identify as transgender. According to a 2023 Williams Institute survey, 11% of transgender workers are employed in K-12 education.¹¹ While the executive order does not directly address transgender teachers and staff, it is likely that they will also be affected by any policy changes at the school level—for example, the use of shared facilities based on gender identity.

⁶ This order requires school staff to notify parents in the event that a student “socially transition[s].” *Id.* §§ 3(a)(iii) (“Each agency’s process to prevent or rescind Federal funds, to the maximum extent consistent with applicable law, from being used by an ESA, SEA, LEA, elementary school, or secondary school to directly or indirectly support or subsidize the social transition of a minor student, including through school staff or teachers or through deliberately concealing the minor’s social transition from the minor’s parents.”) The order defined “social transition” to include the use of a student’s preferred pronouns and name, *Id.* §§ 2(e) (“Social transition” means the process of adopting a “gender identity” or “gender marker” that differs from a person’s sex. This process can include psychological or psychiatric counseling or treatment by a school counselor or other provider; modifying a person’s name (e.g., “Jane” to “James”) or pronouns (e.g., “him” to “her”); calling a child “nonbinary”; use of intimate facilities and accommodations such as bathrooms or locker rooms specifically designated for persons of the opposite sex; and participating in school athletic competitions or other extracurricular activities specifically designated for persons of the opposite sex. “Social transition” does not include chemical or surgical mutilation.”)

⁷ *Id.* § 3(b)(ii); *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* § 2(f), THE WHITE HOUSE (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/> (defining “gender ideology” as a concept that “replaces the biological category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false claim that males can identify as and thus become women and vice versa, and requiring all institutions of society to regard this false claim as true. Gender ideology includes the idea that there is a vast spectrum of genders that are disconnected from one’s sex. Gender ideology is internally inconsistent, in that it diminishes sex as an identifiable or useful category but nevertheless maintains that it is possible for a person to be born in the wrong sexed body.”).

⁸ *Ending Radical Indoctrination in K-12 Schools*, *supra* note 1 § 3(c).

⁹ JODY L. HERMAN, ANDREW R. FLORES & KATHRYN K. O’NEILL, WILLIAMS INST., HOW MANY ADULTS AND YOUTH IDENTIFY AS TRANSGENDER IN THE UNITED STATES? 1 (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf>.

¹⁰ Transgender People in the United States, WILLIAMS INST., <https://williamsinstitute.law.ucla.edu/subpopulations/transgender-people/> (last visited Feb. 5, 2025).

¹¹ Analysis on file with authors.

IMPACT OF EXECUTIVE ORDER

Under the terms of the order, schools that receive federal funding are at risk of losing that funding if found to be out of compliance with the order. Teachers and school personnel who affirm transgender students are also at risk of legal enforcement action by the Attorney General. As a result, schools may feel pressured to comply—or be forced to comply—with the order. Compliance will likely impact transgender students by increasing instances of discrimination and harassment against them, which, in turn, will affect their health outcomes. In addition, policies that require schools to out transgender students to their parents will likely increase rates of family rejection. Moreover, conflicts between the executive order and other federal and state laws are likely to cause confusion for schools and could result in increased litigation against them.

Impact on Transgender Students

- **General impact on health and well-being of transgender students.** The measure is likely to exacerbate health disparities for transgender youth. Disparities in mental health outcomes and substance use between LGBTQ and non-LGBTQ youth are well-documented.¹² Health disparities for LGBTQ people are linked to experiences of stigma and discrimination, as articulated in the minority stress research literature.¹³ Hostile social and policy environments that stigmatize LGBTQ people and create a fear of discrimination and harassment have specifically been linked to adverse health outcomes, including for transgender youth.¹⁴ A 2023 Trevor Project study found that one in three LGBTQ youth said that their mental health was poor most or all of the time because of anti-LGBTQ policies and legislation.¹⁵
- **Impact of recognition of gender identity.** The executive order would likely also lead to negative physical and mental health outcomes associated with schools not recognizing the gender identity of transgender

¹² U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, YOUTH RISK BEHAVIOR SURVEY: DATA SUMMARY & TRENDS REPORT, 2011-2021 (2022), https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS_Data-Summary-Trends_Report2023_508.pdf; J. Michael Underwood et al., *Youth Risk Behavior Surveillance – United States, 2019*, 69 MORBIDITY & MORTALITY WKLY. REP. 23 (2020), <https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2019/su6901-H.pdf>; Michelle M. Johns et al., U.S. Ctrs. for Disease Control & Prevention, *Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors among High School Students in 19 States and Large Urban School Districts*, 2017, 68 MORBIDITY & MORTALITY WKLY. REP. 67, 69 (2019), <https://www.cdc.gov/mmwr/volumes/68/wr/mm6803a3.htm>; Sari L. Reisner et al., *Gender Minority Social Stress in Adolescence: Disparities in Adolescent Bullying and Substance Use by Gender Identity*, 52 J. SEX RES. 243, 249 (2015).

¹³ See, e.g., Ilan H. Meyer, *Minority Stress and Mental Health in Gay Men*, 36 J. HEALTH & SOC. BEHAV. 38, 38 (1995); cf. Ilan H. Meyer, Sharon Schwartz & David M. Frost, *Social Patterning of Stress and Coping: Does Disadvantaged Social Statuses Confer More Stress and Fewer Coping Resources?* 67 Soc. Sci. & Med. 368, 371 (2008) (examining “social stress theory”); NATIONAL ACADEMIES OF SCIENCES, ENGINEERING & MEDICINE, UNDERSTANDING THE WELL-BEING OF LGBTQI+ POPULATIONS, THE HEALTH OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PEOPLE: BUILDING A FOUNDATION FOR BETTER UNDERSTANDING (2020), <https://nap.nationalacademies.org/catalog/25877/understanding-the-well-being-of-lgbtqi-populations>; Walter Bockting et al., *Adult Development and Quality of Life of Transgender and Gender Nonconforming People*, 23 CURRENT OP. ENDOCRINOLOGY, DIABETES & OBESITY 188 (2016); Michael L. Hendricks & Rylan J. Testa, *A Conceptual Framework for Clinical Work with Transgender and Gender Nonconforming Clients: An Adaptation of the Minority Stress Model*, 43 PROF. PSYCH.: RES. & PRAC. 460 (2012); Cornell Univ., *What Does the Scholarly Research Say about the Effects of Discrimination on the Health of LGBT People?*, <https://whatweknow.inequality.cornell.edu/topics/lgbt-equality/what-does-scholarly-research-say-about-the-effects-of-discrimination-on-the-health-of-lgbt-people/> (last visited Sept. 16, 2023).

¹⁴ Mark L. Hatzenbuehler, *Structural Stigma and the Health of Lesbian, Gay, and Bisexual Populations*, 23 CURRENT DIRECTIONS PSYCH. SCI. 127 (2014); Amaya Perez-Brumer et al., *Individual and Structural Level Risk Factors for Suicide Attempts among Transgender Adults*, 42 BEHAV. MED. 3, 164-171 (2015); Polling Presentation, Trevor Proj., *Issues Impacting LGBTQ Youth* (Jan. 2023), https://www.thetrevorproject.org/wp-content/uploads/2023/01/Issues-Impacting-LGBTQ-Youth-MC-Poll_Public-2.pdf.

¹⁵ TREVOR PROJ., 2023 U.S. NATIONAL SURVEY ON THE MENTAL HEALTH OF LGBTQ YOUNG PEOPLE (2023), <https://www.thetrevorproject.org/survey-2023/>.

students, including not using their preferred names and pronouns. A 2023 Trevor Project study found that transgender and nonbinary students who said their school was not affirming of their gender identity were more likely to attempt suicide than those in affirming schools.¹⁶

More specifically, a 2019 study found that using the chosen names of transgender youth in more contexts, including schools, was associated with lower depression, suicidal ideation, and suicidal behavior for transgender youth.¹⁷ Research also supports that using correct pronouns has positive mental health impacts for transgender youth.¹⁸ A related study found that transgender and nonbinary youth who want to update their documents but cannot have significantly higher odds of attempting suicide in the past year compared to youth who had updated their documents.¹⁹ These findings align with similar studies focused on transgender adults.²⁰

- **Impact of restricting access to bathrooms and other gendered facilities.** The executive order would likely also lead to negative physical and mental health outcomes specifically associated with restrictions on access to bathrooms and shared facilities. The 2021 GLSEN school climate survey indicated that 73% of transgender youth avoided bathrooms at school because they were afraid of discrimination and harassment.²¹ Other studies focused on college students and adults have also documented a range of negative health outcomes among transgender people who have been unable to safely access restrooms that align with their gender identity. For example, a survey of transgender and gender nonconforming people in Washington, D.C. found that 54% of respondents had experienced a physical health problem from trying to avoid public bathrooms, including dehydration, urinary tract infections, kidney infections, and other kidney-related problems.²² Further, 58% of the respondents reported that they “avoided going out in public due to a lack of safe restroom facilities,” 68% reported that they had been verbally harassed in a restroom, and 9% reported that they had been physically assaulted in a restroom.²³ Another study found that transgender college students who were denied access to bathrooms and housing consistent with their gender identity on college campuses expressed significantly higher rates of suicidality than those who had access.²⁴
- **Impact of restricting sports participation.** In addition, implementation of the order will effectively prevent transgender students from participating in sports at schools that receive federal funding, which will deprive them of the long-term health benefits of school sports participation that many studies have documented. For example, student-athletes report better overall health and less bodily pain than non-athletes.²⁵ Physical

¹⁶ TREVOR PROJ., 2023 U.S. NATIONAL SURVEY ON THE MENTAL HEALTH OF LGBTQ YOUNG PEOPLE (2023), <https://www.thetrevorproject.org/survey-2023/>.

¹⁷ Stephen T. Russell et al., *Chosen Name Use is Linked to Reduced Depressive Symptoms, Suicidal Ideation and Behavior among Transgender Youth*, 63 J. ADOLESC. HEALTH 503 (2018).

¹⁸ TREVOR PROJ., 2024 U.S. NATIONAL SURVEY ON THE MENTAL HEALTH OF LGBTQ YOUNG PEOPLE (2024), <https://www.thetrevorproject.org/survey-2024/>.

¹⁹ *Id.*

²⁰ JODY L. HERMAN, TAYLOR N.T. BROWN & ANN P. HAAS, WILLIAMS INST., SUICIDE THOUGHTS AND ATTEMPTS AMONG TRANSGENDER ADULTS; FINDINGS FROM THE 2015 U.S. TRANSGENDER SURVEY 28 (2019), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Suicidality-Transgender-Sep-2019.pdf>.

²¹ JOSEPH G. KOSCIW, CAITLIN M. CLARK & LEESH MENARD, GLSEN, THE 2021 NATIONAL SCHOOL CLIMATE SURVEY 89 (2022), <https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf>.

²² Jody L. Herman, *Gendered Restrooms and Minority Stress: The Public Regulation of Gender and Its Impact on Transgender People's Lives*, 19 J. PUBLIC MANAGEMENT & SOCIAL POL. 65, 75 (2013).

²³ *Id.* at 71, 76.

²⁴ Kristie L. Seelman, *Transgender Adults' Access to College and Housing and the Relationship to Suicidality*, 63 J. HOMOSEXUALITY 1378 (2016).

²⁵ E.g., Yagang Song & Chongyan Shi, *Association Between Sports Participation and Overall Health in Children and Adolescents*, 51 COMPLIMENTARY THERAPIES CLIN. PRAC. 101718 (2023); Marketa Lachytova et al., *Associations Between Self-Rated Health, Mental Health Problems and Physical*

activity in youth has also been linked to lower rates of adverse health outcomes later in life, including lower incidence of diabetes, bone disease, hypertension, and other cardiovascular diseases.²⁶ Moreover, studies show that youth who participate in school sports are more likely than those who do not to maintain a physically active lifestyle through adulthood, suggesting that the physical benefits of early engagement in sports continue to accrue throughout one's life.²⁷

Research has also shown that sports participation—particularly in team sports—improves mental health outcomes for students. A 2013 systematic review of published literature identified numerous studies linking adolescent sports participation to a range of psychological benefits.²⁸ The research cited found that sports participation was related to improved self-esteem, improved emotional well-being, psychological resilience, greater life satisfaction, lower rates of depression and feelings of hopelessness, reduced suicidality, reduced anxiety and nervousness, and other benefits.²⁹ Studies focused specifically on transgender students have found similar impacts of sports participation. For example, while focused on students in college rather than K-12 education, an analysis of data collected through the National College Health Assessment survey found that transgender students who participated in collegiate sports were less likely to report psychological distress, self-harm, suicidal thoughts, and suicidal behavior compared to transgender students who did not participate in sports.³⁰

- **Impact of forced outing.** Policies that require schools to notify parents of a student's request to use a different name or pronouns against the child's wishes may put the student at risk of family rejection at home. Research indicates that LGBTQ youth may face family rejection because of their sexual orientation or gender identity, and some even face abuse.³¹ If students are forcibly "outed" to families that do not support their gender identity, the rates of familial rejection and abuse of LGBTQ youth may increase.

Family rejection and abuse are linked to housing instability for LGBTQ youth (including homelessness and foster care placement), lower academic achievement, and negative mental health outcomes, among other

Inactivity Among Urban Adolescents, 27 EURO. J. PUBLIC HEALTH 984 (2017); Keith J. Zullig & Rebecca J. White, *Physical Activity, Life Satisfaction, and Self-Rated Health of Middle School Students*, 6 APPLIED RES. QUAL. LIFE 277 (2011); Alison R. Snyder et al., *Health Related Quality of Life Differs Between Adolescent Athletes & Adolescent Nonathletes*, 19 J. SPORT REHAB. 237 (2010).

²⁶ Kelsey Logan et al., *Youth Sports Participation and Health Status in Early Adulthood: A 12-Year Follow-up*, 19 PREVENTIVE MED. REPORTS (2020); Snyder et al., *supra* note 27; Francisco B. Ortega et al., *Physical Fitness in Childhood and Adolescence: A Powerful Marker of Health*, 32 INT. J. OBESITY 1 (2008).

²⁷ Snyder et al., *supra* note 27; Tuija Tammelin, *Adolescent Participation in Sports and Adult Physical Activity*, 24 AM. J. PREV. MED. 22 (2003).

²⁸ Rochelle M. Eime et al., *A Systematic Review of the Psychological and Social Benefits of Participation in Sport for Children and Adolescents: Informing Development of a Conceptual Model of Health Through Sport*, 10 INT. J. BEHAV. NUTRITION & PHYS. ACTIVITY 1 (2013). See also Matt D. Hoffman et al., *Associations Between Organized Sport Participation and Mental Health Difficulties: Data from Over 11,000 US Children and Adolescents*, 17 PLOS ONE 1 (2022).

²⁹ Eime et al., *supra* note 30, at 5-11.

³⁰ Shoshana K. Goldberg, *Fair Play: The Importance of Sports Participation for Transgender Youth*, CTR. FOR AM. PROG. (2021), <https://www.americanprogress.org/article/fair-play/>.

³¹ The TREVOR PROJECT, 2023 U.S. NATIONAL SURVEY ON THE MENTAL HEALTH OF LGBTQ YOUNG PEOPLE (2023), <https://www.thetrevorproject.org/survey-2023/> (only 38% of LGBTQ youth said that home is an affirming space for them); HUMAN RIGHTS CAMPAIGN, GROWING UP LGBT IN AMERICA, http://assets2.hrc.org/files/assets/resources/Growing-Up-LGBT-in-America_Report.pdf (last visited Sept. 15, 2023) (26% of LGBTQ youth said that the biggest problem in their life was a non-accepting family); Darrel Higa et al., *Negative And Positive Factors Associated With The Well-Being Of Lesbian, Gay, Bisexual, Transgender, Queer, And Questioning (LGBTQ) Youth*, 46 YOUTH & SOC'Y 663, 676 (2012); Barbara Fedders, *Coming Out For Kids: Recognizing, Respecting, And Representing LGBTQ Youth*, 6 NEV. L. J. 774, 788 (2006); Anthony R. D'Augelli et al., *Parents' Awareness Of Lesbian, Gay, And Bisexual Youths' Sexual Orientation*, 67 J. MARRIAGE & FAM. 474, 480 (2005); Bryan N. Cochran et al., *Challenges Faced By Homeless Sexual Minorities: Comparison of Gay, Lesbian, Bisexual, And Transgender Homeless Adolescents With Their Heterosexual Counterparts*, 92 AM. J. PUB. HEALTH 773, 774 (2002).

issues.³² For example, in a study of over 500 youth who contacted an LGBTQ crisis hotline, disclosure of LGBTQ identity and rejection by family members were both associated with an increased risk of lifetime homelessness.³³ A Williams Institute study among youth in foster care in Los Angeles found that 2.7% of all foster youth with the Los Angeles County Department of Child and Family Services had been kicked out or ran away from their homes for being perceived as LGBTQ or as gender- nonconforming.³⁴ Anecdotal evidence also documents stories of LGBTQ youth who have become homeless due to parental rejection, such as a report of a transgender youth who ran away from his family to avoid being sent to a conversion therapy camp.³⁵

Family rejection may also affect the health and well-being of transgender youth. For example, a 2016 study using data from the National Transgender Discrimination Survey found that family rejection was associated with increased rates of suicide attempts and substance abuse among transgender and gender-nonconforming adults, with rates increasing significantly with increasing levels of family rejection.³⁶ A 2024 study on the association of stigma, school, and family factors with patterns of substance use among LGBTQ youth found that “higher levels of family connection and having a Gender Sexuality Alliance (GSA) at school were associated with lower odds of [substance use.]”³⁷

Impact on Schools, Teachers, and School Staff

The order’s directives conflict with a number of federal laws and constitutional provisions that courts and state legislatures have interpreted to protect transgender students, including Title IX and the Equal Protection Clause.³⁸

³² Caitlin Ryan et al., *Family Rejection As A Predictor Of Negative Health Outcomes In White And Latino Lesbian, Gay, And Bisexual Young Adults*, 123 PEDIATRICS 346 (2009); T. DeAngelis, *Parents’ Rejection of a Child’s Sexual Orientation Fuels Mental Health Problems*, 40 MONITOR ON PSYCH. 10 (2009); Guadalupe Marquez-Velarde et al., *The Impact of Family Support and Rejection on Suicide Ideation and Attempt among Transgender Adults in the U.S.*, 19 LGBTQ+ FAMILY 275 (2023); Ryan J. Watson, Melissa A. Barnett & Stephen T. Russell, *Parental Support Matters for the Educational Success of Sexual Minorities*, 12 J. GLBT FAMILY STUDIES 188, 197-8 (2016); GLSEN, EDUCATIONAL EXCLUSION: DROP OUT, PUSH OUT, AND THE SCHOOL-TO-PRISON PIPELINE AMONG LGBTQ YOUTH 18 (2013), https://www.glsen.org/sites/default/files/2019-11/Educational_Exclusion_2013.pdf; Augustus Klein & Sair A. Golub, *Family Rejection as a Predictor of Suicide Attempts and Substance Misuse Among Transgender and Gender Nonconforming Adults*, 3 LGBT HEALTH 177 (2016); JODY L. HERMAN ET AL., WILLIAMS INST., SUICIDE THOUGHTS AND ATTEMPTS AMONG TRANSGENDER ADULTS (2019), <https://williamsinstitute.law.ucla.edu/publications/suicidality-transgender-adults/>; BIANCA D.M. WILSON ET AL., WILLIAMS INST., SEXUAL AND GENDER MINORITY YOUTH IN FOSTER CARE (2014), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/SGM-Youth-in-Foster-Care-Aug-2014.pdf>.

³³ Harmony Rhoades, et al., *Homelessness, Mental Health, and Suicidality Among LGBTQ Youth Accessing Crisis Services*, 49 CHILD PSYCHIATRY HUM. DEV. 643 (2018), <https://doi.org/10.1007/s10578-018-0780-1>.

³⁴ Wilson et al., *supra* note 34.

³⁵ Claire Thornton, *‘Rejected Solely Because of Your Identity’: Homeless LGBTQ Youths Face Unique Challenges*, USA TODAY (June 2, 2023), <https://www.usatoday.com/story/news/nation/2023/06/02/lgbtq-homeless-youths-family-rejection/11535821002/>.

³⁶ Augustus Klein & Sarit A. Golub, *Family Rejection as a Predictor of Suicide Attempts and Substance Misuse Among Transgender and Gender Nonconforming Adults*, 3 LGBT HEALTH 193 (2016), <https://doi.org/10.1089/lgbt.2015.0111>.

³⁷ Antonia E. Caba, et al., *The Association of Stigma, School, and Family Factors with Patterns of Substance Use Among LGBTQ Youth*, 25 PREV. SCI. 948 (2024), <https://doi.org/10.1007/s11121-024-01703-9>.

³⁸ Grimm v. Gloucester Cnty. Sch. Bd., 972 F.3d 586 (4th Cir. 2020); Whitaker ex rel. Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. Of Educ., 858 F.3d 1034 (7th Cir. 2017), *abrogated on other grounds by* Illinois Republican Party v. Pritzker, 973 F.3d 760 (7th Cir. 2020); *but see also* Adams ex. rel. Kasper v. Sch. Bd. of St. Johns Cnty., 57 F.4th 791 (11th Cir. 2022); B.P.J. by Jackson v. W. Virginia State Bd. of Educ., 98 F.4th 542 (4th Cir. 2024); Hecox v. Little, 479 F. Supp. 3d 930 (D. Idaho 2020). *See also* Iowa Leg. Svcs. Agency, Fiscal Note: HF 2416 (Feb. 28, 2022) (concluding that Iowa’s proposed ban on sports participation for transgender students “may have a fiscal impact related to noncompliance with Title IX.”); Arren Kimbel-Sannit, *State Could Lose ‘Any, All or None’ of \$7.5 Billion Federal Special Revenue Authority if ‘Sex’ Definition is Enacted*, montanafreepress.org (Mar.

In addition, the order is likely to be challenged on other grounds, including that it exceeds the president's authority granted by federal statutes and the Constitution.³⁹

The executive order will likely create confusion and uncertainty for schools, individual teachers, and staff. The order directs the Attorney General to “coordinate with State attorneys general and local district attorneys in their efforts to enforce the law and file appropriate actions against K-12 teachers and school officials who violate the law by” affirming transgender students—for example, using their names and pronouns and allowing them to access shared spaces aligned with their gender identity. It is unclear whether this provision empowers the Attorney General to take enforcement action against teachers and school officials in states and localities with laws and policies that require schools to affirm transgender students.⁴⁰ However, a recent action initiated by the Department of Education suggests an intent to enforce these policies even in states with supportive laws. On January 28, the Department brought an action against a public school in Denver, challenging its gender-neutral restroom as a violation of Title IX.⁴¹ To the extent that the provisions of the order conflict with obligations under other federal, state, and local laws, it will likely burden schools by creating uncertainty and confusion.⁴² If schools choose to comply with the order out of fear of legal action or loss of federal funding, it could also result in increased litigation against the schools under other federal and state laws.

CONCLUSION

President Trump's executive order pertaining to K-12 education aims to eliminate protections for transgender students in K-12 schools by directing federal agencies to rescind federal funding from or take enforcement action against schools and school staff who affirm transgender students. The order's directives conflict with other federal laws and constitutional provisions and likely exceed the president's authority. The order, regardless of its legality, may have a negative impact on the health and well-being of transgender students, as well as create confusion and the threat of increased litigation for schools.

27, 2023); Tenn. Gen. Assem. Fiscal Rev. Comm., Fiscal Memorandum: HB 239 – SB 1440 (Feb. 28, 2023).

³⁹ An executive order must be supported by an authority the president derives from the Constitution, or through an express delegation from Congress. Abigail A. Graber, *Executive Orders: An Introduction*, CONG. RES. SERV. (March 29, 2021), <https://crsreports.congress.gov/product/pdf/R/R46738>. See also *Cnty. of Santa Clara v. Trump*, 250 F. Supp. 3d 497, 531 (2017) (holding that the president could not direct the Attorney General to place conditions on funding without due process requirements because presidents can only delegate the powers they hold).

⁴⁰ E.g., CAL. EDUC. CODE § 220.5 (2024) (as amended) (banning forced outing by teachers in the state); 775 ILCS 5/1-101.1; see also James Bennett, *Guidance on Protection of Students in Illinois: A Non-Regulatory Guidance Relating to Protection of Transgender, Nonbinary, and Gender Nonconforming Students*, ILL. DEPT. OF HUM. RIGHTS (Dec. 2021), <https://dhr.illinois.gov/content/dam/soi/en/web/dhr/publications/documents/idhr-guidance-relating-toprotection-of-transgender-nonbinary-and-gender-nonconforming-students-eng-web.pdf> (explaining that state non-discrimination laws have been interpreted to require access to facilities that align with transgender students' and use of chosen pronoun in school).

⁴¹ The Department of Education's Office for Civil Rights opened the investigation within days of the President's executive order redefining “sex.” Press Release, Dep't of Civil Rts., U.S. Dep't of Educ., U.S. Department of Education Launches Investigation into Denver Public Schools for Converting Girl's [sic] Restroom into All-Gender Facility (Jan. 28, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-launches-investigation-denver-public-schools-converting-girls-restroom-all-gender-facility>.

⁴² See, e.g., Asma Khalid et al., *Judge Pauses Trump's Federal Funding Freeze as Confusion and Frustration Spread*, WHY.org (Jan. 29, 2025), <https://why.org/articles/trump-funding-freeze-pause/>.