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## California SAFETY Act: California Bans School Policies Requiring Disclosure of Student Sexual Orientation, Gender Identity, or Gender Expression

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On July 15, 2024, Governor Newsom signed Assembly Bill (AB) 1955, commonly known as the Support Academic Futures and Educators for Today's Youth Act (SAFETY Act), into law. Effective January 1, 2025, this bill amends the Education Code to prohibit local educational agencies (LEAs) from requiring employees (or contractors) to disclose any information about a student's sexual orientation, gender identity, or gender expression to any other person, including a student's parent, without the student's consent, unless mandated by state or federal law. This bill also requires the California Department of Education (CDE) to create or update resources and strategies that support parents, guardians, and families of LGBTQ students.

### Background

Education Code section 220 prohibits discrimination based on several protected categories, including gender identity, gender expression, and sexual orientation. Related, AB 1266, effective in 2014, amended Education Code section 221.5 to allow students to participate in programs and activities (e.g., athletic teams) and access sex-segregated facilities (e.g., bathrooms and locker rooms) consistent with their gender identity. Education Code section 49069.7 provides parents/guardians the right to access their student's records stored by a LEA.

Since 2014, the CDE has published legal guidance and FAQs regarding the implementation of AB 1266 and related State laws. This guidance advises LEAs to keep a student's transgender or gender-nonconforming status confidential from everyone, including their parents or guardians, unless the student consents to the disclosure. While ongoing lawsuits exist across the country and in California on this subject, the California State Attorney General asserts that any school policy requiring the disclosure of a student's transgender or gender-nonconforming identity without the student's consent, including to parents or guardians, is discriminatory, in violation of a student's privacy rights, and unlawful. This issue of student privacy rights versus parental rights has been hotly contested in recent years.

## AB 1955

AB 1955 indirectly addresses the disclosure of a student's sexual orientation, gender identity, or gender expression. Until AB 1955, such disclosures were not expressly addressed under California law, despite the State's position as explained above. Specifically, AB 1955 prohibits LEAs from "enacting or enforcing any policy, rule, or administrative regulation that requires an employee or a contractor to disclose any information related to a pupil's sexual orientation, gender identity, or gender expression to any other person without the pupil's consent unless otherwise required by law." The prohibition on such policies extends to disclosures to the parents of non-consenting students.

AB 1955 also protects employees and contractors of LEAs from retaliation or adverse actions if they support a student in exercising specified rights as outlined in Education Code section 200 et seq. This includes activities related to work or providing certain instruction, such as content standards, curriculum frameworks, instructional materials adopted by the State Board of Education, and other requirements of the Education Code, including section 51204.5 and the California Healthy Youth Act. Notably, this protection extends to placing an employee on paid administrative leave.

Existing law requires the CDE to develop or update resources for in-service school-site training and community resources to support lesbian, gay, bisexual, transgender, and queer (LGBTQ) students. AB 1955 expands this requirement by directing the CDE to create or update resources that support parents, guardians, and families of LGBTQ students, and implement strategies to enhance support for LGBTQ students. The resources include, but are not limited to, safe spaces, counseling services, anti-bullying and harassment policies, and suicide prevention policies.

## Takeaways

AB 1955 seeks to address the scope of student privacy related to the disclosure and discussion of a student's sexual orientation, gender identity, or gender expression with other students, employees, parents, or community members. The enactment of AB 1955 increases the risk that disclosing a student's sexual orientation, gender, or gender identity without their express consent may result in potential liability for LEAs. Notably, pending federal and state lawsuits on this subject involve competing legal concepts of student privacy, parental constitutional due process rights, and the rights of parents to access student records pursuant to the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g). The results of these pending cases, or new legal challenges on these bases against AB 1955, may ultimately impact the new law's implementation.

If you have questions about this new law, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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