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Iowa Safe Schools Fall 2023 Legislative  
Update for Iowa's K-12 Schools:  
Suggestions and Resources for  
Supporting LGBTQ Students under SF  
496 and SF 482

schools

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## VI. Curriculum and Class Content

SF 496 states:

*“A school district shall not provide any program, curriculum, test, survey, questionnaire, promotion, or instruction relating to gender identity or sexual orientation to students in kindergarten through grade six.”*

### Things to think about:

1. The mediums of information sharing listed above (program, curriculum, test, survey, questionnaire, promotion, or instruction) are not allowed to be provided *by the school district* if they relate to sexual orientation or gender identity in grades K-6.
2. What do the words “curriculum” and “instruction” mean? Neither term is defined in the law, but generally the terms are understood by the education world to mean the following:
  - a. Curriculum: “a standards-based sequence of planned experiences where students practice and achieve proficiency in content and applied learning skills, that’s made up of the lessons and academic content taught in a school or in a specific course or program.”<sup>1</sup> Or the “content plan for instruction”<sup>2</sup>
  - b. Instruction: “the process of teaching and engaging students with content. While *curriculum* is the organized content and plan for engaging students with specific knowledge and skills, *instruction* is how a teacher organizes time and activities in implementing that content and plan.”<sup>3</sup>
3. Inquiry-based learning and student-choice projects are an approach to instruction, the choices that a student makes within that project are not determined by the educator.
4. “Promotion” is also not defined in the law. If your district is going to limit what educators can and cannot display in the classroom (for example, photos of their families) on the basis that it could be considered “promotion” under this section of the law (section 16), it needs to be applied equitably, regardless of the sexual orientation or gender identity in question.
5. On February 6, 2023 the ACLU issued [this letter](#) on the rights of educators to continue to display rainbow flags in their classrooms. The ACLU considers this an issue of free speech, which has been upheld by the Supreme Court in numerous cases.<sup>4</sup> While free speech in schools may be subject to more restrictions than in other arenas, public schools may not prohibit on-campus speech by a private citizen<sup>5</sup> unless it substantially interferes with or disrupts the educational environment, or interferes with the rights of other students. Actual evidence or reasonable

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<sup>1</sup> Dr. Clayton Smith (University of Windsor in the Faculty of Education) and Dr. George Zhou (full professor in the Faculty of Education, University of Windsor).

<sup>2</sup> California Department of Education.

<sup>3</sup> Ibid.

<sup>4</sup> *Tinker v. Des Moines Independent Community School District, Lane v. Franks, and Kennedy v. Bremerton School District*

<sup>5</sup> The language in *Tinker* refers to public schools “prohibiting” certain “private speech”. Here, the term “private speech” refers to speech by a private citizen, not speech that is exercised in private. Supreme Court Justice Elena Kagan takes up the question of government restriction on private speech in her journal for the *University of Chicago Law Review*, “Private Speech, Public Purpose: The Role of Governmental Motive in First Amendment Doctrine”. 2010.

forecast of substantial disruption is required – “undifferentiated fear or apprehension of disturbance” is insufficient.<sup>6</sup>

### **Suggestions for Empowering Students, in Light of Curriculum Censorship (K-6)**

1. Inquiry-based learning. Prioritizing student-choice whenever possible is a great way to boost engagement and interest, and it also allows students to bring in topics that are interesting and relevant to them, in ways that might not otherwise be permitted to be part of their formal learning experience.
2. Free reading. Allowing students to bring in books that are interesting to them for structured reading time, or to use for a book report or other similar project. Don't limit students to choosing books made available within the school or school library system (physical or digital).
3. Class discussions. Structure class discussions around certain curricular standards and goals. If/when a student brings up topics related to sexual orientation/gender identity, the class can continue the discussion without the educator's involvement. Work on building skills needed for effective classroom discussions.
4. Eliminate gendered language, activities, and practices from your daily routine. From bathroom passes to the way you greet your students, take gender out of the equation. Always ask yourself “is gender relevant here?” and if the answer is “no” omit it from the question/activity/practice.
  - a. Ex: Don't split up your class by gender. Instead, use shirt colors (warm/cool), whether their birthday falls on an odd or even day, or another creative option to effectively divide the group in two.
  - b. Ex: Instead of having a “girls” and “boys” bathroom pass, keep two passes. Any student who needs to use the bathroom can do so, upon taking the pass. This eliminates the additional step of having to misgender oneself when choosing a pass, even if they are required to use a bathroom that doesn't align with their gender.
  - c. Ex: Don't assume the genders of any of your student's caregivers. Replace your instinct to say “mom” or “dad” or “mom and dad” with “your adults,” “your caregivers” or another neutral option.

### **Discussion Questions/Questions for District Leadership**

1. How is the district determining what counts as curriculum or instruction that is related to gender identity or sexual orientation?
  - a. Ex: If an educator is using a book on adoption, and one of the children is adopted by a same-sex couple, is that considered instruction that's “related to sexual orientation”? If so, then what about books featuring heterosexual couples?
2. How will the district be protecting transgender educators?
  - a. Ex: Jordan is a non-binary elementary school art teacher, their students call them “Teacher Jordan” or “Mx. Jordan”. How will the district protect them should they be accused of “promoting” ideas related to gender identity due to their name?
3. How will the district be protecting LGB educators?
  - a. Will teachers be allowed to display photos of their families? Will they be allowed to talk about their partners and kids? Remember that whatever the policy is, it needs to be applied equally among all educators, and not limited to those who are LGBTQ.
4. How will the district ensure that all students are allowed to discuss their families, regardless of who's in them?

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<sup>6</sup> *Tinker v. Des Moines*.