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Iowa Safe Schools 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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I. Introduction

The 2023 legislative session in Iowa introduced <u>SF 496</u> and <u>SF 482</u>, which impose new restrictions for educators striving to create inclusive spaces for LGBTQ students. While SF 482 requires all persons within a school to use the bathroom that corresponds with the biological sex they were assigned at birth, SF 496 limits instruction related to gender identity and sexual orientation and is currently being challenged in two lawsuits, though it remains in full effect until these cases are resolved.

Despite these efforts to restrict LGBTQ-inclusive content and spaces, LGBTQ students are undeniably part of our classrooms and school communities. As educators, we have a responsibility to provide all students—regardless of their identity—with safe, supportive, and nurturing environments where they can learn, grow, and thrive.

This guide is designed to help lowa educators understand and navigate these legislative changes while remaining committed to the wellbeing and success of LGBTQ students. By offering practical strategies, this resource aims to support educators in fulfilling their duty to ensure every child's educational experience is equitable, inclusive, and affirming.

How to use this guide

This guide is not meant to serve as legal advice, and should not be treated as such. It is, however, meant to offer clarification to educators, parents, and students, about the ins-and-outs of legislation affecting students, and present possible strategies for continuing to support students and families during this challenging time.

Use it as a reference book, a workbook, a place to keep track of the questions your school's administrators have answered or those that they still need to. Use it to familiarize yourself with the language the law uses, and the language of laws that are still working to protect student rights. It's our hope that this guide provides some comfort and clarity as we move into yet another school year, and helps to grow your confidence as you support your students within the boundaries of new legislation and your school district's policy.

If you are in need of additional support regarding a specific circumstance, please reach out to Jordan Mix at jordan@iowasafeschools.org. If you are a member of the teacher's union and would like to speak with an attorney, please contact your union representative. For all other inquiries, please contact Damian Thompson at damian@iowasafeschools.org, and he will connect you with the appropriate resources.

Please note that school district policies in response to new legislation will vary widely. While we encourage you to learn more about what the law actually says, your school district's policy will depend on their legal team's interpretation of these laws. It's very important you find out what your district's policy is, and how it will be communicated to students.

Finally, we, as Iowa Safe Schools Staff, want to affirm that we see you, educators, and the love and commitment you have for your students, and the dedication to keeping them safe. We see you, caregivers, who are fiercely trying to advocate for your children, and we see you, students, as you continue to fight for your safety and autonomy. We promise we will never stop fighting alongside you.



II. Glossary of Terms

Agender (adj.): A person who does not identify as any gender, in particular.

Ally (verb): a person who supports, advocates for, and uplifts a marginalized community to which they do not belong.

Aromantic (adj.): A person who doesn't experience romantic attraction.

Asexual (adj.): A person who does not experience sexual attraction.

Assigned Sex At Birth (n.): The sex that a person was deemed to be at the time of their birth, based on their external genitalia.

Binary (n.): Two; relating to or comprised of two.

Bisexual (adj.): A person who is attracted to two or more genders

Cisgender (adj.): A person whose gender identity aligns how others traditionally expect it to based on the sex they were assigned at birth.

Deadname (n.; verb): n. A transgender person's legal or given name. Adj. to call a transgender person by their legal or given name, when it's no longer what they go by.

Dysphoria (*n.*): A sense of anxiety or discomfort relating to actual or perceived gendered characteristics about oneself.

Gay (adj.): A person who is attracted to people of the same sex or gender as

themselves. Men who are attracted to other men.

Gender (*n.*): Social, psychological, cultural, and behavioral aspects of girl/womanhood, man/boyhood, or other gender identity.

Gender Expression (*n.*): An external communication and expression of self, often in relationship to masculinity and femininity, through style of dress, makeup choices, hair style, body language, tone of voice, etc. Everyone has a gender expression.

Gender Identity (n.): A person's internal sense of self, in relationship to masculinity and femininity. It is impossible to know someone's gender identity simply by looking at them, knowing their chosen name, or the pronouns they use. The only way to know someone's gender identity is if they tell you. Everyone has a gender identity.

Gender Non-Conforming (*n.*): A person whose gender identity or expression doesn't conform to traditional societal expectations of their gender identity or expression, based on their sex assigned at birth.

Genderqueer (adj.): A term to describe gender identity, that is similar to non-binary. *Genderqueer* refers to a gender identity that exists outside societal expectations of femininity and masculinity.

Heterosexual (adj.): A person whose sexual and romantic attraction to others aligns with societal expectations (i.e.: a man

who's attracted exclusively to women; a woman who's attracted exclusively to men)

Heteronormativity *(n.)*: The assumption that everyone is heterosexual and/or that heterosexuality is "the norm".

Homophobia (verb): A negative attitude, feeling, or action against people who are not heterosexual or queerness in general. Can include fear, aversion, resentment, anger, violence, and hatred against any person who does not fall within societal expectations of sexual and romantic attraction.

Intersectionality (n.): The theoretical framework that allows us to consider all of the social categories a person belongs to (race, sex, socioeconomic status, etc.) and how they interact with one another to create that person's unique experience.

Intersex (*n.*): A person whose biological sex characteristics do not align entirely with either binary sex: male or female. About 2% of the population is intersex.

LGBTQ: An acronym that stands for Lesbian Gay Bisexual Transgender and Queer/Questioning. It's also used as an umbrella term for anyone who is not heterosexual or cisgender (ie: the LGBTQ community).

Lesbian (adj.): A woman who is attracted primarily or exclusively to other women.

Non-Binary (adj.): A person who's internal sense of self does not align with one of the binary options (man/male/masc. Or woman/female/femme).

Outing (*verb*): Disclosing someone's status as LGBTQ without their consent and/or knowledge.

Pansexual (adj.): A person who is attracted to people of all genders.

Pride (n.): Generally refers to the month-long celebration of LGBTQ history. The tradition began to commemorate the 1969 Stonewall Riots, which is considered to be the start of the modern mainstream LGBTQ rights movement. Many cities and towns throughout lowa hold Pride celebrations in June in collaboration with LGBTQ Pride Month. Pride sends the message that LGBTQ people can and should be proud of who they are, of their community, and all they've endured, despite the messages that being LGBTQ is something to hide or be ashamed of.

Pronouns (n.): Words we use to talk about people without saying their name. Traditionally in English we use she/her/hers pronouns for girls and women, and he/him/his for boys and men. They/them/their was widely used as a gender neutral pronoun option until the 1800s, but has regained popularity in the last 10 years. Pronouns can correlate to a person's gender identity, but are not, on their own, an indicator of how someone identifies.

Queer (adj.): A word describing a person who is not heterosexual and/or cisgender. It can be used as an all-encompassing umbrella term. It was formerly considered a slur, particularly against gay men, but has been reclaimed and is widely-used by members of the LGBTQ community to more accurately describe their identities and experiences.

Questioning (*verb.*): A word used when someone is unsure of their gender identity or sexual orientation.

Transgender (adj.): A person whose gender identity does not correspond, as society expects, with the sex they were assigned at birth.

Transphobia (*verb*): A negative attitude, feeling, or action against transgender people or transness. Can include fear, aversion, resentment, anger, violence, and hatred against any person who does not conform to societal gender expectations, or the idea of gender nonconformity.

Transition (*verb*): A process some transgender people choose to navigate in collaboration with their doctors and guardians (if under 18) to help harmonize their body and their internal understanding of themself.



III. Bill Overviews

SF 496 - Governor's Omnibus Bill

SF 496 was signed into law on Friday May 26, 2023. The majority of this law took effect July 1, 2023. The section on district library programs took effect on January 1, 2024.

- This bill affects the following areas of education relating to LGBTQ students and topics:
 - Curricular instruction relating to gender identity and sexual orientation (K-6)
 - Human growth and development curriculum relating to HIV, HPV, and available treatments and preventative measures (K-12)
 - Overhaul of books available in K-12 school libraries; requirement that they are "age-appropriate" and "supports the educational standards".
 - Imposes limitations around surveys meant to assess students' mental, emotional, and physical health (K-12)
 - Notification of parents and guardians if a student makes a request for an accommodation "meant to affirm their gender identity (K-12)"

Curricular Instruction

- Under SF 496 the following are prohibited in grades K-6:
 - Curriculum and instruction related to sexual orientation and/or gender identity (the Genderbread Person, differences between sex and gender, "some people are gay", etc.)
 - Curriculum and instruction specifically on LGBTQ history (people, events, ideas, etc.)
 where content about sexual orientation or gender identity is emphasized or is an instrumental part of the content (The Stonewall Riots, marriage equality, etc.)
 - Surveys or questionnaires that ask students to disclose their sexual orientation and/or gender identity, or gender pronouns (climate surveys, Demographic data collection, etc.)
- The constraints of SF 496 will likely <u>not</u> apply to:
 - Student-led/inquiry-based learning. For example: a student may still choose to complete a research project on Harvey Milk, The Stonewall Riots, etc.
 - Students may still make connections on their own between curricular instruction and topics related to sexual orientation and gender identity, in written assignments and discussions. Classroom educators may be discouraged/prevented from contributing additional instruction, but can and should facilitate the discussion and intervene in instances of inappropriate classroom conduct as per usual (bullying, harmful comments, etc.)
 - Students freely discussing their own identities and their family structures.
- Bullying Concerns
 - Educators <u>can and should</u> continue to intervene in bullying behavior that they are witness to, even if the bullying is due to a student's actual or perceived sexual orientation and/or gender identity.

Human Growth and Development

- Under SF 496 human growth and development curriculum is not required to include:
 - Acquired immune deficiency syndrome (AIDS/HIV) symptoms, risk factors, treatment, or prevention (PrEP)
 - Human papillomavirus (HPV), symptoms, risk factors, treatment, available vaccines to prevent HPV
- The following will still be required:
 - "age-appropriate" and "research-based" substance use and nonuse; emotional and social health; health resources; and prevention and control of disease, including "age-appropriate and research-based" information regarding sexually transmitted diseases.

<u>District Library Programs</u>

- District-run libraries (K-12) are only to include "age-appropriate" materials and those that "support the student achievement goals of the total school curriculum."
- This could be interpreted to limit the availability of books that:
 - Contain sex acts as defined in lowa Code 702.17
- This legislation has not yet been found to restrict the following, but has created *rumors* that these will be prohibited:
 - Fictional stories featuring LGBTQ characters, where their sexual orientation or gender identity are central to the story's plot (K-6).
 - Fictional stories meant to explain concepts around sexual orientation and gender identity (K-6)
 - Non-fiction books meant to explain concepts around sexual orientation and gender identity (K-6)
 - Non-fiction books or memoirs that feature LGBTQ figures, where their sexual orientation or gender identity are central to the book's thesis or evidence (K-6), discussion of gender transition (K-6)
- The following are not likely to be prohibited under SF 496:
 - Fictional stories featuring (an) LGBTQ character(s), where their sexual orientation or gender identity are not central to the story's plot or message (K-6).

Surveys and Questionnaires

- Parents and guardians must be provided with a minimum seven day written notice a written or
 electronic copy of all surveys or questionnaires meant to analyze a student's mental, emotional,
 or physical health; a student's or their family's income level; mental or psychological problems;
 sexual behavior, orientation, or attitude; illegal, antisocial, self-incriminating, or demeaning
 behaviors; or religious practices. They also need to opt their child into participating in these
 surveys in most cases. This applies to:
 - o The Iowa Youth Survey
 - The CDC's Youth Risk Behavior Assessment
 - School climate and culture assessments
- This could be interpreted to apply to:

Classroom surveys about a student's life (get-to-know you activities, etc.) that inquire
about the above topics, when the licensed practitioner is collecting the information from
the survey.

Names and Pronouns

- Under SF 496 if a student submits a request for an accommodation intended to affirm their
 gender identity, such as changing their name or pronouns in a student information system, that do
 not reflect their school registration or records, the licensed practitioner (educator) to whom they
 made the request would need to alert a designated administrator (appointed by the district), who
 would then inform the students' parents or guardians of the request.
 - There is no timeframe listed for when the notification to parents and guardians needs to be completed by
 - The notification to parents/guardians should not be coming from educators directly, without instruction from or collaboration with an administrator
 - Parent/guardian consent is not legally required to honor a student's chosen name or pronouns
- A school district shall not knowingly give false or misleading information to the parent or guardian
 of a student regarding the student's gender identity or "intention to transition to a gender" that is
 different than the sex listed on a student's official birth certificate or certificate issued upon
 adoption if the certificate was issued at or near the time of the student's birth.
 - "Intention to transition" is very vague language, as "transition" can mean different things for different people. Remember that there is no way to know of a student's "intention to transition" unless they clearly state that this is their intention.
 - Remember: nearly 100% of the time, the only person qualified to speak to a student's gender identity is that student. You cannot determine a student's gender identity by looking at them or by the name or pronouns that they use. The only way to know a person's gender identity is if they tell you.
 - There is <u>no requirement</u> to reach out to a students' parent or guardian with information regarding their gender identity, whether suspected or confirmed.

^{*}According to the bill, "age-appropriate" materials do not include any descriptions or visual depictions of a sex act.

^{**} GSAs in secondary schools are protected by the Federal Equal Access Act.

^{***} This bill does not make a distinction between sexual orientations that are LGB vs. straight, nor does it distinguish between cisgender and transgender gender identities. Technically, any instruction of human sexuality or gender identity (gender roles, for example) *could* be seen as violating this bill, however, LGBTQ employees will be most at risk when it comes to disclosing their own identities.

SF 482 - Bathroom Bill

This bill was signed on March 22, 2023 and took effect immediately.

- Requires that all multi-occupancy district-operated restroom and locker room facilities must be
 designated as either "male" or "female" facilities. All persons must use the restroom that matches
 the sex listed on their original birth certificate.
 - "All persons" includes any person who is on campus for any reason, whether they are affiliated with the school or not.
- Schools may choose to have single-use restrooms available for anyone to use, regardless of gender.
- Any student who would like additional privacy in a bathroom or locker room, for any reason, may request accommodation from the school. This accommodation must be approved by the students' guardians.
- In addition to bathrooms located on school grounds, this law may extend to bathrooms located in
 public or other privately owned places that are being used for official district/school purposes. For
 example, if students are traveling for band camp, rooming assignments would need to be made
 based on students' assigned sex at birth.

This bill does not apply to:

- Persons entering bathroom and locker room facilities for the purposes of cleaning and maintenance.
- Persons entering the bathroom or locker room to provide assistance or medical aid.

Suggestions to support students while implementing SF 482:

- Make all single-use bathrooms accessible to all students, staff, and visitors with gender-neutral or all-gender signage.
- Prior to overnight trips, communicate with students to identify what sleeping arrangements would be most comfortable for them, within the boundaries of the law.
- Provide a waiver at the beginning of the school year for parents/guardians to sign, allowing additional privacy bathroom or locker room accommodations for their student, should they request it.

IV. Myth Busting and Fast Facts

MYTH: SF 496 doesn't let K-6 educators say the words "gay" or "trans".

While SF 496 certainly places tight restrictions around what K-6 educators can and cannot do/say regarding sexual orientation and gender identity, it does not prevent educators from using the words in the classroom, for example, when intervening in instances of bullying or name calling.

MYTH: I have to notify a student's parents if a student shares their pronouns with me.

There is absolutely no language in this law that requires you to initiate contact with parents or guardians if a student shares their pronouns with you. A student sharing their pronouns is different than requesting an accommodation, and also tells you nothing more than what pronouns that student uses, as pronouns on their own don't inform you of someone's gender identity. The response to a student sharing their pronouns should be the same for all students regardless of the student/pronouns.

Defer to your school district's specific policy regarding what they are counting as "a request for an accommodation" by the student to ensure you understand when they expect educators to initiate the notification process with administrators.

MYTH: I am required to disclose a student's gender identity to their guardians, if I find or or suspect that they are transgender.

SF 496 says: "A school district shall not knowingly give false or misleading information to the parent or guardian of a student regarding the student's gender identity or intention to transition to a gender that is different than the sex listed on a student's official birth certificate or certificate issued upon adoption if the certificate was issued at or near the time of the student's birth."

If a parent/guardian contacts an educator and asks them a question about their child's gender identity, they cannot legally lie to or intentionally mislead them. That being said, they can and *should* make every effort to inform the student of this law *before* a student discloses information about their gender identity, <u>and</u> connect with them again before responding to the student's parent/guardian.

Remember:

- You cannot tell someone's gender identity based on their name or pronouns, or even how they dress, style their hair, or whether or not they wear makeup.
- The only way you can know someone's gender identity is if they tell you.
- A person's pronouns, personal style, and disclosed gender identity cannot tell you about their intent to transition. Transitioning is a very personal decision and is not something that all transgender people choose to do. You cannot know anything about anyone's "intent to transition" without them directly telling you.

MYTH: Books featuring LGBTQ characters and storylines are no longer allowed in 7-12 schools and classrooms.

The only clear restrictions on books for 7-12 is that they cannot contain any sex acts, as defined in Iowa Code <u>lowa Code 702.17</u>. At this time, there are no restrictions on content relating to sexual orientation or gender identity for grades 7-12.

MYTH: GSAs are no longer allowed.

GSAs are protected by the federal <u>Equal Access Act (1984)</u> which requires that if a school allows any non-curricular student group, it must allow all of them, and cannot limit student groups based on the theme or content of the group, as long as the group is student-led.

FACT: Students need to be aware of new legislation and how it affects their rights.

Now more than ever, it's important that students understand what your district's policy is when it comes to things like bathrooms, accommodations, and disclosing their gender identity or sexual orientation. Make sure your students understand what is and is not going to be seen as protected information, and have a copy of your district's policy available for them.

FACT: Students can still choose to do projects on LGBTQ-related topics.

Regardless of the grade, a student can choose to complete a project on topics that are related to LGBTQ topics, however, in grades K-6 content relating to gender identity and sexual orientation *cannot* come from a licensed educator or the school district. Student-led projects and discussions should be acceptable. *If* a student's topic is going to be restricted or disallowed due to LGBTQ content, then no other project that discusses sexual orientation (heterosexual relationships, marriage, dating, crushes, Henry VII's wives, etc.) or gender identity (masculinity, femininity, women's rights movement, etc.) should be allowed.

FACT: Students can still have access to single-use, gender neutral bathrooms.

If your school has single-use bathrooms available and has opened them for student use, they can be designated as gender neutral, and can be used by all students.

FACT: Multi-use bathrooms must be segregated by sex, assigned at birth.

All multi-use restroom and locker room facilities on school grounds, or that are being used for a school-sponsored activity, must be designated as "male" or "female" and may only be used by people whose sex marker on their birth certificate aligns with it. Single use bathrooms, including those previously reserved for staff use, can be opened for general use by anyone regardless of biological sex or gender identity.

FACT: SF 496 leaves a lot of "gray area".

It's true that we won't know the "legality" of certain actions, supports, events, etc. until they happen and someone initiates a lawsuit about it. There is no way to know what is going to go to the courts or how they will rule. Until then, we are focusing on best practices to keep students and educators safe.

V. A Guide to Pronouns and Chosen Names

SF 496 states:

"If a student enrolled in a school district requests an accommodation meant to affirm their gender identity, including a request that the licensed practitioner address them using a name or a pronoun that is different than the name or pronoun assigned to the student in the school district's registration forms or records, the licensed practitioner shall report the student's request to an administrator employed by the school district, and the administrator shall report the student's request to the student's parent or guardian."

Things to think about:

- 1. Since you cannot determine somebody's gender identity simply by knowing their name or what pronouns they use, there is no way to know whether or not a request by a student, to an educator, is being made with the intention of affirming their gender identity, without the student explicitly disclosing such information.
- Gender identity includes cisgender individuals. Cisgender people can and do seek to affirm their gender identity.
- 3. Only applying this section to students who are, or who are perceived to be, transgender or gender nonconforming could be seen to violate <u>Title IX</u> and/or <u>lowa Code 216.9</u>, lowa's Civil Rights code, which protects any person from experiencing discrimination in educational institutions on the basis of gender identity (or sexual orientation).
- 4. Civil rights lie with an individual. They are not dependent on guardian approval, nor do they kick in when a student turns a certain age. Because of this, requiring that legal caregivers submit a list of names they consent to their child being called by might help avoid discrimination accusations, but likely violates the students' civil rights.

What Would You Do? Scenarios to Consider:

The students in the below scenarios have asked one or more of their teachers or counselors to call them by a different name or pronoun than what is listed on the student information records. This is only information the teacher has available to them without asking for additional context. Read the short description and reflect on how you might approach the situation. Once you've finished, read the additional information on each case.

- Tolya is a student who recently moved to the United States. He is frustrated by the difficulty Americans are having pronouncing "Tolya" and asks to go by a more American-sounding name: Alexis.
- Drew is insecure that her name often registers as masculine to people when they first hear it, and asks her teacher to call her "Daisy," a name she has chosen for herself.

- 3. Allison doesn't feel that her name fits her very well, and she asks her teacher to call her "Al" which she much prefers.
- 4. Jordan is named after a parent who is estranged from the family. Jordan does not wish to be associated with or

- reminded of said parent and asks to be called "Marlow".
- 5. Grace asks to be called "Rowan."
- 6. Sophia uses they/them pronouns.

Take time to reflect on each scenario before continuing.

Read the following explanations, which provide additional context for the scenarios above. As you read, consider how making assumptions about which requests were made with and without the intention of affirming a student's gender identity caused an inappropriate reaction, and/or resulted in discrimination based on a students actual or perceived gender identity.

 Tolya (*Tow-lee-a*) is a 9th grade cisgender boy from Russia who recently moved to the United States with his family. Many of his classmates have been pronouncing his name *Too-la* or *Tol-ya* which is causing him to feel uncomfortable and like an outsider. He asks to go by the name *Alexis*, which is a common masculine name in Russia, but will be easier for his peers to pronounce.

Potential Responses

- a. Tolya's teacher registered "Alexis" as a feminine name, which is how it's more commonly understood in the United States, and tells him that he'll need to have the district notify his parents to let them know of this request. The district calls and inaccurately tells Tolya's parents that he is expressing that he is transgender and would like to go by a different name.
- b. Tolya's teacher recognizes that he'd rather go by Alexis, and agrees to address him as such. This name is much easier for his classmates to pronounce and they don't slow down to sound it out or stumble through it each time they address him. He begins to participate more in class, and even seems to be making friends. The teacher feels a little sad that his classmates weren't more willing to learn to pronounce his given name, and wonders if he should have tried harder to encourage them. but ultimately notices that Tolya seems happier.
- 2. Drew/Daisy is a very feminine, cisgender, 10th grade girl who has aspirations of being a famous singer one day. She is very self-conscious about her name and feels that it is "too masculine". Her request to use "Daisy", a name she naturally gravitates towards, is notably more feminine and simply feels more "her". She also thinks it'll be more marketable than "Drew," should she ever get a record deal.

Potential Responses

a. Drew/Daisy's teacher admires her drive to make it as a musician, and understands why she might feel her name comes across as "too masculine". She agrees that "Daisy" fits her, and is happy to call her Daisy for the remainder of the year. When a transgender student realizes that no one notified Daisy's parents, they recognize that they have been

- discriminated against due to their gender identity, since the district did call to notify their parents when they said they were going to use they/them pronouns. This student begins the process of filing a civil rights complaint.
- b. Drew/Daisy's teacher recognizes that this is a request to affirm her gender identity, since it's largely about affirming her femininity. They submit a request to the administrator, who is confused, but ultimately calls her parents, who are also confused, and misinterpret that she is questioning her gender identity.
- 3. Al/Allison is a 7th grade student who doesn't feel comfortable with the given name "Allison." She may or may not be exploring her gender identity, and she has not yet expressed that she uses pronouns aside from she/her. All she knows is that she doesn't jive with her given name, and she's not sure why.

Potential Responses

- a. Al's teacher has noticed that Al doesn't dress very femininely and interprets this request as an attempt to affirm her gender identity. The teacher starts the process to notify parents, which catches Al off guard, as she has not asserted that she's questioning her gender identity, and is still really unsure how she feels about it. She's definitely not ready to talk about it.
- b. Al's teacher hears Al when she says she doesn't care for her name and would rather go by Al. Knowing that it would be irresponsible and invasive to make assumptions or ask questions about Al's gender identity, her teacher agrees to call her "Al" and resists singing "You Can Call Me Al" as they conclude the conversation.
- 4. Jordan has a very strained relationship with her father, who she's named after. Despite the shared custody her parents have, she feels much closer to her grandfather, who has taken a very active role in raising her. No longer wishing to be associated with her father, she asks to be called "Marlow" which is her grandfather's name.

Potential Responses

- a. The teacher notes that Marlow is not part of the records the school has, and also interprets it as a notably more masculine name than "Jordan" which he feels is more gender-neutral. He initiates the protocol to notify her guardians. The district calls her father, who is listed as a contact on her registration. He promptly becomes enraged that his child would "disrespect him and his name."
- b. The teacher doesn't know any of the background about why Jordan is requesting this name change, but it seems important to her. He agrees to call her Marlow and she is noticeably calmer and more engaged in class.
- 5. Grace is a senior in high school, and thinks they are probably transgender. They haven't told many people about how they've been feeling, and haven't asserted any specific pronouns they use, but they like when people use they/them. They ask their chemistry teacher to go by "Rowan," by saying "ew Grace is too like...goody two shoes, you know? People say 'Grace' and I'm just like 'who is that?' I just feel like I'm more of a Rowan."

Potential Responses

- a. Rowan's teacher worries that this might be part of their exploration with their gender identity and initiates the process to notify their parents. Their mom is confused and hurt that they would want to change their name, and doesn't understand why they wouldn't talk to her about questioning their gender identity. They bombard Rowan with questions as soon as they arrive home.
- b. Rowan's teacher understands that their given name isn't fitting for them, and starts calling them Rowan.
- 6. Sophia is a cisgender middle schooler who knows that there are no pronouns listed on their school registration forms. They decided that they wanted to use they/them pronouns in an effort to make it clear that it's inappropriate to assume someone's pronouns.

Possible Responses

- a. Sophia's teacher sees they/them pronouns as a request to affirm their gender identity and initiates the process to notify their parents. Their parents ask the administrator why they are making the notification, and ask if Sophia has shared their gender identity with them, to which they have to honestly say "no". Spohia's parents are upset that the school would make such an assumption, and consider contacting the ACLU on the grounds that Sophia was discriminated against based on her perceived gender identity.
- b. Sophia's teacher knows you can't assume anyone's pronouns, and also that someone's pronouns don't tell you what their gender identity is. They agree to use they/them pronouns for Sophia without any further ado.

Discussion Questions/Inquiries for District Leadership

- 1. What are some of the problems with assuming a student's intent when asking to go by a different name or pronoun?
- 2. Are there ways in which this law might be inequitably applied based on an individual's unique perspective or understanding of gender identity?
- 3. Is there space for differentiating between "a request for accommodations" and asking a teacher to call them by a certain name? What might that look like? How is the phrase "a request for accommodations" applied in other areas of student support?
- 4. What is your district's policy going to be?
 - a. How are they defining "accomodation" in their guidance?
 - b. How are they suggesting you determine whether or not a student's name or pronouns are meant to affirm their gender identity?
 - c. How will this policy be clearly communicated to students <u>before</u> they choose which information to disclose, or make a request?

Final Thoughts and Recommendations

1. Notice that the language in the law only says that a district employee needs to <u>report</u> an accommodation "meant to affirm their student's gender identity" to parents and guardians, but <u>does not require any consent from parents and guardians</u>. A student's right to go by their chosen name and pronoun is likely to be seen as a protected civil right under <u>Code 216.9</u>. Remember, civil rights cannot be waived by parents or guardians.

- 2. Whatever your district's policy is, ensure it's applied equitably.
- 3. Make sure that your district's policy and procedure around notifying parents and guardians about name and pronoun requests is made clear to your students. They deserve to make <u>informed decisions</u> about who they will share their personal information with, and who they'll make requests to. This will also help to keep them safe.
- 4. If a student discloses a name/pronouns they go by, without understanding the notification procedure your school has in place, stop and explain the procedure to them, and clarify whether or not they are asking for an accommodation. If they decide they are not asking for an accommodation, allow them to walk it back and don't initiate the notification process.
- 5. Encourage the district to require training for the administrator responsible for notifying parents and guardians. If that person is uncomfortable or unsure about how to talk about gender identity, the conversation with parents and guardians could be confusing and unclear. It's important that the person facilitating this conversation is comfortable, confident, and calm.
- 6. Remember that hearing a student using a name/pronoun that is different from the school's records when with their peers, is not the same thing as that student making a request for an accommodation.



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. <u>Curriculum</u>: "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." ¹ Or the "content plan for instruction"²
 - b. <u>Instruction</u>: "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."3
- 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. 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 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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¹ 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).

² California Department of Education.

³ Ibid

⁴ Tinker v. Des Moines Independent Community School District, Lane v. Franks, and Kennedy v. Bremerton School District

⁵ 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 Kagen 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.⁶

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

- 1. <u>Inquiry-based learning</u>. 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. <u>Free reading.</u> 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).
- 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. <u>Eliminate gendered language, activities, and practices from your daily routine</u>. 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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⁶ Tinker v. Des Moines.

VII. Bathroom and Locker Room Access and Overnight Accommodations

Regarding Bathroom and Locker Room Access, SF 482 states:

"A school shall require a multiple occupancy restroom or changing area to be designated only for and used by persons of the same sex. A person shall not enter a multiple occupancy restroom or changing area, or a single occupancy restroom or changing area designated only for persons of the same sex, that does not correspond with the person's sex. A student who, for any reason, desires greater privacy when using a single or multiple occupancy restroom or changing area, and whose parent or legal guardian provides written consent to school officials, may submit a request to such officials for access to alternative facilities."

"In no event shall any accommodation be made that includes access to a student multiple occupancy restroom or changing area or a single occupancy restroom or changing area designated for use by students of the opposite sex while students of the opposite sex are present or could be present."

Things to Think About

- 1. SF 482 extends to every person in the school. It states that no one, including students, parents, educators, etc. may use a bathroom that is designated for a sex that is different from the sex they were assigned at birth.
- 2. If your school has single use bathrooms, they can be made available for students to use, regardless of gender identity or sex assigned at birth.
- Since you cannot tell a person's assigned sex at birth by looking at the clothes they wear, their
 haircut, or even their name. It is generally not best practice to try to correct the bathroom they are
 using.
 - a. Ex: an elementary school student who keeps their hair short and wears masculine clothing might have been assigned female at birth and use the girls bathroom. Many people look at her and assume she's a boy/was assigned male at birth.
 - b. Ex: A transgender father is attending his child's basketball game. Per the law he would need to use the women's bathroom, despite appearing to others as a grown man.

In either one of these scenarios, trying to determine which bathroom someone should be in is nearly impossible and not conducive to an effective learning environment.

4. If single-use bathrooms are a general part of a school's infrastructure, students do not need an accommodation to use them. They are available to anyone.

Regarding School Travel, SF 482 States:

"In any other school facility, a facility used for extracurricular activity, overnight accommodations, or any other setting where a student may be in various stages of undress in the presence of other students or persons, school personnel shall provide separate, private areas designated for use by students based on the students' sex."

Things to Think About

- Overnight accommodations are often uncomfortable for students. For students who are part of the LGBTQ community, who don't speak English as their primary language, who have cultural differences from the majority of their classmates, or who are differently abled, this discomfort is often amplified.
- 2. Including students in decisions that affect them is the best way to honor their safety and comfort.

Suggestions and Recommendations

- 1. Wherever possible, make your school's single use bathroom facilities available for student use. If they are a part of the school's infrastructure and available to any student, using them is generally not considered to be an accommodation.
- 2. Send home a permission slip to all families for their student(s) to use a single-use restroom or changing facilities, when requested, as part of the beginning of the year paperwork.
- 3. When making overnight accommodations for students as part of a school program, involve students in the process of choosing roommates. If a student requests a room to themself or to share a room with only one individual, try to honor those requests whenever possible.
- 4. Don't try to monitor bathrooms to make sure people are in compliance. Trying to determine who belongs in which bathroom based on what they look like is not always accurate, and could put individual educators or the school district in the middle of discrimination accusations.

VIII. Supporting a GSA

SF 496 does not specifically discuss the rights or abilities of GSAs to continue to operate as normal, even those in elementary schools.

Indeed, a preliminary ruling on SF 496 affirmed this to be true. In reference to Senate File 496 the judge says.

"School districts instead have the full freedom to offer gay-straight alliances ("GSAs") or similar clubs that provide resources and support for LGBTQ+ students in grades seven and above. Teachers and other licensed professionals are not restricted in any way from serving as advisors for such GSAs, displaying rainbow flags, providing instruction on gay and transgender rights, and otherwise performing their responsibilities in a manner that emphasizes inclusiveness and respect for LGBTQ+ students in grades seven and above."

Because the Name and Pronoun section is still in effect for K-12th grade, this is further evidence that this judge does not see it as creating new restrictions for GSAs.

GSAs in secondary schools are specifically protected by the <u>Equal Access Act of 1984(</u>\$\psi\$), and must be allowed the same rights and privileges as all other student groups, and the school cannot limit them based on the content of the group being uncomfortable or unpopular.

Elementary schools are not bound by the Equal Access Act, however, in the United States "secondary school" is largely defined as grades 7-12. This means that in schools that contain grade 6 along with higher grades, the school cannot bar GSAs and/or must allow the GSA the same rights as all other student groups.

Additionally, **students in grades 6 and below still maintain the First Amendment right of free association**. This was affirmed in the preliminary ruling by the judge seeking to strike down the section of SF 496 relating to K-6 curriculum censorship:

When explaining why the K-6 curriculum ban should be struck down, U.S. District Court Judge Stephen Locher said, "because section 279.80 prohibits "promotion" of gender identity or sexual orientation for students in grade six and below, a reasonable school district could interpret it as forbidding students in those grades, such as A.C., from being allowed to join GSAs and other student organizations designed to provide support for transgender and gay students. **This, in turn, impairs A.C.'s First Amendment right to free speech in the form of freedom of expressive association.**"

Judge Locher also references a 1988 case, <u>Gay & Lesbian Students Ass'n v. Gohn</u>, where the Eighth Circuit Court of Appeals ruled that the constitutional rights of an LGBTQ student organization had been violated, *despite university officials acting under pressure from state legislators*.

⁷ National Center For Education Statistics.

⁸GLBT Youth in Iowa Schools Task Force v. Kim Reynolds, 4:23-cv-00474 (U.S. District Court for the Southern District of Iowa, 2023).

Things to think about

- GSAs must be <u>student led</u> in order to be protected by the Equal Access Act. This means that
 even if your group has a faculty advisor (most do) the activities of the group need to be student
 initiated and decided upon.
- Is your GSA allowed to advertise to the student body through things like putting posters in the
 hallways, being included in morning announcements, holding fundraisers, and participating in
 school events (homecoming parades, activity fairs, etc.)? Rules governing your GSA in these
 areas should be the same for all other student groups.

Frequently Asked Questions

Q: Can students share their names and pronouns during GSA meetings without the GSA advisor notifying parents and guardians of the students name/pronouns?

A: Since casual discussion and introductions that are typical of GSA meetings are not formal requests for accommodation, no. However, as an added precaution, Iowa Safe Schools suggests establishing rules/norms as a group during the first meeting that ensure all GSA members will respect the language that other members use to talk about themselves. This will allow members to use their name and pronouns without needing to make a "request for an accommodation" since it is the group norm.

Q: Can GSAs meet during the school day (for example: during lunch, study hall, or another open period?

A: Yes, as long as the same opportunity is available to all other student groups.

Q: Can the school limit GSA participation to certain grade levels?

A: According to the Equal Access Act, the rules that the school or district issues to the GSA must be the same for all non-curricular student groups.

For more information on GSAs, check out our GSA Guidebook or reach out to Hannah Mitchell at hannah@iowasafeschools.org.

IX. Facilitating Conversations with Families

Family acceptance plays a pivotal role in the overall well-being of LGBTQ+ students. Research consistently underscores that a supportive and accepting family environment has a profoundly positive influence on students' mental health, self-esteem, educational attainment, resilience, and coping skills.

A common misconception is that family reactions to a student's gender identity are limited to being entirely positive or negative. In reality, data indicates a broad spectrum of reactions that offer opportunities for education, empathy, and increased acceptance. We know that families that initially reject their child's LGBTQ identity tend to become less rejecting over time. Access to accurate information is a critical factor in helping families and caregivers understand and support their LGBTQ children. Recent legislation makes this even more important to understand as a provider. Education and family resources will become even more critical in avoiding negative outcomes for LGBTQ youth, including suicide, displacement, and gender identity change efforts.

This is further supported by the National Association of School Psychologists:

"Immediate resistance to a child's gender expression is not necessarily a fixed position; many of the strongest advocates of their transgender children initially experienced varying degrees of denial, confusion, and resistance before moving towards acceptance and/or celebration of their gender-expansive child. Initial lack of support can be rooted in fear, misinformation, or grief stemming from a parents' perception that they have lost the child they thought they had. *School psychologists can play a critical role in moving a parent in the direction of acceptance* by listening to fears and concerns, while providing accurate information. Helping the parent to connect with others who might be facing similar life events can be paramount in the journey to acceptance."



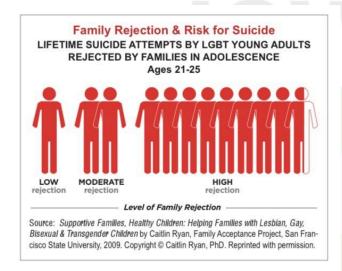
Family Rejection & Health Risks:

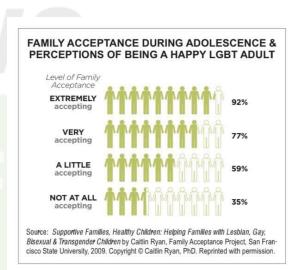
The vast majority of families want what is best for their students. Helping caregivers understand the link between their actions and their child's well-being is crucial in fostering a supportive environment for the student.

LGBTQ young adults who reported high levels of family rejection during adolescence were:

- 8.4 times more likely to report having attempted suicide
- 5.9 times more likely to report high levels of depression
- 3.4 times more likely to use illegal drugs
- 3.4 times more likely to report having engaged in unprotected sexual intercourse

When compared to peers from accepting families





schools

Involving Student Voice:

Common Understanding:

To create the most potential for students' self-determination, it's crucial for students to understand their available options, as well as your legal and professional obligations. Students should have the opportunity to retract or clarify their requests for accommodation after receiving clarification regarding the school district's legal obligations and how they will be impacted.

When a student experiences feelings of panic, confusion, or sense of being trapped, their vulnerability to suicide or extreme actions is heightened. 9

Discuss timing and make a plan:

While SF 496 does require notification of a student's parent or guardian if their student makes a request for an accommodation with the intention of affirming their gender identity, the law does not outline a specific timeline for parental notification if a student makes a request for accommodation. Students are the expert on when and how their family might be the most receptive to a conversation. Partnering with the student to create a plan of action can reduce instances of panic and incorporate student voice. It will be important to identify a student's existing places of support – these might include educators, friends, or support groups (including GSA).

Respect identity:

Parent/guardian consent is not legally required to honor a student's chosen name or pronouns. Ask students about the name and pronouns they'd like to use during any conversation with family and honor that.

⁹ Auerbach RP, Stewart JG, Johnson SL. Impulsivity and Suicidality in Adolescent Inpatients. J Abnorm Child Psychol. 2017 Jan;45(1):91-103. doi: 10.1007/s10802-016-0146-8. PMID: 27025937; PMCID: PMC5045310.

Preparing for a conversation with a family:

With the understanding that a student's family is an extremely valuable partnership, research suggests taking a strengths-based perspective. The following assumptions about a family might be valuable in building this alliance:¹⁰

- ★ Assume that families love their children and want them to have a good life.
- ★ Assume that a family's hopes and dreams for their children are shaped by cultural and religious beliefs that may *seem* at odds with their student's gender identity/orientation.
- ★ Assume that a caregiver can build acceptance for their LGBTQ student without rejecting their family's heritage.
- ★ Meet families where they are we'll cover how you might identify this in the next section.
- ★ Support families in their need to be heard and understood in a non-judgemental space.
- ★ Recognize that rejective caregivers typically report being motivated by care and concern for their child's ability to "fit in", have a "good life," and be accepted by others.
- ★ Recognize that building awareness of the consequences of family rejection is the most effective mechanism of change
- ★ Acknowledge that caregivers may experience a range of emotions, including: happy, sad, confused, joyful, relieved, angry, hesitant, disappointed, upset, indifferent, patient, cynical, anxious, helpless, surprised, etc.
- ★ While all emotions are valid, acknowledge that it can be harmful for family members to project any of the above feelings onto the child.
- ★ Recognize that caregiver's struggle to validate their gender-expansive children could signal a need for support and education.

Establishing Common Language:

It's common for family members and caregivers to not be familiar with respectful language to discuss gender diversity and transgender identities. Be sure to actively ask family members about their familiarity with gender identity and about their cultural beliefs around gender. Some people's only exposure to discussions of LGBTQ+ identities has been disparaging or avoidant. Feelings of shame, inadequacy, or apprehension may be mitigated by both assuring families it's okay to not know and discussing appropriate language. The glossary at the beginning of this document is a good place to start, and can be downloaded on its own from the lowa Safe Schools website.

Cultural considerations:

For some families, rejection of their student's identity is rooted in a deeply-held religious belief or cultural values. Consistent with a strengths-based perspective, a person often draws on their cultural and religious background as wellsprings of love, empathy, and learning. Even if a student and/or caregiver decides to advocate for change within their community or attend a different congregation, it's important to recognize that the core of their culture doesn't need to change in order to embrace a loved one with an LGBTQ+ identity.

What does support look like?

It's important for the family to be on the same page about what supporting their student looks like. A great first step is asking the student what they'd like from their family. The following suggestions are common responses for ways a family can demonstrate support for their child:

¹⁰ Family Acceptance Project: Intervention guidelines and strategies by Caitlin Ryan and Rafael Diaz. San Francisco: Family Acceptance Project, 2011.

What support looks like:

- Use the student's chosen name and pronouns
- Connecting your student with LGBTQ community and events
- Standing up for your student to other family members
- Remind your student that your love for them is not conditional
- Support your student's gender expression and the clothing or style that they feel most comfortable in

What support does not look like:

- Telling your student that being LGBTQ is "just a phase"
- Attempting to change a student's gender identity or expression
- Refusing or downplaying the importance of using your student's chosen name or pronouns
- Getting hung up on labels, your student's identity might change over time, and that's okay!

Parents and caregivers can use the Iowa Safe Schools 'Parent and Family Guidebook' to further explore supporting their LGBTQ+ child.

Facilitator Resources:

PFLAG chapters: https://pflag.org/findachapter/

ESL Resources: https://familyproject.sfsu.edu/publications

Spiritual Resources: https://lgbtgfamilyacceptance.org/faith-based-resources/



X. Resources

Iowa Safe Schools

Educator Support

Jordan Mix, jordan@iowasafeschools.org (515) 669-3476

GSA and Student Support

Hannah Mitchell.

hannah@iowasafeschools.org

(515) 381-0588

Housing

United Action for Youth

1700 S. 1st Ave., Ste. 14 Iowa City, IA

52240

Phone: (319) 338-7518

Legal

ACLU of Iowa

Mailing address: 505 Fifth Avenue, Suite

808 Des Moines, IA 50309

Phone: (515) 243-3988 Email: info@aclu-ia.org

Roxanne Conlin & Associates, P.C.

Mailing address: 3721 SW 61st Street,

Suite C Des Moines, IA 50321

Phone: (515) 283-1111

Parent and Family Support

Central Iowa Rainbow Families

Email: Contact Roxanne Conlin &

Associates

Mental Health

Kelsey Finch, LMHC

Des Moines, IA

Email: KFinch@nbcsiowa.com

Dakota Funk, LISW

Ellipsis; Johnston, IA

Joby Holcomb

950 Office Park Road Suite 335

West Des Moines, IA 50265

Email: holcomb.joby@gmail.com

Phone: (515) 974-9932

Leo Khan-Snyder

Heartland Counseling Services, Storm

Lake, IA 50588

Phone: (712) 458-4005

Jeffrey Kramer, MA, LMHC

Des Moines, IA

Phone: (515) 689-3071

https://www.facebook.com/groups/IARainbo

wFamilies/

PFLAG Clinton/River Cities

Clinton, IA 52732

pflagrivercities@gmail.com

PFLAG Cedar Rapids

Cedar Rapids, IA 52406 (319) 382-0948 pflagcr@gmail.com https://pflagcr.com/

PFLAG Mount Pleasant

120 S Main, Suite 103
Mount Pleasant, IA 52641
(319) 201-0302
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https://pflagmp.org/

PFLAG Oskaloosa

Oskaloosa, IA 52577 pflagoskaloosa@gmail.com https://www.pflagoskaloosa.com/

PFLAG Siouxland

Sioux City, Iowa 51106 (712) 274-1948 goodwin.mk@gmail.com

PFLAG Storm Lake

Storm Lake, IA 50588 pflagofstormlake@gmail.com

schools