

**Advocacy
Toolkit:
Protecting LGBTQ+
Rights in Education**



GLBTQ Legal Advocates & Defenders

Justice with Pride

Important Information

This guide was created in partnership between GLAD Law and Emma Ferdinandi, a student attorney in the Access to Justice Clinic at Boston University, class of 2026.

Since 1978, GLAD Law's bold litigation has achieved scores of precedent-setting victories on behalf of LGBTQ+ people and people with HIV.

GLAD Law has been instrumental in the LGBTQ+ rights movement through advocacy work and bold litigation. We help to create not only safer physical life and work spaces for the LGBTQ+ community and people with HIV, but protect the right to form families, fight for affirmation and dignity in state and federal laws, and take down economic and life opportunity barriers.

Each time GLAD Law argues a case or tackles an issue, we tear down more outdated laws and stereotypes that have denied LGBTQ+ people and people living with HIV basic protections and opportunities in every area of daily life.

Learn more and get involved at GLADLaw.org.

About

This toolkit is intended to provide general legal information and does not constitute legal advice. Many of the concepts discussed in this toolkit are the subject of ongoing litigation and could change. You should always consult a lawyer if you need legal advice about how the law applies to your specific circumstances. You can contact GLAD Law Answers for free and confidential legal information, assistance, and referrals at GLADLawAnswers.org.

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Using This Guide

What is in this guide?

This guide is organized into several parts. First, we provide background information on what the law and legal rights are, and then we explain how to determine if these rights have been violated. Finally, we provide examples and instructions on how to use and speak about this information effectively.

Who should use this guide?

This guide can help anyone who wants to advocate for the rights of LGBTQ+ students. Any teacher, parent, guardian, or student can benefit from reading this guide.

What is the purpose of this guide?

This guide has two main goals: Educating people on the various protections that LGBTQ+ students have, and preparing people to feel like they can confidently speak about and advocate for LGBTQ+ rights in front of other people.

Can I share this guide?

Yes! The more people who are aware of LGBTQ+ student rights and can confidently advocate for LGBTQ+ students the better.

Where should I start?

- Generally interested in LGBTQ+ rights? Start at the beginning and keep going.
- Worried about the current political climate? Turn to the [Executive Orders page on page 20](#).
- Concerned a student is being harassed? Turn to [How to Identify Discrimination on page 10](#).
- Ready to speak up? Turn to [Advocacy Tips on page 21](#).
- The table of contents can help you find more!

Legal Protections

Title IX

Title IX prohibits all schools receiving federal funding (which includes all public schools) from discriminating on the basis of sex, which includes failing to address discrimination.

14th Amendment

All students are guaranteed equal protection from state and federal law, including laws that apply to public schools.

1st Amendment

Student's speech and expression is protected, so long as it is not disruptive and does not interfere with the rights of other students.

FERPA

The Family Educational Rights and Privacy Act (FERPA) protects the privacy of student education records, including information related to sexual orientation or gender identity.

ADA

The Americans with Disabilities Act protects protects individuals with disabilities, which can include gender dysphoria.

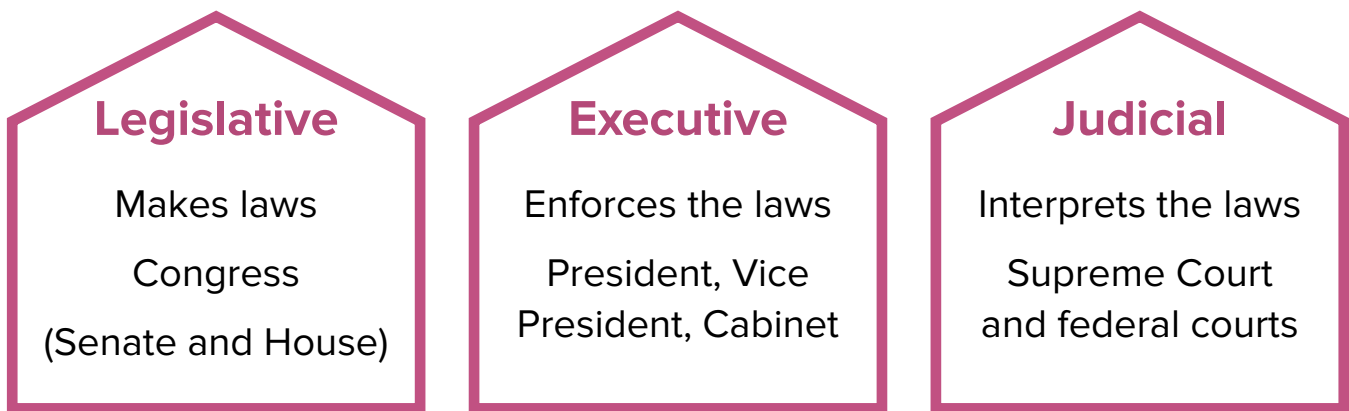
State Laws

The federal laws listed above provide a floor, not a ceiling. Many states protect LGBTQ+ students through anti-bullying laws, anti-discrimination laws, and more.

Future editions of this guide will include more information on laws other than Title IX.

Legal Basics: Separation of Powers

There are three branches of government in the United States: legislative, executive, and judicial. Each branch has their own responsibilities and powers. To prevent any one branch from becoming too powerful, the US Constitution limits one branch from using the main powers of another branch.



Why Does it Matter?

Executive orders (presidential orders issued by the executive branch and its agencies) that are harmful to LGBTQ+ students and civil rights can be challenged in court and held unconstitutional if the executive branch is making and not enforcing laws. In other words, if the Legislative branch or Constitution did not give the executive branch the power to do something, they can't lawfully do it.

Legal Basics: Federalism

Each state government is also split into the same three branches as the federal government. There are state and city councils and legislators, state courts, and state executive officers, like governors and mayors.

State laws can always choose to offer more protections than a federal law gives. The US Constitution sets the bare minimum of protections and State Constitutions and laws can, and often do, give more rights to state citizens.

However, if there is a conflict between a state and a federal law, the federal law will apply, as long as it is Constitutional.

Why Does it Matter?

If the U.S. Constitution or other federal laws do not protect LGBTQ+ students, your state may have laws that do offer protection.

State and Federal Courts

State courts in one state do not have to follow state courts from another state. Lower courts must listen to higher courts; but higher courts do not have to follow lower courts. All courts must follow the Supreme Court.

Why Does It Matter?

If some state or federal courts make decisions that are harmful to LGBTQ+ students, they do not have to be followed everywhere, unless it is the Supreme Court.

Title IX

What is Title IX?

Title IX is a federal law that says “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...”

Who Does Title IX Affect?

Title IX prohibits all schools receiving federal funding from discriminating against students on the basis of sex. All public schools, and some private schools receive federal funding. At these schools, LGBTQ+ students are protected from discrimination on the basis of sex by faculty, administrators, employees, and other students at any school location or during any school activity.

Where Does Title IX Apply?

Title IX applies during all activities that are controlled by the school – even if they occur off-campus. This means that during school activities like Zoom classes, fieldtrips, and sporting events, Title IX protection applies. However, these activities must occur in the United States.

When Does Title IX Apply?

Title IX applies to many forms of sex-based discrimination, including intentional discrimination, sexual harassment (such as sexual assault) retaliation, and failure to end discrimination. It covers both discrimination by peers and school employees.

What Protections Does Title IX Give to LGBTQ+ Students?

While the Supreme Court has not yet had a case on if sexual orientation and gender identity are protected under Title IX's definition of sex. However, most courts have held that Title IX does protect LGBTQ+ students.

Courts have found the following practices can violate Title IX:

- A bathroom policy forcing a transgender student to use the incorrect restroom or a single-stall option violated Title IX.¹
- Refusing to update a transgender student's gender marker on school records.²
- Treating someone differently because their gender expression does not match stereotypes associated with their sex.³

Several courts have also found that allowing transgender students to use the restrooms, locker rooms, and showers that match their gender identity does not violate Title IX rights of cisgender students.⁴

Types of Discrimination

Intentional Discrimination

Title IX requires that the person discriminating or harassing knew the student's sex and acted, at least partly, because of the student's sex.

Discriminatory Impact

A school policy can be discriminatory if it negatively impacts one sex more than another, without "legitimate justification" (good reason), even if the policy doesn't mention sex.

Sexual Harassment

Harassment includes stalking, sexual assault, dating violence, creating a "hostile environment," and requiring sexual conduct in return for a benefit.

Retaliation

A school or individual is retaliating if they know a student is asserting their rights under Title IX and intimidate, threaten, coerce, or discriminate against that student because they used or intend to use Title IX.

Failure to End Discrimination

A school must take reasonable and timely corrective action, including if initial actions do not work.

What is Title IX Sexual Harassment?

There are three types of sexual harassment recognized by Title IX:

- When a school employee requires someone to participate in unwelcome sexual conduct in order to receive access to their education.
- Unwelcome conduct “so severe, pervasive, and objectively offensive that it effectively denies a person equal access” to their education
- Sexual assault, dating violence, domestic violence, or stalking.

What is "severe, pervasive, and objectively offensive" harassment?

Severe conduct

- Harassment that has a concrete, negative effect on a student’s education. Verbal sexual harassment alone can qualify as severe, but physical contact is seen as the most severe type of sexual harassment.

Pervasive conduct

- Often means harassment that occurs more than once or is persistent. However a single incident, like sexual assault, can be so severe and offensive that it qualifies as being pervasive.

Objectively offensive

- Harassment that is considered “offensive” (wrong) from the view of a “reasonable person” (a typical student). It should be considered in the context of occurring in or during a school program or activity.

Addressing Sexual Harassment

When must a school respond to sexual harassment?

- The school has knowledge of the harassment;
- The harassment occurs within the school's education program or activity;
- The harassment occurs against someone in the United States.

What must a school do about sexual harassment?

- A school must investigate every formal complaint that is filed
- The school must offer supportive measures to every student that complains of sexual harassment.
- A school has violated Title IX when the way it responds to sexual harassment is clearly unreasonable.

What are supportive measures?

- Supportive measures are individualized services meant to restore equal access to education, ensure safety and deter further harassment.
- A school can decide how to best accomplish these goals, but both students must be given these measures equally.
- These measures could include counseling, deadline extensions, escort services, and modifications of classwork and schedules.

When to File a Formal Complaint

Informal Complaint: This involves telling a teacher, administrator, or Title IX Coordinator at the school about the sex discrimination. A school is then required to provide supportive measures to all involved individuals.

Formal Complaint: After making an informal complaint, you can choose to file a formal complaint. This will result in an investigation, report, hearing, and final case decision.

Formal Complaint: Pros and Cons

The benefits of filing a formal complaint include:

- A full investigation must occur and will result in a report, hearing, and final case decision.
- More protections can be given to a student who has made a successful formal complaint, as without a formal complaint, supportive measures cannot unfairly burden the person accused of discriminating.

The possible drawbacks of filing a formal complaint are:

- This process can take a long time, with some investigations lasting from 2-12 months.

Discrimination can be reported by filing a formal or informal complaint under Title IX. There are benefits to either option. You can discover how to file a formal complaint in your school's Title IX policy, which is required to be publicly available.

A Successful Harassment Case

When a court is determining whether or not there was a Title IX violation they will look to see if these four factors occurred:

- An individual was harassed on the basis of sex.
- The school had "actual knowledge" (was told) of the harassment.
- The harassment was so severe, consistent, and offensive that a student was denied educational opportunities.
- The school did not address the harassment, or was "deliberately indifferent" (unreasonable) in their response.

For example:

A female LGBTQ+ student who was the only female on the school's football team was repeatedly harassed by being called homophobic slurs after she spoke about being sexually assaulted. She told an employee about the harassment, so the school had actual knowledge, but they did nothing, which violated Title IX.⁵

What if a School Fails to Respond to Harassment?

Schools must respond promptly to known sexual harassment. If they are "deliberately indifferent" to the harassment, they have violated Title IX.⁶

Courts have said that a school is deliberately indifferent when their actions:

- Are clearly unreasonable due to the circumstances
- Cause further sexual harassment to occur⁷
- Leave a student more vulnerable to future abuse⁸
- Make future harassment more likely⁹
- Are not reasonably calculated to end the harassment

Keep a Record

It is important to keep track of how and why a student is being discriminated against. For example, if you talk to officials on the phone, sending a follow-up email will create a written record.

If you believe Title IX is being violated, keep note of the following:

- When and what discrimination has occurred: including the length, perpetrator, type, and frequency.
- Proof that the person doing the harassment knows of the student's gender, sex, or sexual orientation.
- Effect of the discrimination, including on physical and mental health, class performance, school attendance, and home behavioral issues.
- When and how complaints were made to the school.
- How the school responded to the complaints, what actions they took to fix the issue, and when these actions took place – or if no actions were taken.
- Any punishment or consequence either student received because of the harassment.
- Costs of physical or mental health care, including costs of moving schools.

Documentation can be used as evidence in investigations and legal proceedings. It can help people get results faster and easier.

Recap

What: Sex-based discrimination

Who: Any school receiving federal funding

Where: School-controlled, US location or activity

Examples of When Title IX Applies

Typically applies:

- During school bus ride
- In a class, virtual or in-person
- At school's sporting event
- During a meeting for a group project

Typically does not apply:

- During a hangout or playdate planned by parents at a child's home
- At an off-campus birthday party with school friends
- At any event where the school has no control and does not own the building
- Anywhere outside of the United States

Find Your School's Policy

Schools are required to make the contact information for their Title IX Coordinator available. You can find this information by searching for “[insert school district] Title IX” which should bring up the district's Title IX webpage. If the information is not available, try contacting your school's principal or teacher for help.

Athletics and Title IX

School-sponsored athletics must follow Title IX guidelines and protect LGBTQ+ students from discrimination.

The Supreme Court has not yet taken a case on how Title IX applies to transgender athletes. However, several courts have found that Title IX protects transgender students' rights to participate in sex-segregated sports that align with their gender identity.

Support From Courts

The following is a list of findings by courts supporting LGBTQ+ participation in sports:

- Title IX discrimination includes discrimination against transgender people.¹⁰
- Banning someone from playing a sport because they are transgender could violate Title IX.¹¹
- Classifying transgender girls as male intentionally excluded transgender girls from participating on sports teams.¹²
- Preventing a student from playing on a team that was consistent with their gender identity violated Title IX.¹³
- Allowing transgender students to use the locker consistent with their gender identity did not violate Title IX.¹⁴
- A transgender sports ban continued historical discrimination against transgender people.¹⁵
- Because transgender students are such a small portion of the population, their inclusion in sports was unlikely to displace cisgender women from women's sports.¹⁶

Massachusetts and Title IX

Massachusetts courts have made several rulings that protect LGBTQ+ individuals under Title IX:

- Harassing someone because they do not conform to gender stereotypes – including physical appearance, mannerisms, or sexual preference – counts as harassment on the basis of sex in Title IX.¹⁷
- Title IX discrimination can occur when someone is harassed because they are believed to be gay.¹⁸
- Retaliating against an LGBTQ+ student for reporting harassment that included slurs and dehumanization of LGBTQ+ people violated Title IX.¹⁹
- A school's policy of respecting a student's preferred name and pronouns did not interfere with a parent's right to direct their child's medical care.²⁰
- Persistent use of slurs aimed at dehumanizing the LGBTQ+ community could be considered Title IX sexual harassment.²¹
- Massachusetts will find a school was deliberately indifferent if they were "clearly unreasonable," such as doing nothing or not trying additional remedies if the first fails.²²

Executive Order: Title IX

The Bad News

- The executive order tries to ignore the existence of transgender and nonbinary people by saying that sex cannot be changed and that someone is either female or male. They threaten taking funding from or bringing enforcement actions against schools who respect gender identity.

The Good News

- An executive order cannot change the law.
- Though in another area of law (Title VII), the Supreme Court has said that discrimination against someone because of their gender identity or sexuality is discriminating against someone on the basis of sex. The executive order does not change this.

Executive Order: Athletics

The Bad News

- The executive order ignores the reality of transgender and nonbinary individuals, falsely proclaiming that it will “keep men out of women’s sports.”

The Good News

- A president cannot change the law through executive orders unless the action is supported by the Constitution or Congress.
- Schools do not need to obey an unlawful or unconstitutional executive order.
- The 14th Amendment and state laws might also stand in the way of the ban by requiring LGBTQ+ student participation.
- GLAD Law is currently challenging this order in federal court.²³

Advocacy Tips

If you need to talk about LGBTQ+ rights to a principal, superintendent, or school board, keep the following in mind:

General Tips

- It is important for people to hear the truth, and the best way to do this is to tell a positive story that shows the truth.
- Repeating the myth, even to say it is wrong, can accidentally strengthen the myth.
- Speaking about common values can help remind people that working together and being inclusive can create positive solutions.

Mobilization vs. Persuasion

It is important to think about what you are trying to accomplish.

Mobilization focuses on gathering like-minded people to come together and support a group of people or policy. This involves providing resources, information, and encouragement to your group.

Persuasion focuses on convincing people on the fence or unlikely to support a group of people or policy. This requires more planning and messaging aimed at audiences you may not typically interact with.²⁴

Fighting Misinformation

When fighting misinformation, research has found that it is best to not repeat the myth, as doing so can deepen the myth in people's minds.

It can also be helpful to pair your facts with values and stories, which better allow your audience to understand or hear your message.

Fact: The Supreme Court has recognized that “it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex.”²⁵

Myth: Sexuality is unrelated to a person’s sex.

Fact: Women’s sports have always suffered from inequities, such as unequal facilities, pay, and marketing, abusive coaches, and racist, sexist, and homophobic harassment. These issues do not increase and were not caused by transgender participation in sports.

- **Example:** States that protect transgender participation have more girls participating in sports than those with bans.

Myth: Transgender inclusion harms cis females.

Fact: The sex on a birth certificate is based on visual appearance, which ignores chromosomes, hormones, internal reproductive organs, social sex, and more.

Myth: Birth certificate sex is always accurate.

Fact: Athletes come in all shapes and sizes, including with different physical advantages. Banning transgender athletes harm cis girls and non-binary students who don't conform to physical gender norms and who will be disproportionately subjected to invasive sex testing requirements in order to “prove” their gender.

- **Example:** Cis females who naturally had high levels of testosterone were prevented from competing in the 2021 Olympics.

Myth: Transgender women have an advantage over cis female athletes.

Fact: All women face more discrimination and harassment due to transgender bans.

- **Example:** A high school student in Utah needed police protection after being falsely accused of being transgender.

Myth: Transgender bans protect women.

Fact: Sex is made up of many different factors and the gender binary does not consider chromosomes, internal and external reproductive organs, endocrinologic sex and more.

- **Example:** Up to 2% of babies are born with intersex traits each year.

Myth: Sex is a binary.

Fact: “1.4% of youth between 13- and 17-years-old identify as transgender,” and about half of those individuals participate in sports.²⁶

Myth: There is a “transgender agenda” taking over women’s sports.0

Advocating for LGBTQ+ Students

Use the following outline or statements to become a better advocate for the rights of LGBTQ+ students.²⁷

Identify the Value at Stake

- Education helps all children grow to be a successful member of the community.
- We all know how important freedom of expression and speech are in American society.
- We are always stronger when we stand together.

Tell Your Audience Why They Should Care

- When a child is harassed, their ability to focus on and participate in school and the community is threatened.
- If we only prevent children from reading LGBTQ+ stories, their freedom of expression and right to access information is hurt.

Explain the Solution

- We need to make sure that children are not being harassed, and enforcing Title IX can make that happen.
- We need to make sure that children are free to access educationally appropriate LGBTQ+ stories in their libraries.
- Teaching children to respect each other and treat each other with kindness helps them learn to embrace community values.

Call for Action

- Write to your school board to remind them of Title IX protections for LGBTQ+ students.
- Help document how and why books are being banned so we can prevent LGBTQ+ stories from being silenced.

Sample Talking Points

LGBTQ+ discrimination harms everyone.

- When Title IX isn't enforced, it harms community values of fairness, equal justice, public safety, and effective and equal education.
- For our education system to be effective, all students should be treated equally and with respect, not based on stereotypes or bias.

Title IX protects LGBTQ+ students

- Title IX creates a basic set of protections for how people should be treated at school, which is important for our country's values of education and equality.
- When someone is targeted because they do not conform to a stereotype about masculinity or because they have a crush on someone who is the same sex, Title IX should protect them because they are being targeted on the basis of sex.

Offer real life examples

- Is it right for a child to be excluded because they dress differently from another child? Is it right for a child to go to a library and find no stories that depict what their family looks like? Is it right to create an environment of disgust and exclusion in a school? No. Anyone who encourages discrimination is wrong and does not respect the values of the Constitution or Title IX.

Highlight positive solutions

- School board should focus on harmful policies that target LGBTQ+ students and remove them.
- We need to make sure that schools uphold the First Amendment and Title IX by including LGBTQ+ stories in libraries and ending discrimination.²⁸

Endnotes

- 1 Grimm v. Gloucester Cnty. Sch. Bd., 972 F.3d 586, 618 (4th Cir. 2020), as amended (Aug. 28, 2020); Dodds v. United States Dep't of Educ., 845 F.3d 217 (6th Cir. 2016).
- 2 Grimm v. Gloucester Cnty. Sch. Bd., 972 F.3d 586, 618 (4th Cir. 2020), as amended (Aug. 28, 2020).
- 3 Dodds v. United States Dep't of Educ., 845 F.3d 217 (6th Cir. 2016).
- 4 Parents for Privacy v. Barr, 949 F.3d 1210 (9th Cir. 2020); Doe by & through Doe v. Boyertown Area Sch. Dist., 897 F.3d 518 (3d Cir. 2018).
- 5 Doe vs. Holyoke, D. Mass., No. CV 24-30018-MGM (Jan. 31, 2025)
- 6 U.S. Department of Education Title IX Final Rule Overview: Guiding Principles, Dept. Ed. (2020).
- 7 Kollaritsch v. Michigan State Univ. Bd of Trustees, 944 F.3d 613 (6th Cir. 2019).
- 8 C.R. v. Novi Cmty. Sch. Dist., 2017 U.S. Dist. LEXIS 18394 (E.D. Mich. 2017).
- 9 Peyton Brooks, Deliberately Different: A New Test to Determine Deliberate Indifference in Title IX Cases, 32 Cornell J. L. & Pub. Pol'y 305 (2022).
- 10 Tirrell vs. Edelblut, D.N.H., No. 24-CV-251-LM-TSM (Sept. 10, 2024).
- 11 Id.
- 12 Doe v. Horne, 683 F. Supp. 3d 950 (D. Ariz. 2023); Doe v. Horne, 115 F.4th 1083 (9th Cir. 2024).
- 13 B.P.J. by Jackson v. W. Virginia State Bd. of Educ., 98 F.4th 542 (4th Cir. 2024), cert. denied.
- 14 Doe by & through Doe v. Boyertown Area Sch. Dist., 897 F.3d 518, 535 (3d Cir. 2018), cert. denied; Soule by Stanescu v. Connecticut Ass'n of Sch., Inc., 57 F.4th 43, 55 (2d Cir. 2022).
- 15 Hecox v. Little, 104 F.4th 1061 (9th Cir. 2024), as amended (June 14, 2024).
- 16 Id.
- 17 Harrington v. City of Attleboro, 172 F. Supp. 3d 337, 344, 335 Ed. Law Rep. 682 (D. Mass. 2016).
- 18 Coucelos vs. Woburn, D. Mass., No. CV 23-12063-GAO (June 18, 2024), citing Doe v. Bd. of Trustees, Brooke East Boston, 85 F.4th 1, 5-8 (1st Cir. 2023).
- 19 Doe v. Holyoke, D. Mass., No. CV 24-30018-MGM (Jan. 31, 2025).
- 20 Foote v. Ludlow School Committee 128 F.4th 336, 2025 U.S. App. LEXIS 3979.
- 21 L.M. v. Middleborough, Massachusetts, 103 F.4th 854 (1st Cir. 2024).
- 22 Grace v. Bd. of Trustees, Brooke E. Boston, 85 F.4th 1 (1st Cir. 2023).
- 23 Tirrell and Turmelle v. Edelblut GLAD Law, <https://www.gladlaw.org/cases/tirrell-and-turmelle-v-edelblut> (last visited Apr. 23, 2025).
- 24 Political Persuasion: Creating and Engaging Your Audiences, NGPVAN (June 10, 2024).
- 25 Bostock v. Clayton Cnty., Georgia, 590 U.S. 644, 140 S. Ct. 1731 (2020)
- 26 Jonathan Allen, New Study Estimates 1.6 Million in U.S. Identify as Transgender, Reuters (June 10, 2022).
- 27 This information was adapted from The Opportunity Agenda. Telling an Affirmative Story (2015) https://opportunityagenda.org/messaging_reports/telling-an-affirmative-story.
- 28 This information was adapted from The Opportunity Agenda. Talking about Due Process and Racial Profiling, The Opportunity Agenda (2019) https://opportunityagenda.org/messaging_reports/talking-about-due-process-and-racial-profiling.