



**Washington Lawyers' Committee for Civil Rights and Urban Affairs'
Comment Opposing the "2022 Model Policies on the Privacy, Dignity, and Respect
for All Students and Parents in Virginia's Public Schools"**

The proposed Virginia Department of Education's "2022 Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia's Public Schools" ("Model Policies"), if enacted, will create a hostile education environment for transgender and gender non-conforming students in violation of federal and state law. This hostile environment will cause severe harm to an already vulnerable group of students: in 2022, the Trevor Project found that "nearly 1 in 5 transgender and non-binary youth reported having seriously considered suicide, more than three-quarters of transgender youth experience symptoms of anxiety and 37 percent have been harmed due to gender identity."¹

Virginia's Model Policies should create an inclusive environment for transgender students across Virginia and recognize the specific challenges transgender students may face navigating their school environment. Instead, these policies walk back the very protections that the Virginia Department of Education promulgated in 2021, based on widely recognized evidence based best practices, which upheld the rights of transgender students to participate in school programming, access same-gender facilities, and be recognized by their correct names and pronouns.

The Washington Lawyers' Committee opposes the 2022 Model Policies and urges the Virginia Department of Education to reject them.

The Model Policies Will Require Virginia Public Schools to Violate Federal Anti-Discrimination Laws.

The Model Policies treat transgender students differently by preventing transgender students from being recognized by their gender and preferred names² and separating students based on biological sex, rather than gender, for a host of school-related activities.³ The Model Policy will also force schools to out transgender students to their parents and family members, creating distrust between students and trusted adults at school, and potentially severing family relationships and placing young people at risk.⁴ Policies such as these, which are classifications based on sex and that target a vulnerable population, are at odds with the Equal Protection Clause of the Constitution and Title IX. As the Fourth Circuit has unequivocally stated, it is part of a consensus of courts holding

¹ The Trevor Project, *National Survey on LGBTQ Youth Mental Health* (2022), <https://www.thetrevorproject.org/survey-2022/>.

² Virginia Department of Education, *2022 Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia's Public Schools* at 3 (2022), <https://doe.virginia.gov/support/gender-diversity/2022-model-policies-on-the-privacy-dignity-and-respect-for-all-students-town-hall.pdf>.

³ *Id.* at 17-18.

⁴ *2022 Model Policies*, *supra* note 2.

that “equal protection and Title IX can protect transgender students from . . . policies that prohibit them from affirming their gender.” *Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586, 593 (4th Cir. 2020). If adopted, the Model Policies will require Virginia public schools to discriminate against transgender students, leading to costly litigation and risking federal funding for Virginia’s schools.

On the Basis of Sex: Equal Protection Clause & Title IX

Under the Equal Protection Clause, “[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. States may only treat people differently on the basis of sex when that differential treatment is substantially related to an important government interest – what is referred to as heightened scrutiny. See *United States v. Virginia*, 518 U.S. 515, 116 S. Ct. 2264 (1996). Similarly, under Title IX of the Education Amendments of 1972 “no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives ... [f]ederal financial assistance.” 20 U.S.C. 1681(a). In *Bostock v. Clayton County*, the Court reasoned “it is impossible to discriminate against a person’s gender identity or sexual orientation without discriminating against that person’s sex.” 140 S. Ct. 11731, 1738 (2021). The Model Policies rely on inaccurate stereotypes about sex and gender, assuming that it is appropriate for schools to use assigned sex at birth to label and divide students of every age, in every type of activity. They also target a vulnerable group of students, which the Fourth Circuit and other federal courts have found to be a quasi-suspect class. See *Grimm*, 972 F.3d at 607. The Model Policies will create untenable situations for transgender students and will make Virginia schools vulnerable to discrimination claims under both the Constitution’s Equal Protection Clause and Title IX.

Equal Protection Clause

Discriminating against transgender students violates the Equal Protection Clause’s prohibition on treating groups of people differently without a substantial government interest. As the Fourth Circuit has opined, heightened scrutiny is appropriate when the policies challenged “rest[s] on sex-based classifications *and* because transgender people constitute at least a quasi-suspect class. *Grimm*, 972 F.3d at 607. “Because sex-based classifications are quasi-suspect, they are subject to a form of heightened scrutiny. The state must provide an “exceedingly persuasive justification” to defend its gender-based classification. See *United States v. Virginia*, 518 U.S. 515, 534 (1996). The government interest on which the state relies must be genuine and “not rely on overbroad generalizations about the different talents, capacities, or preferences” of certain genders. *Virginia*, 518 U.S. at 533.

The Model Policies’ directives contain both sex-based classifications, and treat transgender people, a quasi-suspect class, differently from their cis-gender peers. Sex-based restrictions on bathrooms, locker rooms, hotel rooms, and other intimate spaces

used for school-related activities “necessarily rests on a sex classification,” *Grimm*, 972 F.3d 586, 608. Under the Model Policies, teachers are prohibited from referring to students by names and pronouns that affirm their gender, unless they legally change their names or obtain parental permission, a policy that affects transgender and non-binary students who are most likely to use a name other than that on their school records.

This differential treatment is not innocuous. Nearly 51 percent of transgender students have reported that they cannot use their preferred name or pronoun,⁵ yet when students can use their chosen name in any context, they “experience 71 percent fewer symptoms of severe depression, 34 percent decrease in reported thoughts of suicide and a 65 percent decrease in suicidal attempts.”⁶ In a survey of 28,000 young people in schools, transgender and non-binary youth, or those perceived to be transgender or non-binary, reported that 54% were verbally harassed, 24% were physically assaulted, and 13% were sexually assaulted; 17% left school because of maltreatment.⁷ Transgender students are disproportionately disciplined, suspended from their schools, and detained in juvenile facilities.⁸ The high levels of isolation and victimization make transgender students less likely to earn their high school diploma,⁹ and educational and career development delays impact their ability to get or keep a job.¹⁰ These negative experiences may cause transgender students to self-isolate and avoid seeking help as adults. As adults, 28,000 transgender individuals have reported that they experience serious psychological distress and have been homeless at least once.¹¹

Against the backdrop of the significant harm that will result from the Model Policies, the Virginia Department of Education must meet a very high burden of an “exceedingly persuasive” justification for treating transgender students differently from their peers. Yet, the Commonwealth cite no evidentiary basis for the policies, relying instead on justifications are “marked by misconception and prejudice,” *Grimm*, 972 F.3d at 615. The Commonwealth has identified no problems resulting from the gender-affirming 2021 Model Policies, which have been in effect for a year. Indeed, the research and evidence demonstrates that gender-inclusive policies harm no one, and professional

⁵ Almond A. Seals & Melissa C. Gonzales, *Legal Rights of Transgender Students in Education*, 3 Diversity, Soc. Justice, and the Educ. Leadership 1 (May 2019),

<https://scholarworks.uttyler.edu/cgi/viewcontent.cgi?article=1031&context=dsjel>.

⁶ Stephen Russel, et al., *Chosen Name Use Is Linked to Reduced Depressive Symptoms, Suidical Ideation, and Suicidal Behavior Among Trasngender Youth*, 63(4) *Journal of Adolescent Health* (March 2018),

[https://www.jahonline.org/article/S1054-139X\(18\)30085-5/fulltext](https://www.jahonline.org/article/S1054-139X(18)30085-5/fulltext)

⁷ Jason Rafferty, *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142(4) *American Academy of Pediatirc* 1 (October 2018),

<https://publications.aap.org/pediatrics/article/142/4/e20182162/37381/Ensuring-Comprehensive-Care-and-Support-for>.

⁸ GLSEN, *Separation and Stigma: Transgender Youth & Schools Facilities* (2017), https://www.glsen.org/sites/default/files/2019-11/Separation_and_Stigma_2017.pdf

⁹ *Separation and Stigma: Transgender Youth & Schools Facilities*, *supra* note 11.

¹⁰ Walter Bockting et al., *Adult development and quality of life of transgender and gender nonconforming people Current opinion in endocrinology, diabetes, and obesity* (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4809047/>.

¹¹ *Separation and Stigma: Transgender Youth & Schools Facilities*, *supra* note 11.

expert organizations like the American Psychiatric Association (APA) have rejected the precise policy arguments advanced by the Commonwealth. According to the APA, being transgender is also not a psychiatric condition, and "implies no impairment in judgment, stability, reliability, or general social or vocational capabilities."¹² In *Grimm*, the Fourth Circuit recognized that half of Virginia's students attended schools prohibiting discrimination based on gender identity, and had no difficulty implementing them nor saw any negative consequences from such policies. 972 F.3d at 614. Instead, the Commonwealth relies on the "rights" of other students and teachers, insinuating that transgender students are somehow dangerous. After reviewing considerable evidence, the Fourth Circuit "put the lie to supposed legitimate justifications for restroom discrimination: preventing students who pretend to be transgender from obtaining access to opposite gender restrooms and protecting privacy." *Id.* at 614.

The Virginia Department of Education's suggestion that undermining transgender students' right to a non-discriminatory education because of the Commonwealth's interest in upholding "parental rights" under Virginia law¹³ is similarly disingenuous. Parents' constitutional right to parent does not include a fundamental right to be informed of their child's gender identity. *See John & Jane Parents I v. Montgomery Cty. Bd. of Educ.*, No. 8:20-3552-PWG, 2022 U.S. Dist. LEXIS 149021, at *20 (D. Md. Aug. 18, 2022) (there is no fundamental right "to be promptly informed of their child's gender identity, when it differs from that usually associated with their sex assigned at birth, regardless of their child's wishes or any concerns regarding the detrimental effect the disclosure may have on that child."). Parental rights, as defined by the Supreme Court, "do not begin to suggest the existence of a fundamental right of every parent to tell a public school what his or her child will and will not be taught. . . . [The] recognition of such a fundamental right . . . would make it difficult or impossible for any public school authority to administer school curricula responsive to the overall educational needs of the community and its children." *Leebaert v. Harrington*, 332 F.3d 134, 141 (2d Cir. 2003). *See also Herndon v. Chapel Hill-Carrboro Board of Education*, 89 F.3d 174 (4th Cir. 1996) ("The Supreme Court has stated consistently that parents have a liberty interest, protected by the Fourteenth Amendment, in directing their children's schooling . . . the Court has declared with equal consistency that reasonable regulation by the state is permissible even if it conflicts with that interest. That is the language of rational basis scrutiny."). The Model Policies require far beyond what is constitutionally required, including that schools affirmatively inform parents of students' gender identity, and blocking teachers and staff from using gender-affirming names and pronouns absent explicit parental permission. Giving transgender students the choice of whether and

¹² Am. Psychiatric Ass'n, *Position Statement on Discrimination Against Transgender and Gender Variant Individuals* (2012), <https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-2018-Discrimination-Against-Transgender-and-Gender-Diverse-Individuals.pdf>

¹³ Virginia Code Ann. 1-240.1 ("A parent has a fundamental right to make decisions concerning the upbringing, education, and care of the parent's child.")

when to disclose their gender identity, what name they wish to be called, and what to share with their teachers and school staff do not violate fundamental parental rights.¹⁴

Rather, leaving the choice to share one's gender identity in the hands of the student serves a compelling state interest, in light of significant research regarding the danger of unsupportive family. "The Supreme Court found it "evident beyond the need for elaboration that a State's interest in safeguarding the physical and psychological well-being of a minor is compelling." *John & Jane Parents I v. Montgomery Cty. Bd. of Educ.*, No. 8:20-3552-PWG, 2022 U.S. Dist. LEXIS 149021, at *36 (D. Md. Aug. 18, 2022). The Trevor Project's *2022 National Survey on LGBTQ Mental Health* revealed that "fewer than 1 in 3 transgender and non-binary youth found their home to be gender conforming."¹⁵ Unsupportive parents and family members will mock transgender youth, force transgender youth to go to conversion therapy and sometimes even disown transgender youth.¹⁶ Seventy-eight percent of LGBT youth do not come out to their parents because they hear them "make negative comments about LGBTQ people."¹⁷ Students in unsupportive homes are more likely to face harassment, abuse, and to be ejected from their homes. Due to actual or perceived mistreatment at home, rates of homelessness and housing instability are disproportionately high for transgender individuals.¹⁸ Any interest that parents may have in forcing schools to inform them of their child's gender identity or expression is outweighed by the schools' interest in creating a safe and supportive environment for its students.

The Commonwealth cannot, as it attempts to do, subject transgender students to harmful differing treatment. As the Fourth Circuit stated in affirming the rights of transgender students: "How shallow a promise of equal protection that would not protect Grimm from the fantastical fears and unfounded prejudices of his adult community." *Grimm*, 972 F.3d at 620.

Title IX

If Virginia schools adopt the Model Policies, they will violate Title IX. Title IX was enacted to ensure that public funds derived from all the people are not utilized in ways that encourage, subsidize, permit, or result in prohibited discrimination against some of the people.¹⁹ Title IX provides that "[n]o person . . . shall, on the basis of sex, be

¹⁴ Similarly, the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g ("FERPA,"), does not require schools to affirmatively inform families about students' gender identity with their families. FERPA protects the privacy of educational records and provides a right to request correction to school records that are inaccurate or misleading.

¹⁵ The Trevor Project *supra* note 1.

¹⁶ Human Rights Campaign, *LGBTQ Youth Report* at 4 (2018), <https://assets2.hrc.org/files/assets/resources/2018-YouthReport-0514-Final.pdf>.

¹⁷ Human Rights Campaign *supra* note 16.

¹⁸ The Trevor Project, *Homelessness and Housing Instability Among LGBTQ Youth* (2021), <https://www.thetrevorproject.org/wp-content/uploads/2022/02/Trevor-Project-Homelessness-Report.pdf>

¹⁹ Department of Justice, Title IX Legal Manual, <https://www.justice.gov/crt/title-ix/#Introduction> (last visited October 26, 2022).

excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a).

Like the Court's interpretation of the Equal Protection Clause, prohibited discrimination under Title IX "on the basis of sex" includes protections for transgender individuals. *See Bostock*, 140 S. Ct at 1738 (2021) (discriminating against someone for being transgender is discrimination on the basis of sex under Title VII's prohibition on sex discrimination in employment (a statute comparable to Title IX's prohibition on sex discrimination in schools)²⁰; *Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586, 607 (4th Cir. 2020). ("After the Supreme Court's recent decision in *Bostock v. Clayton County*, we have little difficulty holding that a bathroom policy precluding Grimm from using the boys restrooms discriminated against him 'on the basis of sex.')(cleaned up). As the Supreme Court explained, discrimination against a transgender person is necessarily sex discrimination because the different treatment is based on an incongruence between an individual's sex and their gender. *See Bostock*, 140 S.Ct. at 1741.

The Fourth Circuit's holding in *Grimm* extends to a wide range of covered activities prohibited by the Model Policies. Under the Model Policies, students will be forced to use facilities that do not align with their gender, and be excluded from sports and other activities that traditionally divided by gender, depriving them of educational opportunities and programming. The Model Policies treatment of name and pronoun usage will also disparately impact transgender students: unlike students whose gender matches their biological sex, and who have no need to use a different name, transgender students will need to seek parental permission to have teachers use a name that aligns with their gender.

And, the Model Policies will harm transgender students. The failure of Virginia schools to create a supportive environment for transgender students will undermine schools' educational objectives. Feelings of unsafety, anxiety, lack of belonging and the disconnection with school staff will lead to transgender students missing school or dropping out altogether.²¹ When schools impose room and locker room restrictions, transgender and gender non-binary teens face an increased likelihood of being sexually assaulted.²² With these sex-based spaces being unsafe, transgender individuals may choose not to use the bathroom, resulting in "dehydration, urinary tract or bladder infection, urinary leakage and poor concentration."²³ There are also emotional and

²⁰ *Jennings v. Univ. of N. Carolina*, 482 F.3d 686, 695 (4th Cir. 2007) ("We look to case law interpreting Title VII of the Civil Rights Act of 1964 for guidance in evaluating a claim brought under Title IX.")

²¹ U.S. Department of Education, *Supporting Transgender Youth in School* (June 2021), <https://www2.ed.gov/about/offices/list/ocr/docs/ed-factsheet-transgender-202106.pdf>.

²² Murchison GR, Agénor M, Reisner SL, et al. School Restroom and Locker Room Restrictions and Sexual Assault Risk Among Transgender Youth. *Pediatrics*. Vol 143, Issue 6 (2019), available at <https://publications.aap.org/pediatrics/article/143/6/e20182902/76816/School-Restroom-and-Locker-Room-Restrictions-and>.

²³ Jacinta Francis, et al., *Gender-Neutral Toilets: A Qualitative Exploration of Inclusive School Environments for Sexuality and Gender Diverse Youth in Western Australia*, 19 Int'l J. of Env't Rsch. &

dignitary harms, as the Fourth Circuit recognized in *Grimm*. 972 F.3d at 617. (“In a country with a history of racial segregation, we know that “[s]egregation not only makes for physical inconveniences, but it does something spiritually to an individual,” (citing Martin Luther King, Jr., “Some Things We Must Do,” Address Delivered at the Second Annual Institute on Nonviolence and Social Change at Holt Street Baptist Church (Dec. 5, 1957)). If Virginia schools adopt the Model Policies and place these burdens on transgender students because of their sex, these schools will violate Title IX.

Impacts on Students of Color

The Model Policies will also create a potentially dangerous school environment for transgender students of color²⁴ Students who identify as both a student of color and transgender or non-binary experience overlapping racism, discrimination and transphobia.²⁵ In the United States, over 50 percent of students who identify as transgender are people of color.²⁶ The National LGBTQ Task Force revealed that out of Black transgender respondents, half of them had reported facing harassment.²⁷ According to GLSEN and the National Black Justice Coalition, when compared to other LGBTQ students, Black LGBTQ students are victimized at a higher rate.²⁸ Tragically, 44 percent of Black LGBTQ youth self-harm,²⁹ and almost half of them attempt suicide at a point in their lives.³⁰ Black transgender and non-binary youth self-harm and attempt suicide because 58 percent of them are “somewhat to very dissatisfied” with their life.³¹

The Model Policies are also likely to impact cis Black and Brown students who are perceived as gender non-conforming. Black and Brown girls are often discriminated

Pub. Health 1, 2 (Aug. 15, 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9407760/pdf/ijerph-19-10089.pdf>

²⁴ Equality Virginia, *How to Protect Trans Kids and Oppose Youngkin’s 2022 Anti-Transgender Student Policy* (2022), <https://equalityvirginia.org/how-to-protect-trans-kids-and-oppose-youngkins-2022-anti-transgender-student-policy/>.

²⁵ Human Rights Campaign, *LGBTQ Youth Report* at 4 (2018), <https://assets2.hrc.org/files/assets/resources/2018-YouthReport-0514-Final.pdf>.

²⁶ Jody L. Herman et al., *How Many Adults and Youth Identify as Transgender in the United States?* UCLA School of Law Williams Institute (June 2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf>.

²⁷ National LGBTQ Task Force, *New Analysis Shows Startling Levels of Discrimination Against Black Transgender People* (accessed Oct. 20, 2022), <https://www.thetaskforce.org/new-analysis-shows-startling-levels-of-discrimination-against-black-transgender-people/>.

²⁸ National Black Justice Coalition & GLSEN, *Erasure and Resilience: The Experiences of LGBTQ Students of Color (Black LGBTQ Youth in U.S. Schools)* (2020), <https://www.glsen.org/sites/default/files/2020-06/Erasure-and-Resilience-Black-2020.pdf>.

²⁹ The Trevor Project, *All Black Lives Matter: Mental Health of Black LGBTQ Youth* (Oct. 6, 2020), <https://www.thetrevorproject.org/research-briefs/all-black-lives-matter-mental-health-of-black-lgbtq-youth/>.

³⁰ National LGBTQ Task Force *supra* note 19.

³¹ The Trevor Project *supra* note 22.

against for not conforming to white femininity sex stereotypes.³² The Model Policies will only embolden Virginia schools to rely on sex stereotypes to categorize students and target students perceived to be deviating from those stereotypes.

The Model Policy Violates VA Code 21.1-23.3

Virginia law requires that the Department of Education develop a model policy concerning the treatment of transgender students in schools in accordance with **evidence-based best practices**. Va. Code Ann § 21.1-23.3 (emphasis added). The Model Policies, should, among other things, allow students to express their gender identity,³³ address the maintenance of a safe and supportive learning environment free from discrimination and harassment for all students,³⁴ and protect student privacy and the confidentiality of sensitive information.³⁵

The standard of care for transgender and non-binary students is gender-affirming care.³⁶ As such, the American Psychological Association recommends allowing transgender students to participate in sex-separated school activities, such as sports or physical education, and use facilities, such as restrooms and locker rooms, that match their gender identity.³⁷ This is preferable to providing gender-neutral facilities.³⁸ The National Education Association stresses that schools should use gender-affirming names and pronouns.³⁹ The Centers for Disease Control and Prevention (CDC) recommend that schools create safe spaces for transgender youth at school by banning trans-specific bullying, verse staff in creating safe and supportive school environments, and making medical and behavioral health providers who have experience with trans youth and

³² See, e.g., Ctr. for the Stud. of Social Pol'y, *Fight for Our Girls: Applying and Intersectional Lens to Girls of Color Facing Status Offenses* 5 (2018), <http://cssp.org/wpcontent/uploads/2018/08/fight-for-our-girls-intersectionality.pdf>.

³³ See, e.g., World Professional Association for Transgender Health. (2022). Standards of Care for the Health of Transgender and Gender Diverse People [8th Version]. <https://doi.org/10.1080/26895269.2022.2100644>; Jason Rafferty Jason Rafferty, *supra* note 7. See also *Grimm*, 972 F.3d at 595-96 (The “consensus approach of the medical and mental health community” regarding the treatment of gender dysphoria are the World Professional Association for Transgender Health (WPATH) Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People).

³⁴ See, e.g., Jason Rafferty, *supra* note 7; Amy E. Green, et al., *Factors Impacting the Implementation of Evidence-Based Strategies to Create Safe and Supportive School Environments for Sexual and Gender Minority Students*, 63(5) J. Adolescence Health 2 (Nov. 2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6289584/pdf/nihms-987342.pdf>.

³⁵ See, e.g., U.S. Department of Education, *Supporting Transgender Youth in School* (June 2021), <https://www2.ed.gov/about/offices/list/ocr/docs/ed-factsheet-transgender-202106.pdf>.

³⁶ See, e.g., Jason Rafferty, *supra* note 7.

³⁷ American Psychological Association, *Supporting Transgender and Gender Diverse Students in Schools: Key Recommendations for School Administrators* (2015), <https://www.apa.org/pi/lgbt/programs/safe-supportive/lgbt/school-administrators.pdf>.

³⁸ *Id.*

³⁹ National Education Association, *Legal Guidance on Transgender Students' Rights* (June 2016), https://www.nea.org/sites/default/files/2020-07/2018_Legal%20Guidance_Transgender%20Student%20Rights.pdf.

transgender-relevant topics in health education available in schools.⁴⁰ School districts must “promote acceptance and inclusion of all children without fear of harassment, exclusion, or bullying because of gender expression.”⁴¹ Schools should also refrain from sharing a student’s gender identity with other students, parents, or guardians without the student’s permission, and help students to navigate communications with their families in a safe way.⁴²

The Model Policies are not evidence based, and are at odds with best practices for supporting transgender and non-binary youth.

Conclusion

The Model Policies will create an unconstitutional hostile education environment for transgender and non-binary students in Virginia public schools and transgender students will face an increased amount of discrimination – schools will deny them educational opportunities, subject them to increased harassment, bullying, and even violence, and violate their privacy as they navigate their gender identity. The Washington Lawyers’ Committee opposes the exclusionary 2022 Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia’s Public Schools, which provide for neither privacy, dignity, nor respect for transgender students.

⁴⁰ Amy E. Green, et al., *supra* note 34.

⁴¹ *See, e.g.*, Jason Rafferty, *supra* note 7.

⁴² U.S. Department of Education, *Supporting Transgender Youth in School* (June 2021), <https://www2.ed.gov/about/offices/list/ocr/docs/ed-factsheet-transgender-202106.pdf>; National Education Association, *Legal Guidance on Transgender Students’ Rights* (June 2016), https://www.nea.org/sites/default/files/2020-07/2018_Legal%20Guidance_Transgender%20Student%20Rights.pdf.