

June 4, 2025

SENT VIA EMAIL

Dear Superintendent,

We are writing to every school district today in light of Governor Pillen's signing of Legislative Bill 89 into law. We are writing to remind you of your duties to all students in Nebraska, regardless of their sex or gender identity. It is the responsibility of your school district to ensure that trans students are supported, and their learning environment is free of discrimination.

LB 89 discriminates against transgender student athletes and prevents them from fully participating in school, including students who have been or hoped to be part of sports teams in your schools. However, your obligation to comply with state law should not run afoul of existing antidiscrimination laws and policies.

Nebraska law prohibits discrimination or segregation on the basis of "race, color, sex, religion, national origin, disability, or ancestry" in any place of public accommodation.<sup>1</sup> Places of public accommodation include a "sports arena, stadium, or other place of exhibition or entertainment"<sup>2</sup> and "any public facility owned, operated, or managed by or on behalf of this state or any agency or subdivision thereof, or any public corporation, and any such facility supported in whole or in part by public funds."<sup>3</sup>

Your obligation to implement LB 89 does not require or empower schools to prohibit or restrict access to places of public accommodation based on sex or gender identity, including against those who are visiting from out-of-state or who are non-Nebraskan residents. The Nebraska State Activities Association (NSAA) has existing policy relating to the participation of transgender students in school athletics. We anticipate that the NSAA policy will likely update in alignment with LB 89's passage and guidance issued by the federal Department of Education, but that should continue to serve as a resource as you draft your school's policy.

We urge you to share this information with your boards and ensure that all students and members of the public who may visit, use, or enter your schools and facilities have equal access and opportunity without facing undue discrimination. We appreciate your work educating Nebraska's students and your partnership in ensuring protection of the rights of students.

If we can be of any help in addressing any questions you have related to this topic, please reach out.

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<sup>1</sup> Neb. Rev. Stat. § 20-132

<sup>2</sup> Neb. Rev. Stat. § 20-133(4)

<sup>3</sup> Neb. Rev. Stat. § 20-133(5)

Sincerely,



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About the ACLU of Nebraska: For nearly 60 years in Nebraska, the ACLU has worked in our courts, legislature, and communities to protect the constitutional and individual rights of all people. With a nationwide network of offices and millions of members and supporters, we take up the toughest human rights, civil rights and civil liberties fights. Beyond one person, party, or side—we the people dare to create a more perfect union. The ACLU of Nebraska protects the constitutional rights of all students to equal educational opportunities, regardless of race, sex, gender identity, national origin or socioeconomic status.

About OutNebraska: For almost 15 years, OutNebraska has worked to celebrate and empower the LGBTQ+ community throughout our great state. Our vision is a Nebraska that honors the full spectrum of LGBTQ+ people. Advocating for queer youth is vital to our mission. We are proud to partner with the ACLU to share important information and as a resource while building learning environments where all students can thrive.