

# SORTING THROUGH POLICY CONFUSION:

Considerations for Educators and Community Members who  
Affirm Gender and Sexual Diversity  
in Utah's K-12 Schools and Systems

**Authors:** Kody Colvin and irene h. yoon

**Full Report Authors:** Kody Colvin, Ed.D., irene h. yoon, ph.d., Laurice Cabrera, M.S., and Allison Martin, Ed.D.

**Copyright:** January 2024 by the authors. All rights reserved. Salt Lake City, Utah.

**Preferred Citation:** Colvin, K., & yoon, i.h. (2024). *Sorting through policy confusion: Considerations for educators and community members who affirm gender and sexual diversity in Utah's K-12 schools and systems* [Research and Policy Primer]. Utah FAM.

This primer was created with a grant from the B.W. Bastian Foundation. **Thank you!** The contents of this primer do not necessarily reflect the Foundation's views; any errors should be attributed to the authors.

## Purpose

Education policy has gained a lot of attention in the latest culture wars. For Utah educators, community members, and advocates of LGBTQIA+ youth and families, the limelight has been stressful and often confusing.

This document is a summary of strategies and resources derived from emerging results of a longer policy report. The longer report will discuss the content below and the research behind it. This primer focuses on our "takeaways" from the policy report that apply to community members.

The purpose of this document is to empower and inform community members and educators with research that withstands the flurry of politics, "fake news," and social media. We want to inform better practice and policy engagement. We wish you the best.



Our goal is to make policy **less intimidating and more guided by research, evidence, and critical thinking**. We want educators, caregivers, and community members to feel **empowered to affirm and support LGBTQIA+ students and teachers**.

## Background

**Utah families, educators, and community members need clear, easy-to-understand information regarding policies and regulations in Utah that affect LGBTQIA+ students. We also need to know how to collaborate with our local schools on implementing these policies.**

There are few resources to help educators navigate the ambiguous grey areas of policy, which seems like it is constantly in flux. This confusion leads to mixed messages, silencing, and fear about how to affirm LGBTQIA+ students, educators, and inclusion.

Until about 2020, there was much to celebrate in Utah with respect to LGBTQIA-affirming policies. However, more recently, **the state of Utah and local school districts have taken regressive approaches to policies concerning LGBTQIA+ students, families, and staff**. The Utah Legislature, Utah

State Board of Education, and Utah parents' groups are aggressively leveraging policy threats against LGBTQIA+ individuals.

Since the first day of the current 2024 legislative session, lawmakers and state board members have escalated attacks on LGBTQIA+ Utahns, as well as people of color (who may also identify as LGBTQIA+ persons). Well beyond K-12 schools, this year's policies extend to all public spaces and universities.

This seems scary, and it is our goal to address the anxiety this may cause LGBTQIA+ students, educators, and community members. We aim **to make understanding and engaging in policy/policy-making less intimidating and guided by research, evidence, and critical thinking. We want educators, caregivers, and community members to feel empowered to affirm and support LGBTQIA+ students and teachers.**



Liberation is a long game.

## Our Approach

**Considerations:** Please remember these as you read anything we say below. These are principles that are woven into our analysis and experience.

1

### Respect people's humanity.

We are deeply concerned with the lack of respect for LGBTQIA+ people's humanity in some policy proposals in recent years. This legislative session in 2024 is no different. We know that each story has many sides. **We also know that LGBTQIA+ individuals' humanity is under attack, and the well-being of LGBTQIA+ students and educators is our central concern.**

2

### We can't give legal advice; this primer is NOT legal advice.

Instead, we provide historical and research background on the policies and how to read them with critical thinking (Meyer et al., 2022).

3

### People are complicated, so multiple things can be true simultaneously.

LGBTQIA+ advocacy and affirmation are part of a multi-dimensional fight for justice. LGBTQIA+ people are Black, Indigenous, and People of Color. LGBTQIA+ people have disabilities, exceptionalities, and chronic illnesses. LGBTQIA+ people have varied citizenship statuses and speak many languages. **Any fight for LGBTQIA+ justice is part of fights for racial justice, disability justice, immigration justice, and more.** On the flip side, some people who have anti-LGBTQIA+ beliefs may also care a great deal about things (like mental health or bullying) that impact many LGBTQIA+ people.



## Liberation is a long game.

The goalposts move, and some wins are overturned. This goes for both freedom and oppression. There will be wins for LGBTQIA+ oppressors, and they will lose sometimes, too. Either way, people will be queer and trans\* in diverse ways and will continue to resist oppressive systems and laws. LGBTQIA+ people always have.

# Personal Check-in: Preparing for Policy Engagement

**Self-assessment and reflection.** Assess your personal entry point to policy advocacy. What roles and identities influence how you feel impacted by policy? How much do you know about the policy issues, the experiences of people directly impacted by the policy, and who else is doing work you can support and join? What emotions arise when considering LGBTQIA+ policy, and where does that come from? What does LGBTQIA+ affirmation mean to you?

**There are many ways to engage and you won't get far alone.** Some people will be leaders of protests, and others will work behind the scenes. Each person has their own engagement limitations (knowledge, physical ability, financial strain, family and job responsibilities, etc.). Each person also has opportunities and openings to engage. There are many organizations that have ready-made ways to get involved and share your concerns.

**Read the policies.** Laws and codes are written in confusing ways. There are 3 things to know.

## Reading Policy Documents



1. The beginning of formal rules will always have a summary of what the rule will do. The second will be a set of definitions of terms. **These definitions are important because they tell you who and what is or is not affected by the policy.**
2. Formal rules and laws are written in outline format—so subsections are meant to help you read the policy in an organized way. If you are lost in many numbered lists, return to the previous outline levels and read those.
3. Consider is **what is not said or what seems like it could be a “code” that it works in more than one direction.** For example, language saying that no one will be made to feel bad about their own identity is typically meant to block curricular materials that point out racism or the history of slavery in the U.S. This is the subtext. This is why the language of “sensitive materials” is used (improperly) to exclude anything related to gender and sexual diversity, beyond the policy’s language of pornography.

**Build relationships beyond policy engagement.** If you have the capacity and emotional space, it can help to build relationships with policymakers. Building relationships can mean earnest, open-minded emails and meetings. This can mean extending invitations to attend an event at a public library or school. It means consistent communication with valuable information. Form letters and emotional voicemails do not do much, but calmly and persistently showing up at the public offices of the legislator might.

You can begin with your specific representatives on the school board. **Relationships don't have to become close friendships.** They *do* have to become productive in gaining an understanding of each other's perspectives. **Remember to praise and thank officials when they do the right thing.**

## What Counts as Policy?

**There are many kinds of policy. They interact with each other** (for example, state policy is supposed to follow federal policy and influence local policy). Every policy decision and implementation has **leverage points**, where people (leaders, educators, board members, education agency specialists,

teachers, and principals) make decisions and choices about what a policy means and how to implement it (McQuillan, 2023).

There are great **“bill trackers”** out there during the legislative session. For Utah, try *The Salt Lake Tribune’s* 2024 Utah Bill Tracker (<https://www.sltrib.com/utah-bill-tracker>).

In addition to policy levels, there are formal and informal policies.

- **Formal policy:** In the most basic sense, these are written down and formally passed by governing authorities. These include State Administrative Rules, U.S. or State Codes, Board Resolutions, Court decisions, Handbooks, and Official Memos. You might find them called laws and statutes, or referenced specifically as “HB\_\_” or “SB\_\_” or “Rule\_\_.”
- **Informal policy:** These include guidance for the implementation of a policy, emails, and memos from district or school leaders to teachers, procedures for responding to incidents and emergencies, and the norms of practice that end up becoming “the procedures” for handling situations. **Rarely are these passed by boards, but they are how professional staff interpret formal policies** in daily practice (McQuillan, 2022).
- **Suppose you are asked to do something that seems surprising or potentially inequitable.** In that case, **ask for the policies and guidance documents that inform the person who is enacting some restriction.** Asking for things in writing can backfire. But it often leads to a good conversation about the different ways policies can be interpreted and to negotiating solutions, rather than being simply told, “You can’t do that.”

## Takeaways



**There are many stages on the road from idea to impact.** Media often focus on policies when they are proposed or passed, but not yet implemented.

**Not all proposals will create immediate change in daily practice.** Many proposed rules that get passed are symbolic, intended to get emotional reactions and score political points.

That said, even policy **proposals that ultimately fail can set the tone for policies and practices elsewhere.** This is a chilling effect.

There is almost always an opportunity for positive change.

## Policies about LGBTQIA+ Inclusion in K-12 Schools

Every state chooses how they develop policies around LGBTQIA+ students’ and educators’ rights, protections, and access to safety and support services. **They have historically evolved in focus from topic to topic**, such as whether students can have clubs oriented around their identities (e.g., Gay-Straight Alliances) and whether bullying and harassment include sexual orientation and gender identity or expression. This evolution has shifted with cultural acceptance of gay and lesbian identities (some 70+ percent of the U.S. public believes “homosexuality” should be accepted; Poushter & Kent, 2020). With a majority of the public affirming protections for gays and lesbians (e.g., marriage), there are increased attacks on protections for and legitimacy of transgender, non-binary, gender-fluid, and gender-expansive identities and expression. This led to **recent policy attacks** on what bathrooms students can use, who can play girls’/women’s sports, and requirements to change official identification and birth certificates. Utah, like 49 out of the 50 states in 2023, has seen its fair share of anti-trans and anti-civil rights bills and laws (Trans Legislation Tracker, 2024).

## Takeaways



- The **policy topics** have evolved. Current attacks target basic safety and human rights, such as access to toilets in public spaces (HB 253 in 2024).
- **Access** to resources for intimate partner and domestic violence (HB 257 in 2024).
- The **flood of anti-trans, anti-LGBTQIA+, and anti-rights bills** in the past two years seems a reaction to some positive change for LGBTQIA+ folks in the last decade. Ultra-conservative activists are increasingly and effectively organized (Gregory & Matthews, 2022; Mayo, 2021; Robinson & Toliver-Smith, 2021; Stone, 2016).
- There is hotly contested ground on what is considered speech, and what is considered protected **free speech**.
- “**Parents’ rights**” groups are creating distractions for conservative agendas, including book bans, by demanding that their wishes apply to all children (Mayo, 2021).
- Recently, anti-trans bills and policies **attempt to weaponize language from transgender theories** (see McQuillan, 2022). For example, bathroom and identification policy proposals refer to the “gender assigned at birth” aspect of trans\* identities.
- **Curricular interventions** are increasing in broad ways, focusing on Black, Indigenous, People of Color (BIPOC), Queer, and Trans authors and protagonists.

- Access to Bathrooms
- Access to sports teams and clubs
- Enumerated protection from bullying and harassment
- Enrollment/identification and birth certificates
- Gender expression (dress codes)
- Curriculum, including books/materials
- Speech, including displays
- Professional development opportunities

## Current Policy Topics



## Policies for LGBTQIA+ Educators

**Employment discrimination.** Broadly speaking, educators cannot be discriminated against for their identities. For example, people cannot be fired from a job for being trans\*. However, it might be more subtle. **Be aware that the district lawyers’ job is to protect the school and the district institutions (not individual employees).** You might be accused of violating some professional codes or not fulfilling responsibilities, or you may be moved from one school to another. If you feel you are the target of employment discrimination, hostile workplace environment, retaliation, harassment, or intimidation, make sure to have documentation of these incidents and consult an **independent employment** lawyer to help you assess your options.

**Free speech protections.** What does and does not constitute free speech for public employees (such as teachers) is currently being tested in the courts and legislative bodies with proposed restrictions on Diversity, Equity, and Inclusion (DEI). **As of now, it is important to remember that educators cannot speak as representatives of their school districts or schools.** Anytime educators speak their opinions and advocacy, they must do so only as individuals. This means you probably should not say, “At [my] School, we believe....” You *can* share that you are an educator, that you have LGBTQIA+ students or serve families with LGBTQIA+ caregivers, and what you have personally learned. It is best to always say, “I am here as a citizen and not as a representative of my employer.” That said, these are still fuzzy boundaries. If you are unsure how to approach a situation, contact an independent lawyer. FAM leaders can also provide referrals and ideas.





**Professional standards.** In Utah the state administrative rules have professional codes of conduct. School districts also have employee handbooks. **You should read both.** In the past, “no promo homo” rules were written (intentionally) vaguely in the state’s administrative rules with the professional code of conduct for educators. Similar “don’t say gay” rules are reincarnations of these old laws. **In Utah, the “no promo homo” codes no longer exist.**

**Curricular standards.** LGBTQIA+ inclusion in the curriculum is still legal and part of educators’ responsibilities for equitable and excellent curricular standards. However, educators may not know how to teach these content standards because of fear of retaliation or anger by those opposed to this work (Leonardi, 2017).

Bills and policies can indirectly affect *implicit* curriculum, like when teachers are asked to remove books and posters supporting racially diverse and gender diverse perspectives. **Such erasure and removal of these implicit signals of support for LGBTQIA+ people is what policy analysts call a “chilling effect”:** people avoid (research-based) practices even when policies are applied in a different state or region, unenforced, never pass, or revoked (Trotta, 2023).

**Libraries.** Bills have affected funding and workload for teachers with classroom libraries and school librarians. Some bills related to school and classroom libraries have been redundant (e.g., requiring access for parents to know what books their children have checked out, access that already existed before 2023's HB 465) or are likely unenforceable (e.g., demands to review extensive catalogs of texts in all school libraries and individual classrooms). **However, it should be noted that different school districts and school leaders will and may choose to adhere to these policies differently (Leonardi, 2017; Leonardi & Staley, 2018).** This kind of unenforceable or vague, unfunded mandate is a classic “chilling effect” move.

**Informal norms of how to be “out” at work.** LGBTQIA+ educators have a lot of choices to make. You may constantly feel like you have to explain yourself, or stay quiet, or maybe you are burning out from being the resource for every LGBTQIA+ student in the school. **It is a labor of love to be “out” at work. In all settings and with any people, being “out” and to what degree you share about your life is up to you. End of story.** We can’t tell you what to do, but contact FAM if you are hoping to connect with another queer/trans educator in your region who understands what you’re experiencing.

## Best Practices for Advocacy

**Speak from your own personal experience. Tell your stories. Share only what you are comfortable sharing. Share only YOUR OWN story, not someone else’s.** You should never share more than you’re comfortable disclosing. Don’t feel like you have to divulge details for emotional influence if it doesn’t feel right. **Your story is not “for sale.”**

**Ask questions when you intend to listen to the answer.** Sometimes, **when anticipating conflict or push-back, you think about what you’ll say next and forget to listen and be present for the person you’re with.** Not everyone deserves this kind of energy if they are just out to hurt your feelings or let off some steam, but if someone is yelling from a place of hurt or asking questions from a place of wanting to understand, it can help to remember that if you ask a question, you need to listen to the answer.

**Don’t panic or let people get under your skin.** If you feel anxious or other emotions rising in your body and mind, take a deep breath and exit the situation. Take a break. Talk to a friend. This goes with “liberation is a long game” and “your safety and humanity come first.”

**Your safety and humanity come first.** You do not have to engage with people if you are attacked personally. **Get to a place or person of safety.** You can get a lawyer. You can get a different job. You can

walk away. You can ask someone nearby for help. You can get protection. Keep screenshots and copies of every instance of being targeted.

**Along with getting prepared—get trained!** Learn how to [be a bystander](#) or [write an op-ed](#) for your local paper. Learn about how to talk effectively to politically elected officials. Many organizations offer free trainings online for the public.

## A Parting Note

**Address your own care with community and rest.** State what your own limits are, and stick to them. Say no to what feels like a burden or something you resent doing. **Take moments for rest every day. You deserve to experience joy and comfort by spending time with people who understand and accept you.**

**No judgment zone.** Everyone has boundaries for risk, emotional and social burden, financial impact, and policy engagement. Ask people what their boundaries are, and respect those.

## Conclusion

Policies change quickly, but implementation and enforcement take time. The latest reports on anti-trans, anti-equity, and anti-BIPOC policies are discouraging and harmful. They pose a real threat in our K-12 schools and communities. **But the future is what we make it. Thank you for enacting LOVE for your LGBTQIA+ students, neighbors, teachers, and school leaders.**

### What's Next

The full research and policy report: *Sorting Through LGBTQIA+ Policy Confusion in Utah: Lessons Learned from the Research Base on Gender and Sexual Diversity in K-12 Schools and Systems* is forthcoming. Check back at <https://utahfam.org> soon!



## References

- Gregory, L., & Matthews, P. (2022). Social policy and queer lives: Coming out of the closet?. *Journal of Social Policy*, 51(3), 596-610. <https://doi.org/10.1017/S0047279422000198>
- Leonardi, B. (2017). Navigating the relationship between policy and practice: Competing discourses of fear and care in teachers' sense-making about the FAIR Education Act. *Journal of Education Policy* 32(5), 694-716. <https://doi.org/10.1080/02680939.2017.1320730>.
- Leonardi, B., & Staley, S. (2018). What's Involved in "the work"? Understanding administrators' roles in bringing trans-affirming policies into practice." *Gender and Education* 30(6), 754-773. <https://doi.org/10.1080/09540253.2018.1455967>.
- Mayo, C. (2021). Distractions and defractions: Using parental rights to fight against the educational rights of transgender, nonbinary, and gender diverse students. *Educational Policy* 35(2), 368-382. <https://doi.org/10.1177/0895904820983033>.
- McQuillan, M.T. (2022). A starting point: Gender, hot cognition, and trans-informed administrative guidance. *Educational Researcher* 51(5), 336-351. <https://doi.org/10.3102/0013189X221084707>.
- McQuillan, M.T. (2023). Scaling gender and sexual diversity policies in K-12 schools. *Educational Policy* 37(4), 910-952. <https://doi.org/10.1177/08959048211058461>.
- Meyer, E.J., Leonardi, B., & Keenan, H. (2022). *Transgender students and policy in K-12 public schools: Acknowledging historical harms and taking steps toward a promising future*. National Education Policy Center. Retrieved from <https://nepc.colorado.edu/publication/transgender>.

Movement Advancement Project. (2023). *Under fire: The war on LGBTQ+ people in America*. Boulder. Retrieved from [https://www.mapresearch.org/file/Under%20Fire%20report\\_MAP%202023.pdf](https://www.mapresearch.org/file/Under%20Fire%20report_MAP%202023.pdf).

Poushter, J., & Kent, N.O. (2020). *The global divide on homosexuality persists but increasing acceptance in many countries over past two decades*. Pew Research Center. Retrieved from <https://www.pewresearch.org/global/2020/06/25/global-views-homosexuality-2019-appendix-a/#:~:text=REPORT%20MATERIALS-,Complete%20Report%20PDF,-Topline%20Questionnaire.>

Robinson, G.C., & Toliver-Smith, A.L. (2021). Sociopolitical implications to consider when working with the LGBTQIA+ community. In *Critical Perspectives on Social Justice in Speech-Language Pathology* (pp. 18-38). IGI Global.

Stone, A.L. (2016). The impact of anti-gay politics on the LGBTQ movement. *Sociology Compass*, 10(6), 459-467. <https://doi.org/10.1111/soc4.12373>

Trans Legislation Tracker. (2024). *2023 anti-trans legislation*. Retrieved from: <https://translegislation.com/bills/2023>.

Trotta, D. (2023, August 24). *State laws, rising threats have chilling effect on transgender care*. Reuters. <https://www.reuters.com/world/us/state-laws-rising-threats-have-chilling-effect-transgender-care-2023-08-24/>



(c) 2024 by the authors. All rights reserved.

Produced in collaboration with Utah FAM, Salt Lake City, Utah. <https://www.utahfam.org/>