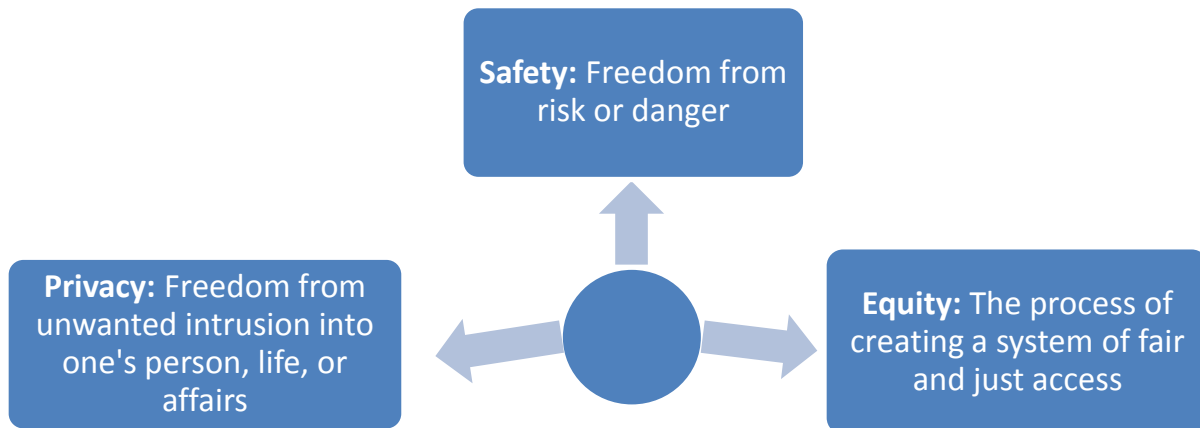


A Holistic Model for Transgender Rights in Schools

Shawn D. Eubanks
Boykin & Davis, LLC

A holistic approach to ensuring transgender rights in schools must strike a balance between three fundamental interests: privacy, safety, and equity. These interests are often in tension with one another.



The most dynamic interest in today's climate is that of **equity**. The Glossary of Education Reform declares that "Equity is the process; equality is the outcome."¹ Equity (what is fair and just) does not always reflect strict equality (what is applied or distributed equally). Equitable treatment dictates that students have access to programs and facilities without regard for their sex, gender identity or transgender status.

Privacy, or freedom from unwanted or undue intrusion or disturbance in one's person, life, or affairs, is a necessary consideration. Stakeholder concerns regarding privacy are often borne of uncertainty regarding the intentions of transgender individuals, particularly in reference to shared restroom facilities. Though these fears cannot be prevented, districts can take steps to maintain or improve the quality of student privacy while complying with the law.

Safety concerns must also be weighed carefully in this context. Studies have shown that transgender individuals are at substantially greater risk of depression and suicide, as well as bullying or harassment; thus schools must be aware of the dangers for these students. By contrast, stakeholders have articulated concerns about the dangers of sexual exposure, sexual harassment, and/or sexual assault which are particularly difficult to control in restrooms and other facilities which have historically been segregated by sex.

Policies and practices focused entirely upon privacy and safety may have the injurious effect of creating a culture of ostracism or institutional indifference for transgender students, whereas focusing entirely on equity concerns could result in risk to students and exposure to the district. Thus, a proper balance must be struck.

¹ Glossary of Education Reform, "Equity;" April 21, 2016. <http://edglossary.org/equity/>