




MEMORANDUM

TO: The Honorable JB Pritzker, Governor
The Honorable Jim Durkin, House Minority Leader
The Honorable Don Harmon, Senate President
The Honorable Dan McConchie, Senate Minority Leader
The Honorable Emanuel "Chris" Welch, Speaker of the House
The Honorable Mike Simmons, State Senator, 7th District
The Honorable Greg Harris, State Representative, 13th District

FROM: Dr. Carmen I. Ayala 
State Superintendent of Education

DATE: November 15, 2022

SUBJECT: Public Act 102-0543 Work Group Amendment Recommendation

The State Board of Education assembled a diverse work group of LGBTQ+ advocates, school personnel, and parents to discuss the implementation of Public Act 102-0543, which requires state agencies to expand data collections to include age, sex, disability status, sexual orientation, gender identity, and primary or preferred language demographics for all "major programs." Attached are the recommendations from this work group.

This memorandum is transmitted on behalf of the State Superintendent of Education. For additional copies of this memorandum or for more specific information, please contact Amanda Elliott, Executive Director, Legislative Affairs at (217) 782-6510 or aelliott@isbe.net.

cc: Secretary of the Senate
Clerk of the House
Legislative Research Unit
State Government Report Center



The Illinois State Board of Education (ISBE) thanks you for your continued support in ensuring all students in the state of Illinois are fairly represented and accounted for in data submitted by our schools.

As previously communicated, issues were identified in the implementation of the Data Governance and Organization to Support Racial Justice Act (Public Act 102-0543) for minors, specifically with respect to provisions in the Family Educational Rights and Privacy Act and the Illinois School Student Records Act. To address these concerns, ISBE assembled a diverse work group of LGBTQ+ advocates, school personnel, and parents to discuss the implementation of this Act, which requires state agencies to expand data collections to include age, sex, disability status, sexual orientation, gender identity, and primary or preferred language demographics for all “major programs.” For the purposes of this Act, “major programs” includes:

- Evidence-Based Funding – Average Student Enrollment, Student Enrollment Totals
- English Learners – Serving Student Enrollment Totals
- Individualized Education Program – Serving Student Enrollment Totals
- Career and Technical Education – Home Student Course Enrollment Totals
- Charter Schools – Serving Student Enrollment Totals
- All Available State Assessment Data – Home Student Participation and Proficiency Averages
- All Student Enrollment Data – Serving Student Enrollment Totals
- Low Income (eligible for free or reduced-price lunch) - Serving Enrollment Totals

Multiple meetings have taken place with stakeholders since May 6, 2022, allowing everyone the opportunity to dive into the issue. The meetings ensured everyone understood what the law states, identified concerns, and laid out data collection options for initial discussion. Information was later shared on three existing anonymous surveys, which led to discussions on privacy concerns versus the need for visibility of LGBTQ+ students. The group continued to have conversations and was finally able to discuss recommendations for legislative changes and provide feedback. I would like to offer appreciation to all members of the working group who lent their time and expertise to this important issue.

The work group recommends legislative changes to PA 102-0543 to maintain the intent of the law – supporting equitable outcomes for all students, especially LGBTQ+ students, by providing critical information to school administrators, advocacy and support organizations, and community members as they work to identify and address barriers to programs by these students – while preserving student privacy and safety.

Educators, families, LGBTQ+ advocates, and students agreed throughout our work group discussions that the collection of sexual orientation data and the collection of sex as separate from gender identity tied to “major programs” has the potential to cause students harm as it must be identifiable to them individually and memorialized in their student records. However, the work group believes the purpose of the Act can be fulfilled by collecting student sexual orientation and more comprehensive gender identity information through anonymous survey(s) that are already used in Illinois schools.

There are currently three anonymous surveys conducted in Illinois schools -- the 5Essentials Survey, the Illinois Youth Survey (IYS), and the Youth Risk Behavior Survey (YRBS). The IYS and YRBS currently include questions regarding sex, sexual orientation, and gender identity; the 5Essentials Survey does not include questions regarding sex, sexual orientation, and gender identity but such questions can be added if needed. The surveys are a patchwork across schools and students and are subject to change year to year. The work group recommends ISBE utilize information from each survey to report statistical data as required by the proposed amendatory language. The work group also encourages the Illinois Department of Human Services to review current Illinois Youth Survey questions to ensure inclusion of issues faced by LGBTQ+ youth. The work group recommends that the State Board reconvene a similar group to revisit this issue by December 2024. ISBE will continue to consult with stakeholders regarding the implementation of these recommendations.

The proposed legislation to address the data collection of sex and sexual orientation information is enclosed. The work group recommends that this legislative change be included in a larger cleanup bill, such as ISBE's 2023 cleanup legislation. This will ensure that only these minor changes are made to this Public Act.

Work Group Members

Jeff Aranowski, Executive Director, Safe and Healthy Climate, Illinois State Board of Education
Maria Arroyo, Principal, Sanchez Elementary School, Joliet School District 86
Kim Barnes-Cummins, Supervisor, Student Care, Illinois State Board of Education
Lauren Beach, JD/PhD, Assistant Professor, Northwestern University Feinberg School of Medicine
Dr. Careyana Brenham, Professor of Clinical Medicine, SIU School of Medicine
Maryam Brotine, Assistant General Counsel, Illinois Association of School Boards
Kelle Bunch, Superintendent, Liberty School District
Amanda Elliott, Executive Director, Legislative Affairs, Illinois State Board of Education
Denise Gamble, Retired Principal, Chicago Public Schools, Illinois Principals Association Diversity and Equity Chair
Mary Beth Goff, Parent, Unity Point
Melanie Grant, Assistant Legal Counsel, Illinois State Board of Education
Gregg Hobbs, Retired Teacher, Illinois Parent Teacher Association
Brenda Huber, Illinois School Psychologists Association
Grecia Magdaleno, Policy and Advocacy Manager, Illinois Safe Schools Alliance
Booker Marshall, LGBTQ+ and Sexual Health Program Manager, Chicago Public Schools
John Meixner, Regional Superintendent of Schools, ROE 26
Brian Metcalf, Director, Student Care, Illinois State Board of Education
Kevin Ross, Superintendent, Marshall School District
Hadeis Safi, Gender Inclusion Training Facilitator, Lurie Children's Hospital
Maria Robles Sinkules, Illinois Association of School Social Workers
Alison Stanton, Advisory Board, Pride Action Tank
Adrian Talley, Superintendent, Indian Prairie School District
Molly Uhe-Edmonds, Past Director, Student Care, Illinois State Board of Education
Carolyn Wahlskog, Director of Programs, Youth Outlook
Cara Wiley, Director, Wellness, Illinois State Board of Education
Bonnie Washick, Federal Policy Manager, GLSEN

Proposed Amendatory Language

(20 ILCS 65/20-15)

Sec. 20-15. Data Governance and Organization to Support Equity and Racial Justice.

(a) On or before July 1, 2022, and each July 1 thereafter, the Board and the Department shall report statistical data on the racial, ethnic, age, sex, disability status, sexual orientation, gender identity, and primary or preferred language demographics of program participants for each major program administered by the Board or the Department except as provided in subsection (b). Except as provided in subsection (b), when reporting the data required under this Section, the Board or the Department shall use the same racial and ethnic classifications for each program, which shall include, but not be limited to, the following:

- (1) American Indian and Alaska Native alone.
- (2) Asian alone.
- (3) Black or African American alone.
- (4) Hispanic or Latino of any race.
- (5) Native Hawaiian and Other Pacific Islander alone.
- (6) White alone.
- (7) Some other race alone.
- (8) Two or more races.

The Board and the Department may further define, by rule, the racial and ethnic classifications, including, if necessary, a classification of "No Race Specified."

(b) In relation to major program participants, the Board shall not be required to collect personally identifiable information (PII) and report statistical data on the categories of sex, sexual orientation, and gender identity unless required for federal reporting. The Board shall make available reports on its internet website, posted where other mandated reports are currently posted, of statistical data on sex, sexual orientation, and gender identity demographics, through anonymous surveys or other methods as age and developmentally appropriate.

ISBE wholeheartedly agrees with the importance of capturing this expanded data to address structural, social, or implicit barriers that may exist for LGBTQ+ students. Thank you for your consideration of this request. Please let us know if you have any questions or would like to further discuss this important issue.