

## Part I: Introduction to Transgender Identity and Issues

Transgender people have always belonged in our communities. Unfortunately, however, in the past and present transgender people have often faced discrimination—here in the United States as well as around the world. Exploring the stories and history of transgender people helps us better understand ongoing conversations around the movement for transgender rights in the United States. Transgender people have worked—and are still working—to be treated with respect and equal consideration under the law in their communities. Protection from violence, access to healthcare, and the freedom to live openly and with dignity are all critical demands of the transgender rights movement. In the United States, many of these demands have not yet been realized. Other transgender rights movement efforts for equality have seen significant progress but remain under threat.

In this activity, you will examine some of the ways members of the transgender community came together to respond to a 2018 U.S. government draft memo attacking transgender identity. You will also learn about more recent state and federal government policies regarding transgender rights.

On Sunday, October 21, 2018, the U.S. public learned about a draft of a memo developed by the Department of Health and Human Services under the administration of President Donald J. Trump (2017-2021). The proposed memo argued for a strict definition of gender based on the physical characteristics someone is born with, rather than being based on their gender identity. Members of the transgender community and their allies worried that this definition was intended to remove rights from transgender people—including freedom from gender-based discrimination in the workplace, healthcare settings, schools, and elsewhere.

The U.S. government memo was one of many attacks on the rights of transgender people that have taken place throughout U.S. history. At the same time, the response to this attack by the transgender community and their allies was one of the many instances in which the transgender rights movement organized and fought for equality and justice.

### *What does it mean to be transgender?*

According to the National Center for Transgender Equality, an advocacy organization founded in 2003, a transgender person is a person whose gender identity is different from the gender they were assigned based on their sex at birth. When babies are born, medical staff typically label them as male, female, or—less commonly—intersex, based on their genitalia. People who are labeled male or female at birth and maintain a gender identity that aligns with this label are called “cisgender” (the prefix “cis” means “on this side”). But, for transgender people, their gender identity does not match the label they were assigned at birth (the prefix “trans” means “on the other side”).

Today, an estimated 1.6 million Americans identify as transgender or as gender-non-conforming, meaning that their gender expression does not match masculine or feminine gender norms. Like all people, transgender people are unique and have complex identities that extend far beyond just their gender expression. Transgender people live throughout the United States and the world. They come from all racial, ethnic, and religious backgrounds.

Today and long into the distant past, transgender people have worked hard for their rights, including rights related to marriage, family, and healthcare and the right to be protected from violence. Yet, transgender people are frequently affected by violence. The Human Rights Campaign reported that in 2021, 50 members of the transgender community in the United States were victims of fatal violence, the highest ever number of fatalities and almost twice the number of reported deaths in 2017. Transgender women of color are disproportionately the victims of fatal hate crimes, and such crimes are often underreported.

**“As we have seen an unprecedented number of bills introduced in state legislatures attacking transgender youth and trans adults, the moment we are in is clear. They have attacked transgender people’s right to health care, right to exist in**

***public, and right to live openly, with the ultimate goal of dehumanizing and erasing their lives and experiences. Every life has value. Marquiisha's life had value."***

—Joni Madison, interim president of the Human Rights Campaign, reflecting on the murder of Marquiisha Lawrence, a 28-year-old Black transgender woman who was fatally shot in Greenville, South Carolina, on November 4, 2021

***How did transgender people and their allies respond to Trump administration policies?***

After learning about the proposal to narrowly define gender, many concerned Americans saw the memo as an attack on the rights of transgender people. They believed that the Trump administration was trying to strip away legal protections for transgender people that had been established under President Barack Obama's (2009-2017) administration. For instance, they pointed to President Trump's attempts to ban transgender people from military service and his reversal of policies that allowed transgender students to use the bathrooms of their choice. Many also saw the memo as an attempt to "erase" the existence of transgender people.

***“What this feels like to transgender people is trying to make us invisible, trying to say that we don't exist, trying to say that we are nothing.”***

—Mara Keisling, executive director of the National Center for Transgender Equality, as quoted in the New York Times, October 22, 2018

The U.S. government draft memo from the Department of Health and Human Services was concerned with a federal law called Title IX. Title IX is a law that bans gender-based discrimination in education programs for which the government provides funding—for example, sports programs in public schools and universities. Transgender people and their allies saw the memo as a way for the government to erase transgender identity and people from protection under the Title IX law, which could interfere with their ability to live safely and equally in the United States.

In response to the proposed memo, protesters gathered on October 21, 2018, in New York City, and on October 22, 2018 in Washington, D.C. Many people also responded on social media, using hashtags such as “#WontBeErased”.

***“You saw such a massive response because this attack on the trans community is essentially trying to erase the trans community from the face of this country and we're not going to stand for that....”***

—Sarah Kate Ellis, president of GLAAD, an LGBTQ+ advocacy group, quoted in the New York Times, October 22, 2018

In this activity, you will explore some of the social media responses to the 2018 draft memo and analyze why transgender people and their allies believed this was intended to challenge their existence and erode their rights. In doing so, you will be asked to consider the experiences of transgender people in the United States today. It is important to be respectful as you read and learn. Be sure to think before you speak, ask questions when you are unsure or confused, and be respectful to your classmates at all times.

## Part II: Introduction to Transgender Identity and Issues

### *How have state governments addressed transgender rights since 2018?*

Support for transgender equality varies considerably at the level of state governments. As of September 2022, twenty-six states currently have laws that undermine the rights of transgender youth and adults. For example, religious exemption laws in some states allow certain categories of businesses and people—from child-welfare agencies to wedding planners—to discriminate against LGBTQ+ people if they choose due to exemptions from federal non-discrimination policies. Twelve states have laws which permit state-licensed child welfare agencies to refuse to provide services to LGBTQ+ people if doing so conflicts with their religious beliefs. Seven states have religious exemption laws, such as Alabama State Law HB95, that permit medical professionals to decline to serve LGBTQ+ patients. In April 2022, Alabama also passed House Bill 322, which prevents teachers from discussing LGBTQ+ history or people in public elementary schools. It also requires students to use the bathroom that aligns with the sex listed on their birth certificate, rather than with their gender identity.

Other states have laws that support the transgender community. As of September 2022, about half of the population of LGBTQ+ people in the United States lives in states with strong support for transgender equality. For example, twenty-two states have laws that enable prosecution for hate crimes related to a person's gender identity—including against transgender people. Twenty-three states and the District of Columbia are designated as "Safe School" states, with laws prohibiting bullying in school on the basis of gender identity. In order to ensure equal access to healthcare, twenty-four states and the District of Columbia prohibit insurance companies from withholding medical care on the basis of gender identity.

The great diversity in state policies regarding equal treatment of transgender people reveals three key points: (1) The transgender rights movement has made significant achievements across the country; (2) Transgender people continue to face serious and life-threatening discrimination in many states

where they live and work; (3) While federal policy can lead to widespread change, policies at the state level also directly impact the everyday lives of transgender people across the country.

### *How has the the Biden administration addressed transgender rights?*

Since 2021, the administration of President Joseph R. Biden (2021- ) has aimed to increase support for transgender people living in the United States. On June 15, 2022, President Biden signed an executive order intended to advance equality for LGBTQ+ individuals in the United States. The executive order claimed to address discriminatory legislation against LGBTQ+ children and families, safeguard healthcare access for transgender people, and support LGBTQ+ youth in the foster care system or experiencing homelessness. It also sought to prevent so-called "conversion therapy," a cruel and discredited practice that attempts to alter a person's sexual orientation or gender identity. To accomplish this goal, Biden's executive order requires that the Department of Health and Human Services ensure that federally funded programs cannot offer conversion therapy. Also in June 2022, the Biden administration proposed amendments to the federal Title IX law that would ensure the protection of transgender people from gender-based discrimination at schools and universities. While these proposed policies are likely to face legal challenges in the future, they are celebrated by supporters of the transgender rights movement throughout the United States.

Transgender people in the United States still face discrimination and violence. Many also fear that public support for the transgender rights movement could decline due to politically motivated attacks, the spread of misinformation, and online and offline hate campaigns. However, transgender people and their allies continue to work hard to ensure that they are respected and supported in their communities and by state and federal lawmakers.