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June 22, 2022

In Support of Full Inclusion for Transgender and All LGBTQI+ Youth: An Open Letter from the Civil and Human Rights Community

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 230 national organizations to promote and protect the civil and human rights of all persons in the United States, and the 150 undersigned organizations, we call for the full inclusion, protection, and celebration of transgender and non-binary youth, including access to extracurricular activities such as athletics and to school facilities, safe and inclusive school environments, accurate and inclusive curriculum, and gender-affirming school health services. We reject the bigoted, ignorant, mean-spirited, and discriminatory policies currently being considered by far too many state legislatures that seek to exclude transgender people and make these members of our communities invisible. Targeting and excluding transgender students from participation in school programming, including athletics programs, alongside their cisgender¹ peers is harmful to all students and undermines the learning environment for everyone. If schools mark some students effectively as outcasts, they foster an environment where no student is included and safe.

Currently, there is an unprecedented wave of proposed and enacted laws across the country that aim to make participating in school intolerable for LGBTQI+ students and especially transgender students. These laws aim to shut transgender youth out of school activities such as sports, to ban them from school facilities such as restrooms, to prohibit discussion of their very existence in classrooms, and to punish educators and families who help young people access necessary gender-affirming care.² These proposals seek to punish and harm a



population of young people already marginalized by stigma, bullying, and harassment.^{3,4,5} We, the civil and human rights community, support the full inclusion and protection of transgender and non-binary youth. We are fortunate that transgender people are present in our community, and we fully embrace them as members of our community. As organizations that care deeply about ending sex-based discrimination and ensuring equal educational opportunities, we support laws and policies that protect transgender people from discrimination, including participation in sports, access to gender-affirming care, access to school facilities, and access to inclusive curriculum. We firmly believe that an attack on transgender youth is an attack on civil rights.

A multitude of bills seeking to exclude transgender youth and youth born with intersex traits from athletics would harm both cisgender and transgender girls and women, particularly Black and Brown girls and women.^{6,7} These laws are likely to violate both the U.S. Constitution and Title IX, putting states' federal educational funding in jeopardy. We reject the suggestion that girls and women who are cisgender benefit from the exclusion of girls and women who are transgender or intersex.⁸ State leaders who care

³ National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey* 4, 11 (2017) [USTS Report], available at <http://www.ustranssurvey.org/reports>

⁴ Sixteen states have passed laws barring transgender students from participating on the school athletic team or program that aligns with their gender identities and many have implemented discriminatory regulations. GLSEN. (2022). GLSEN Navigator: Trans and Nonbinary Athletic Inclusion Policies. Available at: <https://maps.glsen.org/trans-and-nonbinary-athletic-inclusion-policies/> (Accessed May 4, 2022)

GLSEN, *Gender Affirming and Inclusive Athletics Participation* (May 2022), available at <https://www.glsen.org/activity/gender-affirming-inclusive-athletics-participation>.

⁵ One state has passed an anti-trans bathroom bill prohibiting transgender students from using the school bathroom that aligns with their gender identities and six other states introduced similar bills. Alabama's anti-trans bathroom bill was signed into law in April 2022 (see H.B. 322). Other bills introduced in 2022 include: H.B.2314 (Arizona); S.F.224 (Iowa); S.B.1249 (Oklahoma); S.B.1164 (Oklahoma); H.B.1005 (South Dakota); H.B. 1126 (Virginia); H.B.3199 (West Virginia). With the exception of West Virginia, these bills also prohibit use of the locker rooms that align with students' gender identities.⁶ List of bills active in state legislatures excluding transgender students from athletics:

H.B. 230 (Arkansas); S.B. 1046, S.B. 1165 (Arizona); S.B 227 (Delaware); H.B. 7 (Florida); H.B. 276, H.B. 372, S.B. 266, S.B. 435 (Georgia); H.B. 1304 (Hawaii); H.F. 184, H.F. 2309, H.F. 2416, S.F. 2342 (Iowa); H.B. 1041 (Indiana); S.B. 208, S.B. 484 (Kansas); H.B. 23, H.B. 247, S.B. 83 (Kentucky); S.B. 44 (Louisiana); H.B. 0757 (Maryland); S.B. 218, (Michigan); H.F. 350, H.F. 352, H.F. 1657, H.F. 4282 (Minnesota); S.B. 740, H.B. 2461, H.B. 2735, H.B. 2734, H.B. 2140, H.B. 1973 (Missouri); S.B. 2111, S.B. 2310 (Mississippi); H.B. 198 (New Hampshire); A 1630, S. 589 (New Jersey); H.B. 61, S.B. 132 (Ohio); S.B. 331, S.B. 2, H.B. 4245 (Oklahoma); H.B. 972 (Pennsylvania); S. 2501 (Rhode Island); S.B. 531, H.B. 4608, H.B. 3477 (South Carolina); H.B. 1006, S.B. 46 (South Dakota); H.B. 1894, S.B. 1862, S.B. 2153, H.B. 2316, H.B. 1895, S.B. 1861 (Tennessee); H.B. 11, H.B. 3002 (Utah); S.B. 766 (Virginia); A.B. 195, S.B. 323, A.B. 196, S.B. 322 (Wisconsin); H.B. 2141, H.B. 2676, H.B.

2734, S.B. 341 (West Virginia); S.F. 0051 (Wyoming).

Source: ACLU, *Legislation Affecting LGBT Rights Across the Country: Excluding transgender youth from athletics* (May 13, 2022), available at <https://www.aclu.org/legislation-affecting-lgbtq-rights-across-country>

⁷ The many bills seeking to exclude transgender students—and in many cases, specifically transgender girls and women—from school athletics are already having a negative impact on the mental health and wellbeing of all LGBTQ+ youth and particularly those who are transgender and nonbinary. A 2022 poll conducted by Morning Consult found that two-thirds of LGBTQ+ youth report that the recent debates about state laws restricting the rights of transgender people has impacted their mental health negatively. This impact is even more dramatic among transgender and/or non-binary youth where more than four in five of them (85%) report it has impacted their mental health negatively. The Trevor Project. (2022). “Issues Impacting LGBTQ Youth: Polling Analysis.” https://www.thetrevorproject.org/wp-content/uploads/2022/01/TrevorProject_Public1.pdf (Accessed May 4, 2022).



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about women’s and girls’ sports should reject these bills and instead focus on closing the gender and racial disparities in athletics opportunities and participation and on protecting student athletes from sexual abuse.⁹

Transgender students face disproportionately high rates of sex discrimination at school, including sexual assault and harassment or bullying because of their gender identity and gender expression.¹⁰ Transgender and non-binary people of color face even deeper and broader patterns of discrimination than their White transgender peers.¹¹ Bills that would exclude transgender and intersex students from athletics would further deprive transgender students of access to educational opportunities and could place them at greater risk of sexual assault.¹² With violence — including physical and sexual assaults and murders — against transgender women at an epidemic level,¹³ these bills only serve to create an unsafe educational environment for transgender youth, while sending children the message that transgender people — and transgender girls and women in particular — are not entitled to the equal treatment, dignity, and respect

Youth. (2022). Public Comment Re: Mandatory Civil Rights Data Collection (86 FR 70831; ED-2021-SCC-0158). <https://www.regulations.gov/comment/ED-2021-SCC-0158-0884> (accessed May 4, 2022). Center for American Progress, *Fair Play: The Importance of Sports Participation for Transgender Youth* 14-16 (Feb. 8, 2021), available at <https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/02/08/495502/fair-play>.

⁹ LGBTQ+ students are half as likely as non-LGBTQ students to participate in both interscholastic (40.2% vs. 19.2%) and intramural sports (35.8% vs. 15.9%), with transgender students reporting the lowest levels of participation. Clark, C. M., Kosciw, J. G., & Chin, J. (2021). *LGBTQ Students and School Sports Participation* (Research Brief). New York: GLSEN. Available at <https://www.glsen.org/research/lgbtq-students-and-school-sports-participation>. Kosciw, J. G., Clark, C. M., Truong, N. L., & Zongrone, A. D. (2020). *The 2019 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation’s schools*, p. 93-106. New York: GLSEN. https://www.glsen.org/sites/default/files/2021-04/NSCS19-FullReport-032421-Web_0.pdf

¹⁰ USTS Report, available at <http://www.ustranssurvey.org>. Kosciw, J. G., Clark, C. M., Truong, N. L., & Zongrone, A. D. (2020). *The 2019 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation’s schools*, p. 96. New York: GLSEN. Available at <https://www.glsen.org/research/2019-national-school-climate-survey>. The CDC’s Youth Risk Behavior Survey has also found that transgender students report disproportionately high rates of bullying at school but does not ask specifically about why students were bullied. Johns, M. M., Lowry, R., Andrzejewski, J., Barrios, L. C., Demissie, Z., McManus, T., ... & Underwood, J. M. (2019). Transgender identity and experiences of violence victimization, substance use, suicide risk, and sexual risk behaviors among high school students—19 states and large urban school districts, 2017. *Morbidity and Mortality Weekly Report*, 68(3):67–71. DOI: <http://dx.doi.org/10.15585/mmwr.mm6803a3> (Accessed May 3, 2022)

¹¹ In states where these discriminatory bills have passed into law, transgender students who are Black, Indigenous, and people of color (BIPOC) will experience compounding harm as transgender people of color face even deeper and broader patterns of discrimination than do their White transgender peers. For example, GLSEN's national survey research has found that LGBTQ+ students who are BIPOC commonly experience both anti-LGBTQ+ and racist victimization in schools. See: Truong, N. L., Zongrone, A. D., & Kosciw, J. G. (2020).

Erasure and resilience: The experiences of LGBTQ students of color, Asian American and Pacific Islander LGBTQ young people in U.S. Schools. New York: GLSEN. <https://www.glsen.org/research/aapi-lgbtq-students> (Accessed May 3, 2022). Truong, N. L., Zongrone, A. D., & Kosciw, J. G. (2020). Erasure and resilience: The experiences of LGBTQ students of color, Black LGBTQ young people in U.S. Schools. New York: GLSEN. <https://www.glsen.org/research/black-lgbtq-students> (Accessed May 3, 2022). Zongrone, A. D., Truong, N. L., & Kosciw, J. G. (2020). Erasure and resilience: The experiences of LGBTQ students of color, Latinx LGBTQ young people in U.S. Schools. New York: GLSEN. <https://www.glsen.org/research/latinx-lgbtq-students> (Accessed May 3, 2022).

Zongrone, A. D., Truong, N. L., & Kosciw, J. G. (2020). Erasure and resilience: The experiences of LGBTQ students of color



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they are taught other people deserve. Simply put, preventing transgender and intersex girls and women from participating in school athletics is a recipe for more trauma, bullying, and violence.¹⁴

Not only do these proposals harm students and limit educational opportunity, the discrimination they endorse is illegal. The U.S. Supreme Court and numerous federal courts have held that discrimination on the basis of gender identity and transgender status is a form of sex discrimination, including when it occurs in gender-separated education programs and facilities.¹⁵ The Biden-Harris administration has made clear that it intends to enforce Title IX consistent with the Supreme Court's holding in *Bostock v. Clayton County*, which holds that discrimination on the basis of gender identity is a form of sex discrimination.¹⁶

The trend of state bills excluding transgender students from athletics is a false solution in search of a nonexistent problem. For more than a decade, state athletic associations around the country have implemented eligibility policies that ensure transgender student athletes can compete consistent with their gender identity. Those inclusive policies have benefited all students, including cisgender girls and women.¹⁷ There is no evidence that the participation of transgender girls and women has affected the level of play in states with inclusive policies.¹⁸ Furthermore, girls' athletics participation has increased or stayed the same in those states that have inclusive sports policies, while girls' athletics participation has declined in states with discriminatory policies.¹⁹

Lawmakers and officials in some states have also sought to ban widely accepted medical care for transgender youth, and to criminalize their families as well as school staff and other adults who help them access this necessary care.²⁰ Other laws recently proposed or enacted by some states seem to ban

¹⁴ Transgender students already face incredibly hostile school climates and high rates of bullying and harassment, which can impact not only their well-being but also educational outcomes. In a national survey of LGBTQ high school students, 84% of transgender students reported being victimized due to their gender identity and, compared to their cisgender LGB peers, they were more likely to report missing school because they felt unsafe or uncomfortable and less likely to report that were planning to complete high school. Source: GLSEN. (2022). Improving School Climate for Transgender and Nonbinary Youth. <https://www.glsen.org/research/improving-school-climate-transgender-and-nonbinary-youth> (accessed May 2, 2022). ¹⁵ See, *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731, 1747 (2020); *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 616 (4th Cir. 2020),

as amended (Aug. 28, 2020); e.g., *Schwenk v. Hartford*, 204 F.3d 1187, 1200-01 (9th Cir. 2000) (interpreting Gender Motivated Violence Act); *Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1047 (7th Cir. 2017) (Title IX); *Evancho v. Pine-Richland Sch. Dist.*, 237 F. Supp. 3d 267, 288 (W.D. Pa. 2017); *M.A.B. v. Bd. of Educ. of Talbot Cnty.*, 286 F. Supp. 3d 704, 719 (D. Md. 2018) (Title IX). See also *Parents for Privacy v. Barr*, 949 F.3d 1210, 1239-40 (9th Cir. 2020) (Title IX); *Doe by & through Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 535 (3d Cir. 2018) (Title IX).¹⁶ Exec. Order No. 13988, 86 Fed. Reg. 7023 (Jan 20, 2021); see also Department of Justice, Civil Rights Division, *Application of Bostock v. Clayton County to Title IX of the Education Amendments of 1972* (Mar. 26, 2021), <https://www.justice.gov/crt/page/file/1383026/download>.

¹⁷ Center for American Progress, *Fair Play: The Importance of Sports Participation for Transgender Youth* 13-16 (Feb. 8, 2021) [CAP Report], available at <https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/02/08/495502/fair-play>.¹⁸ David Crary & Lindsay Whitehurst, *Lawmakers can't cite local examples of trans girls in sports*, ASSOCIATED PRESS (Mar. 3, 2021), <https://apnews.com/article/lawmakers-unable-to-cite-local-trans-girls-sports-914a982545e943eccc1e265e8c41042e7>.¹⁹ CAP Report, *supra* note 10, at 14-16.

²⁰ List of bills active in state legislatures restricting healthcare for transgender youth: S.B. 5, H.B. 150, S.B. 184, H.B. 266 (Alabama); S.B. 1045, H.B. 2608 (Arizona); H.B. 211 (Florida); H.B. 401 (Georgia); H.F.



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transgender students from using the same school facilities as their peers; to ban discussion of their very existence from the classroom; and to force educators to punish students for coming out at school by outing them at home, even if they may be abused as a result. State leaders who care about life-saving care should reject these bills and instead ensure all families and young people can access medically necessary health care.²¹

Transgender students face disproportionately high rates of suicidal thoughts and behaviors,²² and bills that shut people out of gender-affirming care threaten their safety, health, and wellbeing. Research shows that gender-affirming care provides long-term mental health benefits for transgender people,²³ including a reduction in suicidal ideation and attempts.²⁴

While state laws banning discussion of LGBTQI+ people's lives and contributions in schools were repealed or overturned in recent years, several states have now rushed to pass new "Don't Say Gay or Trans" laws.²⁵ For example, Florida's "Don't Say Gay or Trans" law makes it illegal, in some cases, and otherwise creates new and vague barriers to discussing LGBTQI+ topics, including the existence of transgender people.²⁶ We've seen this move before, and research shows that the "no promo homo" laws now being revived contribute to a hostile school climate.²⁷ LGBTQI+ youth in states with these laws are more likely to experience harassment and assault based on their sexual orientation and gender expression than LGBTQI+ youth in states without these laws.²⁸ In addition to reducing harassment, inclusive curriculum in courses such as health education is essential for LGBTQI+ youth to make informed

²¹ There is a growing consensus among expert and medical organizations on that gender-affirming health care is medically necessary, this includes the following: American College of Obstetricians and Gynecologists (ACOG); World Medical Association (WMA); American Medical Association (AMA); Pediatric Endocrine Society; Endocrine Society; American Academy of Child & Adolescent Psychiatry (AACAP); World Professional Association for Transgender Health (WPATH); American Public Health Association (APHA); and American Psychological Association (APA). Transgender Legal Defense and Education Fund. (n.d.). Medical Organization Statements on transgender health care - trans health project. Medical Organization

Statements on Transgender Health Care - Trans Health Project. Retrieved May 20, 2022, from <https://transhealthproject.org/resources/medical-organization-statements/>

²² USTS Report, available at <http://www.ustranssurvey.org/reports>

²³ Bränström, R. & Pachankis, J. E. (Oct 4, 2019). "Reduction in Mental Health Treatment Utilization Among Transgender Individuals After Gender-Affirming Surgeries: A Total Population Study." Available at <https://ajp.psychiatryonline.org/doi/10.1176/appi.ajp.2019.19010080>

²⁴ The Trevor Project, *Gender-Affirming Care for Youth* (January 29, 2020), available at <https://www.thetrevorproject.org/research-briefs/gender-affirming-care-for-youth/>

²⁵ List of bills active in state legislatures restricting access to inclusive curriculum:

H.B. 322 (Alabama); H.B. 2011, S.B. 1045, H.B. 2161, H.B. 2285 (Arizona); S.B. 1834, H.B. 1557 (Florida); H.B. 1158 (Georgia); S.F. 2024, H.F. 2054, H.F. 2053 (Iowa); H.B. 5505 (Illinois); H.B. 1040, H.B. 1228, H.B. 1231 (Indiana); H.B. 14 (Kentucky); H.B. 570 (Louisiana); S.B. 2679, S.B. 2881 (Mississippi); H.B. 1755, S.B. 645, H.B. 2189 (Missouri); A. 1418, A. 585 (New Jersey); S.B. 1142, S.B. 1654, H.B. 1888, S.B. 657, S.B. 615 (Oklahoma); H. 7138, H. 7539, S. 2516 (Rhode Island); S.B. 900, H.B. 4605 (South Carolina); S.B. 2777, H.B. 2633, H.B. 0800, S.B. 1216 (Tennessee); S.B. 20, H.B. 988 (Virginia); S.B. 498, H.B. 4016 (West Virginia)

Source: ACLU, *Legislation Affecting LGBT Rights Across the Country: Other school or curriculum restrictions* (May 13, 2022), available at <https://www.aclu.org/legislation-affecting-lgbtq-rights-across-country>

²⁶ Transgender students are being impacted by numerous state bills that restrict LGBTQ+ inclusive curriculum. One of



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decisions about their health and future, and avoid potential adverse health outcomes.²⁹ LGBTQ youth who found their school to be LGBTQ-affirming have reported significantly lower rates of attempting suicide.³⁰ All students deserve access to an education that affirms their own identity and deserve the opportunity to see themselves and their families reflected in their school's curriculum.

We support the full inclusion, protection, and celebration of transgender youth, including access to school facilities and extracurricular activities such as athletics, gender-affirming care, and inclusive curriculum, because all young people deserve safe, healthy, and inclusive environments. Transgender and non-binary youth deserve the chance to succeed and thrive like any other child.

We call on state policymakers to reject attacks on transgender and non-binary youth, to commit themselves to meaningfully advancing policies that support equal opportunity,³¹ and to reassure all students in the nation's classrooms that they will have the chance to learn, grow, and thrive. If you have any questions, please reach out to Steven Almazán, k12 education senior program manager at The Leadership Conference on Civil and Human Rights, at almazan@civilrights.org.

Sincerely,

National Organizations:

The Leadership Conference on Civil and Human Rights

The Leadership Conference Education Fund

ADL (Anti-Defamation League)

All4Ed

American Association of Colleges for Teacher Education

American Association of University Women
American Atheists
American Federation of Teachers
American Psychological Association
Americans for Democratic Action (ADA)
Americans United for Separation of Church and State
Asian Americans Advancing Justice | AAJC
Athlete Ally
Autistic People of Color Fund
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
Campus Pride
Center for Disability Rights
Center for Law and Social Policy (CLASP)

²⁹ A CALL TO ACTION: LGBTQ+ YOUTH NEED INCLUSIVE SEX EDUCATION (2021). Available at <https://lgsf.org/>



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Center for LGBTQ Economic Advancement & Research
(CLEAR) Center for Reproductive Rights
CenterLink: The Community of LGBT Centers
Clearinghouse on Women's Issues
COLAGE
Community Catalyst
Disability Rights Advocates
Disability Rights Education & Defense Fund
End Citizens United / Let America Vote Action Fund
End Rape On Campus
Equal Justice Society
Equal Rights Advocates
Equality Federation
Faculty Against Rape
Family Equality
Feminist Majority Foundation
FORGE, Inc.
Forward Latino
GLMA: Health Professionals Advancing LGBTQ
Equality GLSEN
Harvard Law School LGBTQ+ Advocacy Clinic
Hispanic Federation
Human Rights Campaign

Impact Fund
interACT: Advocates for Intersex Youth
Japanese American Citizens League
Juvenile Law Center
Know Your IX, Advocates for Youth
Labor Council for Latin American Advancement
Lambda Legal
LatinoJustice PRLDEF
Lawyers' Committee for Civil Rights Under Law
League of United Latin American Citizens
(LULAC) Legal Aid at Work
Legal Momentum, the Women's Legal Defense and Education Fund
LGBTQ & Equity Consulting, LLC
LPAC Action Network
MALDEF (Mexican American Legal Defense and Educational
Fund) Many Voices



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NAACP
NARAL Pro-Choice America
National Association of Secondary School Principals (NASSP)
National Association of Social Workers
National Black Justice Coalition
National Center for Learning Disabilities
National Center for Lesbian Rights
National Center for Parent Leadership, Advocacy, and Community Empowerment (National
PLACE) National Center for Transgender Equality
National Center for Youth Law
National Coalition Against Domestic Violence
National Council of Jewish Women
National Crittenton
National Disability Rights Network (NDRN)
National Education Association
National Employment Law Project
National Indian Education Association
National LGBTQ Task Force
National LGBTQ Task Force Action Fund
National Organization for Women
National Resource Center on Domestic Violence
National Urban League

National Women's Law Center
OCA – Asian Pacific American Advocates
People For the American Way
PFLAG National
Positive Women's Network-USA
Public Justice
Robert F. Kennedy Human Rights
Sojourners
SPLC Action
Tahirih Justice Center
The Advocates for Human Rights
The Education Trust
The General Board of Church and Society of The United Methodist Church
The Sentencing Project
The Sikh Coalition
The Trevor Project
TNTP



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UnidosUS
Union for Reform Judaism
URGE: Unite for Reproductive & Gender
Equity Victim Rights Law Center
Whitman-Walker Institute
YWCA USA

State & Local Organizations:

Arizona Coalition to End Sexual and Domestic
Violence Catalyst Miami
CEED, Inc
Center for Sustainable Communities
Chicago Alliance Against Sexual Exploitation
(CAASE) Colorado Children's Campaign
Colorado Justice Advocacy Network
Disability Law Center
Disability Law Colorado
Disability Rights Arkansas
Disability Rights California
Disability Rights Florida
Disability Rights New York

Disability Rights Oregon
Disability Rights South Carolina
Disability Rights Tennessee
Disability Rights Vermont
Education Law Center-PA
Equality California
Florida Faith Advocacy Office
Florida Health Justice Project
Illinois Coalition Against Sexual Assault
Indiana Disability Rights
Indianapolis Urban League
Iowa Coalition Against Sexual Assault
Los Angeles LGBT Center
LULAC-IL
Maine Parent Federation
Mazzoni Center
Men Stopping Violence, Inc.
New Orleans Youth Alliance



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Silver State Equality-Nevada
Tennessee Justice Center The
Parents' Place of MD Urban
League of Greater Atlanta
Women's Law Project