

# Ohio Education Association

## Report on LGBTQ+ Bargaining Issues

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# Preliminary Report on Bargaining Issues

## A report for the OEA LGBTQ+ Issues Advisory Council

At the October 13, 2016, OEA Board of Directors meeting, the Board passed new business item (NBI #2) directing the OEA to begin the implementation of an action plan and program with the goal of providing OEA LGBTQ+ members employment protections equal to those provided to other OEA members covered by employment and harassment safeguards contained in locally bargained contracts.

Included in NBI #2 was the call for an annual evaluation of locally bargained contracts for language supporting LGBTQ+ employment rights and protections; the development and dissemination of ideal local contract language for LGBTQ+ issues; training of local association leaders and OEA staff on how to effectively bargain LGBTQ+ issues, and the creation of the OEA LGBTQ+ Issues Advisory Council, charged with the singular responsibility of evaluating the effectiveness and success of the plan and program and to officially issue an annual report to the Board of Directors and the Representative Assembly at their May 2017 meetings and annually thereafter until all OEA LGBTQ+ members have equal employment rights. The report below contains the data related to the NBI. In March 2024, the OEA Board of Directors voted to enshrine this work in Board policy.

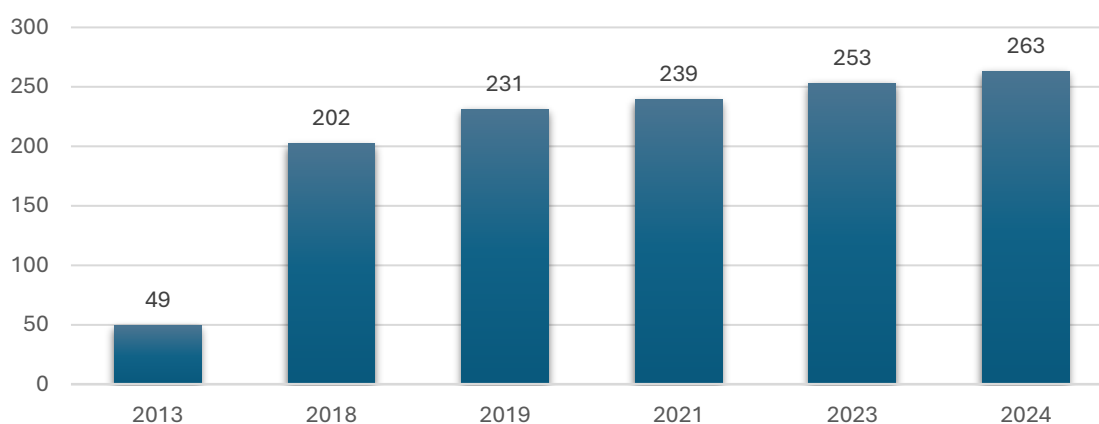
The OEA advocates for high-quality public education that is accessible to all and that promotes a fair and just society. The OEA strongly believes that each public-school student should experience inclusive learning experiences regardless of race, ethnicity, ancestry, national origin, sex, gender identity or expression, familial status, creed or religion, age, or disability. The OEA expects public education employers to be respectful of all employees, as well as all students and their families, and to not discriminate on the basis of race, ethnicity, ancestry, national origin, sex, gender expression, familial status, creed, religion, political expression, age, military status, or disability. Schools must be places where employees feel safe and comfortable being themselves and expressing their ideas.

## Overview of Contracts with LGBTQ+ Protections

An analysis of OEA contracts was conducted to determine the level of protections afforded to LGBTQ+ bargaining unit employees. This data was compared to analyses conducted in 2013, 2018, 2019, 2021, and 2023 to determine the increase in the number of locals that have LGBTQ+ contract protections for bargaining unit employees. The data for the April 2017 study was limited to 653 locals; the more recent updates include all OEA locals.

Between 2013 and March 2024 there has been an increase of at least 214 contracts with protective language. As of this most recent update, we have identified 263 contracts representing 35% of all OEA contracts<sup>1</sup>. The criteria for protective language used here is inclusion of the term “sexual orientation” in a contractual non-discrimination clause unless otherwise noted.

### Total Number of Contracts with LGBTQ+ Protection Language



- NEOEA has the largest number of contracts (66) with LGBTQ+ protections.
- SEOEA has the largest percentage of contracts (70%) within their district (excluding Capital’s lone contract) that have LGBTQ+ protections (see Table 1).
- K-12 locals make up the largest number of contracts (190) with LGBTQ+ protections and the largest number of OEA members with contractual LGBTQ+ protections. However, 100% of all Higher Education contracts have LGBTQ+ protections compared with just 36% of K-12 contracts (see Table 2).

<sup>1</sup> Note: The 2013 study searched the OEA contract database using specific key words. The 2018, 2019, and 2021 updates asked Labor Relations Consultants, working with leadership, to identify locals and board policies with LGBTQ+ protections. The 2023 and 2024 updates returned to the OEA contract database keyword search method.

Table 1. Contracts with LGBTQ+ Provisions by District

<b>DISTRICT</b>	<b># CONTRACTS WITH LGBTQ+ PROTECTIONS</b>	<b>% OF TOTAL CONTRACTS IN DISTRICT</b>
<b>CAPITAL</b>	1	100%
<b>CENTRAL</b>	44	40%
<b>ECOEA</b>	18	29%
<b>EOEA</b>	11	26%
<b>NCOEA</b>	16	42%
<b>NEOEA</b>	66	36%
<b>NWEOA</b>	31	31%
<b>SEOEA</b>	40	70%
<b>SWOEA</b>	11	14%
<b>WEOA</b>	25	34%
<b>TOTALS</b>	<b>263</b>	<b>35%</b>

Table 2. Contracts with LGBTQ+ Provisions by Local Type

<b>LOCAL TYPE</b>	<b># CONTRACTS WITH LGBTQ+ PROTECTIONS</b>	<b>% OF TOTAL CONTRACTS BY TYPE</b>
<b>DD (W TO W)</b>	10	48%
<b>ESC (W TO W)</b>	1	50%
<b>ESP</b>	33	29%
<b>HE/ESP (W TO W)</b>	2	100%
<b>HIGHER ED</b>	8	100%
<b>JVS (W TO W)</b>	6	40%
<b>JVS/CAREER CTR</b>	4	17%
<b>K-12</b>	190	36%
<b>K-12/ESP (W TO W)</b>	9	31%
<b>TOTALS</b>	<b>263</b>	<b>35%</b>

These contracts cover an estimated 50,000 represented employees.

## Transgender Protections for Employees

Twenty-three (23) contracts<sup>2</sup> contained explicit protection against discrimination based on transgender identity. Of those, six are ESP contracts; two are JVSD contracts; and the remaining fifteen (15) are K-12 contracts. Together, these contracts cover more than 5,100 represented employees.

Additionally, a keyword search of OEA contracts was conducted for the terms ‘gender identity’ and ‘gender expression,’ resulting in approximately 110 contracts<sup>3</sup> covering almost 23,000 bargaining unit employees. While not as explicit, these terms can be construed to protect transgender bargaining unit employees.

More generally, non-discrimination clauses in contracts that include gender and sexual orientation may be construed to extend to transgender employees, but because there is more subjectivity in that area, clearer and more specific language is beneficial.

## Domestic Partner Language

The term ‘domestic partner’ appears in sixty-eight (68) OEA contracts covering over 16,000 bargaining unit members<sup>4</sup>; of those, at least sixty (60) have language explicitly allowing use of sick leave for domestic partners. This is not indicative of all contracts or districts that allow use of sick leave for domestic partners, since the term ‘spouse’ could be interpreted to apply, and many contracts contain language in the sick leave section allowing for use for ‘anyone standing in relationship identical to those listed above’ (i.e. spouse, parent, child, etc.) or ‘anyone residing in the home.’

A far lower number of contracts used the term ‘domestic partner’ specifically in the context of insurance (typically health insurance). Again, this is not reflective of the total number of contracts or districts where insurance benefits are available to family members regardless of orientation and/or identity. Language defining who can be covered by an insurance plan may reside in a district policy or the plan documents themselves, not in the contract.

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<sup>2</sup>A keyword search was conducted of OEA contracts using the term ‘transgender.’ Responses were reviewed to determine the context in which the term is used.

<sup>3</sup>A random sample of these were reviewed to determine the context in which the terms were used and all but one used the terms in a non-discrimination clause.

<sup>4</sup> Based on the same keyword search methodology.

## Additional Work

OEA has used inclusive messaging in several Public Service Announcements that have aired across the state in the last year, including this message the week of June 19, 2023:

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*“Every student in Ohio deserves the chance to learn in safe, welcoming spaces, regardless of where they’re from, what they look like, their gender identity, or who they – or their parents – love. This Pride Month, we reaffirm the importance of Ohio’s public schools in serving all students – no exceptions...”*

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OEA also opposed Ohio House Bill 68, which sought to prohibit gender affirming medical care for minors as well as transgender athletes from college-level sports participation. OEA President Scott DiMauro [testified](#) against the bill:

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*OEA has long stood for policies that are inclusive of students regardless of race, class, gender, or identity. Athletics and other extracurricular programs provide an important opportunity for all students to learn, grow, and meet their full potential.*

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OEA also opposed Ohio House Bill 8, the so-called ‘Parents’ Bill of Rights’. From OEA’s [Floor Letter](#):

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*...The amendments establish rules that may impose broad censorship of LGBTQ+ identities in public schools, resulting in further marginalization of already vulnerable students and exacerbating school staffing shortages by pushing educators out of the profession.*

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Finally, OEA opposed Ohio House Bill 183, a stand-alone so-called ‘bathroom bill’ which died in committee. From President DiMauro’s [testimony](#):

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*OEA opposes discriminatory practices based on gender identity and/or sexual orientation... State government bathroom bans like HB 183 make transgender people less safe, lead to more bullying and harassment of transgendered students, and do not increase safety for cisgender students.*

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## Sample Contract Language

Contract language with LGBTQ+ protections for educators take many forms. Most common, the language is found in the non-discrimination policy, anti-harassment policy, equal employment opportunity policy, sick leave policy, insurance language and, finally, in evaluation language. Language samples are included.

In addition, one innovative local decided to include LGBTQ+ non-discrimination language in its Constitution and Bylaws. The local felt that if we were pushing for school districts to include such language that the locals should also include this language.

Examples of current contract language:

**Contract A:**

Use of Sick Leave – Immediate Family

Sick leave may also be used for illness or injury which requires medical attention to someone in the employee’s immediate family. In this section, employee’s immediate family is defined to include father, mother, father-in-law, mother-in-law, brother, sister, husband, wife, domestic partner, child (including foster and stepchildren), grandchildren (including step grandchildren), or any other relative living under the employee’s roof.

**Contract B:**

<b>Plan</b>	<b>Employer Share Employee Only</b>	<b>Employer Share Employee Plus Spouse/Domestic Partner</b>	<b>Employer Share Employee Plus Child</b>	<b>Employer Share Family</b>
CIGNA PPO	75%	70%	70%	70%
Definity Health Plan	75%	70%	70%	70%

**Contract C:**

INSURANCE AND BENEFITS

A. Effective August 1, 2014, the Board will pay 80% of the health care insurance plan premium and each eligible teacher will pay 20% of the premium for both single and family coverage. If both husband and wife or domestic partners are employed full-time by the school district, the maximum Board contribution toward the cost of family coverage shall be the sum of the Board premium contribution toward family coverage plus the employees’ share of two single insurance benefit plans. Spouses married and



employed by the district prior to January 1, 2008, retain their current premium exemption. Family coverage includes domestic partner and any dependent children of the member or domestic partner as defined in Article VII, Section G, Sick Leave.

#### **Contract D:**

The Board of Education does not discriminate on the basis of race, color, national origin, sex (including sexual orientation and gender identity), disability, age, religion, military status, ancestry, genetic information (collectively, "Protected Classes"), or any other legally protected category, in its programs and activities, including employment opportunities.

### Sample School Board Language

The most common Board of Education policy language is the standard NEOLA and OASBO language. It reads as follows:

#### **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

**The Board of Education does not discriminate based on** race, color, national origin, **sex (including sexual orientation and transgender identity)**, disability, age, religion, military status, ancestry, genetic information (collectively, "Protected Classes"), or any other legally protected category, in its programs and activities, **including employment opportunities.**

### Training

Training on obtaining LGBTQ+ language has taken many forms. Approximately 83% of OEA locals have received the OEA non-discrimination model language at the OEA Advocacy and Organizing Institute, Bargaining Bootcamps, as a one-on-one conversation with their LRC, at a stand-alone training or at a UniServ Leadership Council meeting.

In 2014, the OEA trained its entire staff on issues impacting the LGBTQ+ community and LRCs were directed to include LGBTQ+ issues and bargaining language in all the work that they do. Staff hired since 2014 have also received information and training. This has resulted in LGBTQ+ issues being incorporated into trainings at UniServ Leadership Councils, OEA Summer Leadership Academy, OEA Advocacy and Organizing Institute, OEA Bargaining Bootcamps and at stand-alone district training programs.

Over nine hundred (900) members have been trained on strategies for bargaining LGBTQ+ language into their contracts at more than 180 OEA bootcamps since 2017. In addition to bargaining strategies, each local has been provided a core contract assessment that identifies areas to improve existing language if it exists.

# Non-Discrimination

## OEA Education Policy Research and Member Advocacy Department

### **Background**

School climate has a direct impact on the success of students and the ability to attract and retain quality employees. A school climate that is welcoming and positive allows staff to focus on practicing their profession and students to foster a positive relationship with the learning experience. One of the keys to the creation of a positive school climate is to ensure that OEA member teachers and ESP employees can operate without fear of harassment, discrimination, or bullying of any kind.

### **Rationale**

The model contract language below is intended to:

- Provide a prohibition of harassment, discrimination, or bullying based upon any class of employees regardless of whether the class is recognized by federal or state law
- Establish professional development to identify, prevent, and address harassment, discrimination, and bullying
- Provide definitions that capture the current terminology used in the workplace

### **Model Language**

#### *General Protections*

*The Board of Education shall prohibit adverse actions related to employment decisions, the application of any provision of this collective bargaining agreement, the creation and/or application of any Board of Education Policy, and also prohibit bullying, harassment of any kind, or any other act of discrimination, based upon any of the following:*

- *Age*
- *Race*
- *National Origin*
- *Disability*
- *Religion*
- *Gender*
- *Gender Identity*
- *Gender Expression*

- *Sexual Orientation*
- *Marital Status*
- *Veteran Status*
- *Political Affiliation*
- *Union Membership or Activism*

*Further, all personally identifiable and medical information relating to any of the above shall be considered confidential information and will not be released except as required by local, state, or federal law. The Board of Education shall respect and uphold each employee's right to privacy and constitutional rights as citizens.*

### **Professional Development**

*The Board of Education shall annually provide professional development to enhance the skills of staff to prevent, identify, and respond to bullying, harassment, and discrimination. The content of such professional development shall include, but not be limited to:*

- *Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children, adolescents, and adults;*
- *Student age-appropriate strategies and/or protocols for communication with students and parents about issues related to gender identity and gender expression that protects student privacy;*
- *Student age-appropriate strategies for preventing and intervening in bullying, cyber-bullying, and harassment incidents;*
- *Classroom management techniques, curriculum, and resources that can be integrated to foster a more inclusive environment for students and staff;*
- *Information on the incidence and nature of bullying, harassment, and cyber-bullying in the district in the previous school year*

### **School Facilities**

*The Board of Education shall provide private, gender neutral restrooms for staff use in each building at a ratio of not greater than one (1) restroom per fifteen (15) employees.*

### **Non-Discrimination Definitions**

***Bullying:*** *The creation of a hostile or abusive environment through systematic or chronic acts of verbal, nonverbal, physical, or social aggression or intimidation that creates an imbalance of social or physical power, whether perceived or real.*

***Cisgender:*** *A person whose gender identity aligns with the sex they were assigned at birth.*

***Crossdresser:*** *A person who dresses in clothes normally associated with the opposite sex.*

***Discrimination:*** *The unjust or prejudicial treatment of a person or group of people based upon their age, race, national origin, disability, religion, gender, gender identity, gender expression, sexual orientation, marital status, veteran status, political affiliation, or union membership/activism.*

**Domestic Partners:** *Two individuals who live together and share a common domestic life but have no legal status as partners (i.e. marriage or civil union).*

**Gender Expression:** *The manner in which a person represents or expresses their gender to others.*

**Gender Identity:** *A person's deeply held sense or psychological knowledge of their own gender, which includes being female, male, another gender, or no gender.*

**Gender Nonconforming:** *A person whose gender expression differs from stereotypical expectations, such as "feminine" boys, "masculine" girls, and those who are perceived as androgynous.*

**Harassment:** *Consistent, unwelcome conduct that is based on a person's age, race, national origin, disability, religion, gender, gender identity, gender expression, sexual orientation, marital status, veteran status, political affiliation, or union membership/activism.*

**Nonbinary/Genderqueer:** *someone who identifies with no gender or a combination of genders.*

**Sexual Orientation:** *A person's romantic, physical, or sexual attraction to people of the same gender, opposite gender or multiple genders.*

**Transgender:** *A person whose gender identity or expression is different from their sex assigned at birth.*

**Transition:** *The process in which a person goes from living and identifying as one gender to living and identifying as another gender which may or may not involve social, legal, or physical changes.*

### **Other Contract Areas to Review**

- Health insurance (related to domestic partner provisions) The model language has also been updated in the OEA Contract Language Development Guide.

### **Conclusion**

The new model language updates the existing model language to reflect current non-discrimination practices in the workplace. More information on these subjects can be found at the Gay, Lesbian and Straight Education Network [website](#) or in the publication "Schools in Transition" available [here](#).

### **Questions**

Model Contract Language questions please contact Eric J. Urban, Collective Bargaining and Research Consultant at [urbane@ohea.org](mailto:urbane@ohea.org).

This publication is intended to provide guidance to employees and members of the Ohio Education Association and should not be transmitted in any form, excluding model language, to individuals or entities not affiliated with the Ohio Education Association.

## OEA Board Policy: LGBTQ+ Issues Advisory Council

OEA shall maintain an LGBTQ+ Issues Advisory Council charged with the goal of ensuring that LGBTQ+ members are provided employment protections equal to those provided to other OEA members. The Council will oversee an Association-wide plan and program designed to gain equal employment rights for LGBTQ+ members through the collective bargaining process at the local level. The program will involve all facets of the Association and will continue until all OEA LGBTQ+ members are covered by local contract provisions protecting them from employment discrimination and harassment.

At a minimum, the plan will include the annual evaluation of locally bargained contracts for language supporting LGBTQ+ employment rights and protections, the development and dissemination of ideal local contract language for LGBTQ+ issues, and training of local association leaders and OEA staff on how to effectively bargain LGBTQ+ issues.

The OEA LGBTQ+ Issues Advisory Council shall be responsible for evaluating the effectiveness of the plan and program and shall issue an annual report to the Board of Directors and Spring Representative Assembly. OEA management will prepare the initial draft of the annual report on progress being made to implement the plan and program for presentation to the OEA LGBTQ+ Issues Advisory Council prior to April 15 of each year.

The annual report shall include the number of locals with contracts containing LGBTQ+ employment protections, the number of locals bargaining a new contract during each membership year, the number of locals proposing LGBTQ+ contract language, the number of locals achieving LGBTQ+ contract language through the bargaining process, the number of OEA members covered by local contracts with language protecting LGBTQ+ OEA members from employment discrimination and harassment, the specificity of training provided to staff and local leaders and the numbers participating in said programs, and any other information pertinent to the goal of achieving equal employment rights for all OEA LGBTQ+ members.

The OEA LGBTQ+ Issues Advisory Council shall consist of five OEA members appointed by the OEA President with the approval of the Board of Directors. At least one of the five members shall be recommended by the OEA LGBTQ+ Caucus.