



## Navigating Parental Rights: A Study of Virginia's Model Policies on Transgender Student Treatment

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**Abstract:** In this study, I explore the discourse surrounding parental rights in U.S. public schools, with Virginia as a focal point. Analyzing two sets of model policies regarding the treatment of transgender students—one established under a Democratic governor and another implemented following the election of a Republican candidate championing parental rights—this research employs qualitative content analysis to gain insight into the contemporary parental rights movement in educational settings. Five key themes emerged: 1. Reliance on expert opinions; 2. Variation in depth and breadth of information within policies; 3. Transgender student inclusion in policies; 4. Student and parent focus imbalance; and 5. Adherence to legal intent. The findings indicate a shift in emphasis from addressing gender identity concerns to prioritizing parental rights, with ramifications for the broader political landscape. This research enriches the ongoing dialogue on the role of parents in education and the consequences of the conservative parental rights movement for educational policy.

**Keywords:** transgender students; parental rights; queer; LGBTQ; politics of education; parents; gender diversity; gender

### Navegando por los derechos de los padres y las madres: Un estudio de las políticas modelo de Virginia sobre el tratamiento de estudiantes transgénero

**Resumen:** En este estudio, exploro el discurso en torno a los derechos de los padres y las madres en las escuelas públicas de Estados Unidos, con Virginia como punto focal. Al analizar

dos conjuntos de políticas modelo con respecto al tratamiento de los estudiantes transgénero (una establecida bajo un gobernador demócrata y otra implementada luego de la elección de un candidato republicano que defiende los derechos de los padres y las madres), esta investigación emplea un análisis de contenido cualitativo para comprender mejor el movimiento contemporáneo por los derechos de los padres y las madres en la educación. ajustes. Surgieron cinco temas clave: 1. Dependencia de opiniones de expertos; 2. Variación en profundidad y amplitud de la información dentro de las políticas; 3. Inclusión de estudiantes transgénero en las políticas; 4. Desequilibrio en el enfoque entre estudiantes, padres y madres; y 5. Adhesión a la intención legal. Los hallazgos indican un cambio en el énfasis de abordar las preocupaciones de identidad de género a priorizar los derechos de los padres y las madres, con ramificaciones para el panorama político más amplio. Esta investigación enriquece el diálogo en curso sobre el papel de los padres y las madres en la educación y las consecuencias del movimiento conservador por los derechos de los padres y las madres para la política educativa.

**Palabras-clave:** estudiantes transgéneros; derechos de los padres y las madres; queer; LGBTQ; política de la educación; padres y madres; diversidad de género; género

### **Navegando pelos direitos dos pais e das mães: Um estudo das políticas modelo da Virgínia sobre o tratamento de estudantes transgêneros**

**Resumo:** Neste estudo, exploramos o discurso em torno dos direitos dos pais e das mães nas escolas públicas dos Estados Unidos, com Virgínia como ponto focal. Ao analisar os conjuntos de políticas modelo a respeito do tratamento dos estudantes transgêneros (um estabelecido sob um governador democrata e outro revolucionário depois da eleição de um candidato republicano que desafia os direitos dos pais e das mães), esta investigação emprega uma análise de conteúdo qualitativo para compreender melhor o movimento contemporâneo dos direitos dos pais e das mães na educação. ajustes. Cirurgia com cinco temas chaves: 1. Dependência de opiniões de especialistas; 2. Variação na profundidade e amplitude da informação dentro das políticas; 3. Inclusão de estudantes transgêneros nas políticas; 4. Desequilíbrio na abordagem entre estudantes, pais e mães; e 5. Adesão à intenção legal. Os hallazgos indicam uma mudança na ênfase de abordar as preocupações de identidade de gênero, priorizando os direitos dos pais e das mães, com ramificações para o panorama político mais amplo. Esta investigação enriquece o diálogo em curso sobre o papel dos pais e das mães na educação e as consequências do movimento conservador pelos direitos dos pais e das mães para a política educativa.

**Palavras-chave:** estudantes transgêneros; direitos dos pais e das mães; queer; LGBTQ; política da educação; pais e mães; diversidade de gênero; gênero

### **Navigating Parental Rights: A Study of Virginia's Model Policies on Transgender Student Treatment**

Parental rights issues in public schools have long pervaded U.S. educational policy but gained increased prominence in recent years (Mayo, 2021; Williams, 2022). For purposes of this paper, parental rights refer to parents' perceived authority to shape public schooling practices, where individual parental interests supersede those of students, state, or community. The 2021 Virginia gubernatorial race saw Democratic candidate Terry McAuliffe face Republican newcomer Glenn Youngkin, who sought to distance himself from former President Donald Trump's influence and capture the state's moderate base (Manchester, 2021). McAuliffe's statement during a debate—that

he didn't believe parents should "tell schools what to teach" (Stratford & Montellaro, 2021, p. 1)—shifted the race's trajectory. Youngkin won, pledging to protect parents' rights.

In this study, I examine the 2021 and 2022 Virginia's *Model Policies for the Treatment of Transgender Students*, mandated by Virginia's House Bill 45, which directs The Virginia Department of Education to develop model policies that address transgender student issues in public schools. These policies were issued in 2021, prior to Youngkin's election, and then revised and released again in 2022, following his election. Employing qualitative content analysis to compare the policies, I pose the research question: How do Virginia's model policies on transgender student treatment illuminate the parental rights political movement in education? Analyzing this case offers insights into the parental rights debate and parents' roles in education. Subsequent sections explore the literature and history of parental rights in the US, the current political context surrounding these rights, details of this study, and a discussion that situates the findings within the broader political landscape.

### **Framing Parental Rights in Historical Context**

In many ways the concept of parental rights, in the context of individual parental rights to dictate school policy, in education has risen in importance over the last 30 years, though in order to understand the current parental rights movement, one must have a broader understanding of the historical public schooling context in the United States. A public commitment to education and schooling has been part of the U.S. landscape for more than 200 years (Labaree, 1997). Since before the passage of the Northwest Ordinance in 1787, states have included language in their constitutions and in statutes that encourage schooling and education for young people, eventually leading to compulsory education laws for children from grades K-12 (Rury, 2012). Typically, these boards, comprised of elected or appointed members from the community they serve, reflect the values, beliefs, and priorities of their constituents, shaping the educational direction and addressing local needs. The Constitution of Massachusetts, for example, declared, "Wisdom, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties" and it is the duty of legislatures and magistrates to "cherish the interests of literature and the sciences, and all seminaries of them" (Massachusetts Constitution, 1780, Chapter 5 Section 2). The predominant type of basic governance came from school boards in the United States. School boards play a pivotal role in the governance and operation of local public education, granted power from state constitutions or state school boards, and it is in these settings that many policy decisions are made about operation and aim of individual schools (Hornbeck, 2017; Rury, 2012).

Mandatory attendance for middle and high school students, grades 7 through 12, spread to all states in the first half of the 19<sup>th</sup> century, exposing students to curriculum that went beyond the scope of just literacy and basic math included in primary (K-6) grades (Angus & Mirel, 1999; Hornbeck, 2019). High school curriculum engages with subjects that can carry controversy, such as issues related to politics, philosophy, health, and science, often differing with religious dogma, and in the early 1910s and 1920s, controversy about what would be taught in schools erupted in many states and in local school districts (Rury, 2012). One prevalent debate was over whether or not schools should be vocational in aim or teach a liberal arts curriculum (Hornbeck, 2019). Additionally, in the late 19<sup>th</sup> century and in the wake of Darwin's theory about evolution, new ideas challenged religious dogma that had permeated school curricula up to that time, leading to questions about the place of religion in school curriculum and a backlash by Protestant religious fundamentalists (Laats, 2010).

## Religious Motivations

As the 20<sup>th</sup> century dawned, Christian fundamentalism emerged as a significant political and religious movement in response to various economic, cultural, and scientific changes during the late 19<sup>th</sup> century (Moran, 2004). This branch of Protestantism advocated for a literal interpretation of the Bible and urged followers to evangelize their beliefs against the perceived threats of modernism, secularism, and evolution (Marsden, 1980). Factors such as urbanization, diversity, and the growth of higher education contributed to the spread of knowledge that fundamentalists deemed harmful to Christian values. Consequently, fundamentalist activists became engaged in local and state educational policymaking, initiating campaigns to mandate Protestant Bible reading in public schools, prohibit teaching evolution, prohibit Catholic teachings, or even ban instruction contradicting the protestant version of the Bible (Moran, 2004). In the 1920s, 11 states enacted laws requiring the King James Bible to be read in schools. Evolution became a primary target of fundamentalists, with the infamous Scopes Monkey Trial in Dayton, Tennessee (see Moran, 2004) capturing national attention. This high-profile case saw a high school science teacher jailed for teaching evolution, drawing prominent figures to the town for the trial. However, the Scopes Trial was just one of many; 22 other states proposed bills to ban teaching evolution, and two federal bills sought to implement nationwide bans (Laats, 2010).

## Parental Rights and Race

Beyond religious motivations, the history of parental rights in education in the United States is entwined with the narratives of white supremacy and racial dominance (Bell, 2004; Hornbeck, 2021; McRae, 2018). Prior to the abolition of slavery in 1865, the brutal and forceful enslavement of African children largely denied them any form of education. One major reason for this was the fear that an educated slave population could potentially lead to uprisings. Slaveholders also wanted to prevent enslaved people from different regions of Africa from communicating, thus further ensuring their dominance (Menchaca, 1997). Fictional and malicious narratives also circulated that claimed enslaved Africans were intellectually inferior and incapable of learning, reinforcing the notion that they were less than human (Menchaca, 1997).

From the end of slavery onwards, many white individuals throughout the United States argued against the racial integration of schools, playing into a broader narrative that touches on the pivotal role of state and federal laws in molding public education to echo white supremacist ideologies of social hierarchy. Laws that criminalized literacy for enslaved Africans, mandated racial school segregation, and parental pushback against desegregation highlight the legal strategies employed to uphold racial hierarchies (Bell, 2004). Moreover, the hostile reactions to landmark court verdicts, such as *Brown v. Board of Education*, exemplify the lengths white parents went to in order to defend their perceived racial superiority (McRae, 2018). McRae (2018) contends that white women significantly and actively participated in the ‘massive resistance’ against desegregation in the mid-20<sup>th</sup> century, leveraging their societal position to bolster and spread segregation via political initiatives, school boards, and community associations in the guise of parental rights. Thus, modern discussions about “parental rights” ought to be interpreted within this historical backdrop of previous endeavors to dominate public education, as they further oppression.

## State Protection of Parental Rights

In the 1980s, Tennessee once again took center stage in the debate over school curricula and parental influence. The *Mozert v. Hawkins* case, a landmark legal battle in the late 1980s and arguably a starting point of the current parental rights debate, addressed parental rights within public education. The case revolved around whether parents had the right to remove their children from

curricula they deemed morally or spiritually offensive (Warnick, 2012). A group of parents objected to specific books and materials used in public schools, claiming their constitutional rights to freedom of religion and speech were being infringed upon. The Sixth Circuit Court of Appeals ruled that although parents possess a constitutional right to guide their children's upbringing and education, this right is not absolute and must be weighed against the state's interest in providing comprehensive education to all children (Vojak, 2003). *Mozert v. Hawkins* remains a pivotal case in the ongoing discourse surrounding parental rights and the state's role in shaping citizens' education.

Since the aforementioned case, 15 states have moved to protect parental rights—as defined in this paper—through statute, mirroring historical concerns about the direction and content of education. For instance, in the 1950s, there was heightened concern among parents about influences in schools, such as perceived communist infiltration and the onset of desegregation (Schultz, 2022). Furthermore, the U.S. Supreme Court, in the 1972 *Wisconsin v. Yoder* case, acknowledged the rights of Amish families to exempt their children from high school, grounding their decision in parental rights (Schultz, 2022). While movements for parental rights have evolved over the decades, the current legislative endeavors in 2022 and 2023 reflect a longstanding tug-of-war between state interests and parental autonomy (see ParentalRights.org.)

The language of parental rights differs from state to state. For example, the Texas Education code in Title 2 says “that the liberty of a parent to direct the upbringing of the parent's child is a fundamental right.” Similarly, Colorado law asserts, “Parents have a fundamental right and responsibility to make decisions concerning the care, custody, and control of their children” (Col. Rev. Stat. § 13-22-107, ND). Nevertheless, there is no national law or mention in the Constitution that guarantees parental rights in education. This legislative landscape suggests that the conception of parental rights and education is framed within a liberal, paternalistic context, wherein parents hold significant control over their children's upbringings without interference from the state or others (Gutmann, 1980). While parents might not view themselves as owners of their children, they often demand control over their child's education up to the age of adulthood, set at 18 in the United States. This stance frequently creates tension within public schools, especially in a pluralistic and multicultural society where schools are expected to serve all students equitably (Schultz, 2022).

### **Present Parental Rights Debate**

The current debate about parental rights in schools is largely framed by political and religious conservatives who believe they have right to near total control over what their children can and should learn in schools, which in turn gives them control over other children and parents in schools that don't believe like them, and was partially sparked as a response to school policies implemented during the COVID-19 pandemic (Williams, 2022). In Spring 2020, nearly every state closed or recommended school closures, affecting 55.1 million students nationwide (Peele & Riser-Kositsky, 2020). By the end of that school year, students performed significantly worse on standardized tests compared with years prior, particularly among students with unequal access to resources (Dorn et al., 2020). Moreover, students with special needs experienced a significant disruption to educational continuity due to the loss of services provided by schools (Genova et al., 2021). When schools partially or fully reopened in the 2020/2021 school year, the requirement for students to wear medical masks in school became a contentious political issue (Rothstein et al., 2021). Parents throughout the US attended school board meetings demanding the choice of whether their children should wear masks (Borter et al., 2022). In the US, local control over schools is common and individual school boards have power to make decisions about school policy. In some cases, like in Loudoun County, Virginia and Rochester, Minnesota, school board members received death threats and threats of violence over mask-mandates, and the belief that the schools were teaching left-wing

curriculum (Borter et al., 2022). Consequently, nine conservative states enacted policies prohibiting schools from mandating masks (Brothers et al., 2021; Hornbeck, 2021).

School closures during COVID-19 led to remote learning in all 50 states, giving parents increased exposure to their children's curricula, occasionally sparking negative populist reactions where parents protested school closures and mask mandates (Hornbeck, 2021; Williams, 2022). In September 2021, President Donald Trump issued Executive Order 13950, titled "Combating Race and Sex Stereotyping." This memo outlined explicit prohibitions against using federal funds for any form of racial sensitivity training that incorporated critical race theory (CRT) or referenced "white privilege." CRT is a theoretical framework in legal studies that asserts that racism is an ingrained feature of society, influencing legal systems and policies, and it seeks to challenge and transform these societal structures by examining and deconstructing their racial components (Delgado & Stefancic, 2017). According to the Trump administration, these concepts were deemed divisive and harmful to the unity and productivity of federal workplaces (Adams, 2021). Sixteen conservative states have enacted policies to restrict the teaching of critical perspectives on race, sexuality, and seek to perpetuate a positive view of U.S. history (see Morgan, 2022), igniting local school board debates nationwide. Central to this issue was conservative activist Christopher Rufo, who argued that CRT had infiltrated public school curricula both overtly and covertly (Gabriel, 2022). Rufo also contended, with specious examples, that schools were indoctrinating students on gender issues, "grooming" them to deviate from heteronormativity (Gabriel, 2022). His significant influence on conservative curricular policy resulted in multiple anti-CRT bills and legislation barring teachers and staff from discussing sexuality or acknowledging homosexuality in curricula (Williams, 2022). Capitalizing on the pervasive fear and uncertainty stemming from COVID-19, Rufo's actions provided a catalyst for a conservative backlash. These maneuvers were quickly embraced by groups championing parental rights.

It should also be noted that one driver related to the backlash of parents and sexuality/gender in schools during the COVID-19 pandemic was sparked by the landmark Supreme Court Case, *Obergefell V. Hodges*, which legalized same-sex marriage in the United States (Cannon, 2022). After the ruling for this case, same-sex relations were made legal and mainstream, opening the doors for conversations in schools and inclusion in curricula. Gay marriage was now the law of the land, creating a large political swing in the United States. During Donald Trump's presidency, the political climate underwent significant shifts. His rhetoric, frequently underscored by themes of white male-dominated values, intensified debates (Jones, 2020). Combined with targeted legal actions, and focused promotion, there emerged pushback against transgender individuals, both young and adult (Hornbeck & Duncheon, 2022; Mayo, 2021). These coordinated efforts skillfully used legal and political avenues to challenge the progression of LGBTQ+ rights in education, adding layers of complexity to the discourse on parental rights.

In response to COVID-19 educational policies and the Black Lives Matter protests following George Floyd's killing, conservative political activist groups emerged across the US as a backlash. These groups, like Fight for Schools, No Left Turn in Education, or Parents Defending Education encourage conservative parents to engage in school board policy, scrutinizing books and curricula. Arguably the most prominent group, Moms for Liberty, has gained national attention, including in Virginia (Williams, 2022). Members go to school board meetings throughout the United States, as well as hold rallies, and give testimony at state legislative committees, arguing that schools have succumbed to leftist ideology. These mothers are driven by various concerns, including opposition to curriculum about racial hierarchies or what they call critical race theory, mask mandates, transgender rights, acceptance of diverse sexualities, and COVID-19 vaccinations. They have established local chapters across the nation, mobilizing via social media to influence school board decisions and advocate for their favored policies. Many view themselves as protectors of their

children's education and perceive school boards as overreaching. A notable example of their policy influence occurred in Tennessee, where they sought to ban a seahorse book, believing it normalized gender fluidity and the notion that males can give birth (Chapman, 2021; Williams, 2022).

Although Moms for Liberty is often described as a grassroots organization, it is far from being a casual assembly of concerned mothers (Yousef, 2023). Their operation is large and found in almost every state and backed by significant funding from prominent conservative political donors. Their agenda and activities have become so aggressive that they've attracted the attention of the Southern Poverty Law Center (Yousef, 2023), who've now branded them as an extremist, anti-government group (Southern Poverty Law Center, 2023). This contemporary formation bears similarity to the groups of mothers who staunchly resisted civil rights and school integration during the tumultuous era of the Civil Rights movement, utilizing familiar tactics in a modern context (McRae, 2018).

The political actions of Moms for Liberty and other groups who are arguing against inclusive environments for LGBTQ children in schools extend far beyond local school board meetings and local parental worries over issues of gender and sexuality. Their strategy is more encompassing, veering into the territory of a larger cultural war with the potential to influence not only their children's experiences but those of all children in public schools (Cunningham, 2022). Their protests and lobbying efforts have become a systematic endeavor to push their socio-political ideologies and alter the course of educational policy and practice. This represents a significant evolution from being a mere parent's group to being a strategic faction in the broader cultural and political landscape. Their campaigns are not isolated acts of advocacy but rather a concerted effort to reshape the nature of public education in line with their ideological views (Williams, 2022). Unlike the parents in the *Mozert* case who argued for the individual rights of parents to withhold curriculum from their own children, these activists have an aim to withhold curriculum from all children on account of their individual views.

Finally, the extant literature around the parental rights movement lacks a crucial component: the exploration of the successful endeavors to establish schools—or at least school policies—that are affirming for transgender and gender diverse students. No doubt, parents of transgender students have played a role in helping making schools more safe and accepting for their children, but these efforts are not framed in the parental rights context (Mayo, 2021; Lopez, 2023; Pendharkar, 2023). Interestingly, the driving force behind these transformative steps has been partially a body of parents who have advocated for their children, shifting the narrative towards the inherent rights of the students—specifically, their right to feel safe in schools (See Human Rights Campaign, n.d). They perceive the educational environment as a critical setting for not just academic but also social development, arguing that it should be inclusive and respectful of all students, regardless of their gender identities (Lopez, 2023). Their efforts underscore the importance of reframing parental advocacy in terms of the rights and well-being of the students themselves, a perspective that warrants more attention in the current discourse around the parental rights movement.<sup>1</sup>

## Conceptual Framework

I use James Davison Hunters (1991) thesis about culture wars to help frame this study as well as Cris Mayo's (2021) idea that the argument for parental rights in many cases is a distraction that seeks to prevent transgender, nonbinary, and gender diverse students from obtaining rights in

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<sup>1</sup> The Human Rights Campaign has a National Parents for Transgender Equality advocacy coalition with trainings and group organization in local chapters that help advocate for school policies that make schools more accepting for trans youth.

schools. James Davison Hunter's culture wars thesis proposes that the United States is engaged in a struggle over values and beliefs, which he terms the "culture wars." According to Hunter, these wars are not fought just between political parties or ideologies, but between competing worldviews that are rooted in deep-seated beliefs and values about the nature of reality, human nature, and morality. Hunter argues that this conflict is not limited to political and legal issues but extends to all aspects of culture, including religion, education, the media, and popular culture, although they significantly manifest within the political sphere.

In recent years, the issue of parental rights has emerged as a central topic in the culture wars. Specifically, the transgender guidance document in Virginia has become a lightning rod for controversy and political mobilization. Proponents of parental rights argue that parents have the right to make decisions about their children's education and well-being, including decisions related to sexuality and gender. They argue that the state should not interfere with parental authority and that schools should respect the values and beliefs of parents. Mayo (2021) argued that often these arguments are distractions to obscure explicit transphobia in schools, leading to policies that exclude trans students. Parental rights that seek to restrict transgender inclusive school practices excludes the rights of other parents as well as the rights of diverse students to flourish in the school setting, favoring the rights of some over others.

Mayo (2021) argues that the very concept of parental rights in the current context has little to do with parental rights and more to do with ways to promote a specific conservative and transphobic agenda in schools. Mayo argues that schools have a responsibility to promote inclusivity and diversity and that some parental values and beliefs may be harmful to children and society. These debates over parental rights and the transgender guidance document in Virginia are examples of how the culture wars are playing out in schools today. Schools are becoming battlegrounds in the struggle over values and beliefs, with parents, teachers, and administrators taking sides on issues of sexuality, gender, race, and book bans. This conflict reflects deeper disagreements about the nature of reality, human nature, and morality that are at the heart of the culture wars. As well, these arguments stand to damage the lives of diverse individuals, who are in a vulnerable moment in their lives, potentially leading to harm for these individuals.

## **Methods**

This study was conducted as a case study, with Virginia's model school board policies surrounding the treatment of transgender students serving as the case in the context. According to Yin (2014), case studies are particularly useful for examining complex phenomena within their real-life context. Merriam (1988) further emphasizes the significance of a qualitative approach to case study research, which can help researchers understand complex social phenomena by analyzing multiple sources of data. I chose Virginia as the case for this study because their model school board policies offered insight into the way in which a specific set of recommendations about the issue of transgender students was mobilized into the debate about parental rights. The model board policies were mandated by state law, charging the Virginia Department of Education to create model school board policies that address:

the treatment of transgender students in public elementary and secondary schools that address common issues regarding transgender students in accordance with evidence-based best practices and include information, guidance, procedures, and standards relating to: 1. Compliance with applicable nondiscrimination laws; 2. Maintenance of a safe and supportive learning environment free from discrimination and harassment for all students; 3. Prevention of and response to bullying and



harassment; 4. Maintenance of student records; 5. Identification of students; 6. Protection of student privacy and the confidentiality of sensitive information; 7. Enforcement of sex-based dress codes; and 8. Student participation in sex-specific school activities, events, and use of school facilities.

This law went into effect in 2020 and the Department of Education released their model policies in 2021, only to have them placed on hold by the new governor who took office in 2022, who sought to replace the 2021 guidelines with new guidelines that favored parental rights. This case offers a glimpse into a particular moment where one can see how one law is interpreted based on commitment to parental rights.

### **Analytic Approach**

I employed content analysis as the main analytic for this study, which involved a combination of deductive and inductive coding, as described by Elo and Kyngäs (2008) and advocated by Flick (2014) in his discussion of content analysis. I used qualitative content analysis to examine the policies in-depth, as recommended by Krippendorff (2013). First, a deductive approach was used to identify pre-existing codes based on relevant literature and the policies themselves. I searched the guidance documents for words and phrases related to transgender protections and parental rights with examples of words that included, “parental rights,” “transgender students,” “LGBTQ,” “Diverse,” “Diversity,” “protections,” “bullying,” “Inclusive practices.” Second, these codes were then applied to the data, allowing for the identification of key themes and patterns related to the treatment of transgender students in the policies. Following this deductive coding, an inductive approach was employed to identify any additional themes or patterns that emerged from the data, as recommended by Braun and Clarke (2006) and Creswell (2018). This allowed for a more nuanced understanding of the policies and their implications for transgender students. Thirdly, in addition to the themes identified through the coding process, new themes emerged from the data that had not been previously identified, such as the impact of local culture and politics on policy implementation. Finally, after coding, these themes were further analyzed and incorporated into the final analysis, as recommended by Nowell et al. (2017). The combination of deductive and inductive coding allowed for a comprehensive analysis of the data and provided insights into the similarities and differences between the two model policies, as advocated by Creswell and Creswell (2018).

### **Trustworthiness and Positionality**

In an effort to provide credibility for the findings, I followed the strategies recommended by Lincoln and Guba (1985) involving transparency of coding process and reflexive journaling. During the analysis process, I maintained a reflexive journal to record and ponder my assumptions, biases, and values. This included recording why certain pieces of text were coded in certain ways and how I decided to create or adjust these codes. I examined how my own experiences, biases, and preconceptions influenced these decisions, ensuring the codes were emerging from the data and not my own assumptions. As I moved from coding to categorization and then to thematic development, I continued my reflexive journaling, documenting how I grouped codes together, why certain themes emerged, and how my interpretations of the data were influenced by my personal perspectives. I noted any changes in my thinking or adjustments to the codes or themes and the reasons behind these changes. This ongoing process of reflexive journaling offered transparency and accountability, allowing me to scrutinize my influence on the research outcomes continually. By documenting my reflections, I was able to provide a thorough account of my research decisions, thus enhancing the confirmability and dependability of my analysis of these important policy documents.

As a queer researcher who taught and led at the high school level for more than 10 years, my positionality influenced my interpretation of the data. Growing up in a small, rural, conservative blue-collar town in a fundamentalist, conservative religious environment that was anti-LGBTQ also contributed to my interest in this area of study.

## **Findings**

The findings of this study show that the two model policies mandated by Virginia law for the treatment of transgender students (see Virginia Department of Education 2021 and 2022) in public schools were markedly different in aim. The 2021 guidelines were more focused on gender identity in schools, while the 2022 guidelines prioritized the individual rights of parents to have near total control over their child's education (and as a result other children) and largely omitted the topic of gender identity. The data analysis phase revealed five themes that help answer the research question about the ways in which these model policies explain the parental rights movement. These themes include: 1. Reliance on experts—the 2021 policies included a list of experts consulted, while the 2022 policies did not, appealing to the rights of parents; 2. Depth and breadth of information provided about each model policy—the 2021 guidelines offered significant rationale and citations for their policies, whereas the 2022 guidelines offered little to no explanation, always deferring to the individual rights of parents to control their child's education; 3. Transgender student inclusion in policies—gender identity was a pervasive topic in the 2021 guidelines, but barely mentioned in the 2022 guidelines; 4. Student and parent focus—the 2022 guidelines were more focused on parental rights than on the needs of students, with parents mentioned in almost every policy; 5. Legal Compliance—both sets of guidelines addressed the specific areas required by law, but the 2022 guidelines gave little attention to the main purpose of the law requiring the policies. These themes are further explored in the following section.

### **Reliance on Experts**

The first theme revealed by content analysis was the reliance on experts within the model board policy variations, with the 2021 and 2022 models demonstrating different levels of dependence on expert input. The 2021 Model Policy Examples relied heavily on experts (See Table 1), as demonstrated by the inclusion of 9 PhDs, 7 medical experts, and 35 contributors, including various stakeholders such as student representatives, advocates, parental organization representatives, legislative representatives, and local school board representatives. Additionally, the policy cited 15 studies and reports related to the health and well-being of transgender students and provided an extensive list of 60 resources, including expert, anti-bullying, trans-specific, parent, and student resources.

In contrast, the 2022 Model Policy Examples did not list any expert contributors, indicating a potential shift in the approach to policy development. The policy cited only two studies about parental involvement, suggesting a narrower focus on this aspect of policy development. Additionally, the policy provided a list of only nine resources, which were general resources about bullying, indicating a possible reduction in the emphasis on specific resources related to transgender students. Overall, these findings suggest a potential shift in policy development strategies between the two models, with a greater emphasis on expert input and resources evident in the 2021 model.

**Table 1**

*Examples of Data Collected for Qualitative Themes*

QCA Theme	2021 Model Policy Examples	2022 Model Policy Examples
Reliance on experts	9 PhDs, 7 medical experts, 35 contributors, including student representatives, advocates, parental organization reps, legislative reps, local school board reps. 15 citations of studies and reports related to health and well-being of transgender students 60 resources, expert, anti-bullying, trans specific, parent and student.	No expert contributors listed in document. Two studies about parental involvement footnoted. 9 resources listed, general about bullying.
Depth and breadth of board policy categories	13 pages of suggestions along with proposed model board policies providing substantiation of policies. Ex: Bullying section has two pages of dense text with rationale for protection of transgender students, including statistics of negative effects of bullying of trans students in schools.	They offer no substantiation, just model language for board policies. Ex: Bullying section has four sentence bullet points.
Transgender student inclusion in policies	Document uses the word transgender 116 times, the word Gender 310 times, the phrase gender inclusive 11 times, and the term gender identity 88 times. Example from documents section on bullying where gender identity is specifically mentioned: “Complaints alleging discrimination, harassment, or bullying based on a student’s actual or perceived gender identity shall be handled in the same manner as other discrimination or harassment complaints. The [School Division’s Designated Contact] shall be available to hear concerns from students and parents when complaints are not resolved at the school level.	Document uses the word transgender 13 times, the word gender 13 times, the phrase the term gender identity once, which was a quotation from a statute, and Example from bullying section of document, where all students are referenced with no mention of gender identity: “Bullying of any student by another student, for any reason, cannot be tolerated in our schools. Intervening immediately to stop bullying on the spot can help ensure a safer school environment for all students.”
Student vs parent focus	Document mentions parents 36 times. Document mentions student 305 times Document acknowledges situations where student might not want parent to know about their gender identity: “School divisions will need to consider the health and safety of the student in situations where students may not want	Document- 100 parent mentions, 131 student mentions in document Document forbids concealing gender identity information from parent: “No policy, guidance, training, or other written material issued by the [School Division] may encourage or instruct teachers to conceal material

QCA Theme	2021 Model Policy Examples	2022 Model Policy Examples
	their parents to know about their gender identity, and schools should address this on a case-by-case basis. If a student is not ready or able to safely share with their family about their gender identity, this should be respected. There are no regulations requiring school staff to notify a parent or guardian of a student's request to affirm their gender identity, and school staff should work with students to help them share the information with their family when they are ready to do so. Refer to additional discussions regarding when parents are aware of but are not affirming of the student's gender identity in the next section."	information about a student from the student's parent, including information related to gender."
Adherence to the law's intent	Title of document mimics the text of the law: "Model Policies for the Treatment of Transgender Students in Virginia's Public Schools" Document begins with text of law	Title of document mentions parents, something the law does not mention. "Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia's Public Schools" Document begins with an ideological criticism of previous model policies before presenting text of law. "The 2021 Model Policies promoted a specific viewpoint aimed at achieving cultural and social transformation in schools. The 2021 Model Policies also disregarded the rights of parents and ignored other legal and constitutional principles that significantly impact how schools educate students."

Another important note regarding the lack of experts cited in the 2022 guidelines is that these overhauls were completed by the department of education who had been taken over by a new Republican Governor who promised in his campaign that he would put parents first in education. Rather than look to experts or even to the mandates of the law, they were created by appointees controlled by the Republican governor, and this is reflected in the 2022 policies where few experts, and other sources, were cited.

### **Variation in Depth and Breadth of Information within Policies**

The second theme for the study is the depth and breadth of information provided within board policy recommendations. The 2021 Model Policy Examples offered a comprehensive

approach to policy development, providing 13 pages of suggestions along with proposed model board policies that included extensive substantiation for policies. In each section required for the model policies by statute, the 2021 policies give a rationale for the need of the model language along with resources for each that board members and others can further investigate prior to implementing the model policies in their districts. For example, the section within the model policies that addresses bullying contained two pages of dense text with rationale for the protection of transgender students, supported by statistics of the negative effects of bullying of trans students in schools. They cited a study that revealed the plight of transgender students, and ways that studies have shown how pervasive bullying is within schools, answering potential questions for local school board members who might have little knowledge about the transgender student experience.

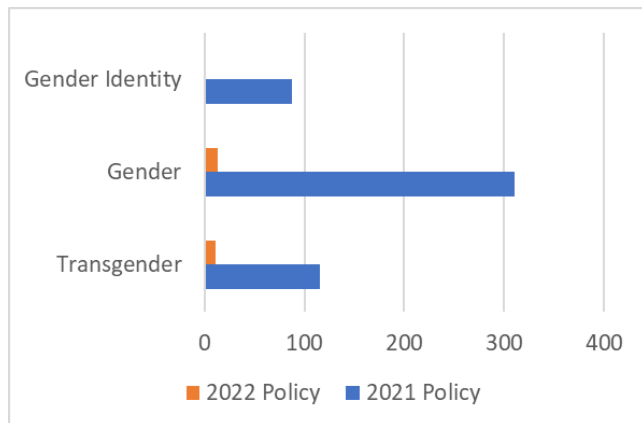
In contrast, the 2022 Model Policy Examples provided model language for board policies with very little substantiation for the need of the policies and providing few resources to help answer questions about the board policy. For instance, the bullying section contained only four sentence bullet points, indicating a reduction in the depth and breadth of policy categories from the previous model. The section includes a reference to the Virginia statute that already bans bullying in schools, and the policies include vague language about bullying, including a policy that invites parents to set up a meeting with a counselor and their child to discuss bullying further. These findings highlight how the 2022 guidelines, which prioritize parental rights, sidestep discussions on gender issues and largely defer to parental discretion, even if a student is not comfortable with their gender assignment. As well, the 2022 model policies ignore key research that the previous guidelines cite, demonstrating how generic bullying policies that ignore knowledge specific to the LGBTQ student community fail to provide adequate protection for LGBTQ students as compared to those schools implementing specific policies aimed at this demographic (GLSEN, 2022).

### Transgender and Gender Identity inclusion in Policies

The third theme revealed in the analysis of the model board policies is the inclusion of transgender and gender diverse students in the language of the policies. The 2021 model policies use the word transgender a total of 116 times, which is more than 10 times the amount used in the 2022 model policies. The word gender is also used frequently in the 2021 policies, with 310 instances and only 13 times in the 2022 policy. The 2021 model policy also uses the term gender identity 88 times, while it only appears once in the 2022 model policy as a quotation from a statute.

**Figure 1**

*Inclusion of Gender Diverse Terms in Model Policies*



One example from the 2021 model policy section on bullying specifically addresses gender identity discrimination and harassment complaints. The document states that:

complaints alleging discrimination, harassment, or bullying based on a student's actual or perceived gender identity shall be handled in the same manner as other discrimination or harassment complaints. The designated school contact person is also made available to hear concerns from students and parents when complaints are not resolved at the school level.

In contrast, the bullying section of the 2022 model policy is more general and does not mention gender identity at all. The section states that "bullying of any student by another student, for any reason, cannot be tolerated in schools, and immediate intervention is necessary to ensure a safer school environment for all students." While the 2021 model policy provides more specific language regarding gender identity discrimination and harassment complaints, the 2022 model policy seems to prioritize a more general approach to bullying prevention and intervention.

Additionally, both sets of guidelines included specific terms and their definitions for clarity at the beginning of the documents. However, the purpose behind the inclusion of terms in the model policy documents differed starkly. The 2021 model board policies included two pages of terms for the purpose of clarifying words about transgender and non-binary student sexual identity, saying:

Transgender and nonbinary students may use different terms to describe their lives and gender experiences. While terminology and language differ and evolve based on region, language, race or ethnicity, age, culture, and other factors, for purposes of discussion in this document...

The 2021 model policies went on to include a list of terms that students might use to define and identify themselves, including, transgender, gender non-binary, sex assignment, LGBTQ+, gender transition, gender non-conforming, gender expression, gender identity, gender expansive, gender fluid, gender queer, gender, cisgender. For each term, the 2021 model policies provided ways that these terms are used in the transgender community and ways they can be helpful to policymakers.

In contrast, the 2022 document included a total of four terms about which they provided clarity, including: parent, sex, transgender student, and eligible student. It should be noted that the term, parent, was the first of the terms to be included. As well, the definition the 2022 document included for the term, transgender student, directly related to parental involvement, including:

transgender student shall mean a public school student whose parent has requested in writing, due to their child's persistent and sincere belief that his or her gender differs with his or her sex, that their child be so identified while at school.

This definition places desire of the parent ahead of the student within the definition and is contingent on the parent expressing desire to define their child as transgender as part of the definition.

### **Student and Parent Focus**

The fourth theme revealed in the findings is about the focus on students and parents within the model policy language. The 2021 policy mentions parents 36 times and students 305 times, which indicates a stronger emphasis on the needs and rights of students. The 2021 model policy example acknowledges situations where students may not want their parents to know about their gender identity, and schools are urged to address such cases on a case-by-case basis, considering the health and safety of the student. The 2021 model policy example states that "there are no regulations

requiring school staff to notify parents or guardians of a student's request to affirm their gender identity," and "school staff should work with students to help them share the information with their family when they are ready to do so." The 2022 model policy mentions parents 100 times and students 131 times. The 2022 guidelines forbid concealing material information about a student, including information related to gender, from the student's parent or guardian, and prohibits any policy, guidance, training, or other written material that encourages or instructs teachers to do so. This indicates a shift towards greater parental involvement and communication, and places more emphasis on ensuring that parents are not left out of the loop regarding their child's gender identity, no matter the situation at home.

Another area where the model policies reveal significant difference in how they prioritize the individual rights of parents over students, specifically over transgender students, is in the "guiding principles" section of the 2022 model policies. The 2022 document includes a guiding principles section at the beginning of the document, something not included in the 2021 model policies. Within this section, the authors prioritize the principles that undergird the document, and the first principle is, "Parents have the right to make decisions with respect to their children." In this section, the document mandates that "schools shall respect parents' values and beliefs" and that "schools shall defer to parents to make the best decisions." These principles come before mentioning students. The second principle deals with serving the needs of "all students," with no mention of transgender students, for whom the law was passed. The third principle is that schools shall "partner with parents" and the fourth and final principle states that schools shall "respect all students," again leaving out mention of transgender students. In these guiding principles, it is possible to see the way that the 2022 document intends to give near total control of educational decisions to parents within the public school space, making the 2022 document more of a document about parents than about transgender students altogether.

### **Adherence to Legal Intent**

The final theme in this study was related to the way in which each set of model policies addressed the intentions of Virginia House Bill 45, where the Department of Education is directed to create model policies that specifically address issues related to the "treatment of transgender students." One finding was in the title of each document. The title of the 2021 document was, "Model Policies for the Treatment of Transgender Students in Virginia's Public Schools," mimicking the text of the legislation, including the word transgender in the title. The title of the 2022 policies were titled, "2022 Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia's Public Schools." These guidelines do not mention the word transgender, even though that was the express purpose of the law requiring them. Throughout the model policy documents it was apparent that the 2022 document avoided the topic of transgender students or gender identity, focusing rather on parents, as demonstrated in the title, where parents are mentioned but transgender students are left out.

Another significant finding related to how both model policy documents differed in their adherence to the intent of the law, was in their justifications for the model policies within the document. The 2021 model policy document began with acknowledgements to those who helped craft the document followed immediately by a presentation of the text of the statute and how the document helps fulfill the law mandated by the state. Conversely, in the first section of the 2022 model policies, they include a section that criticizes the previous document, stating:

The 2021 Model Policies promoted a specific viewpoint aimed at achieving cultural and social transformation in schools. The 2021 Model Policies also disregarded the

rights of parents and ignored other legal and constitutional principles that significantly impact how schools educate students, including transgender students.

Here, the 2022 model policies accuse the previous policies of trying to achieve cultural and social transformation in schools, without even mentioning how. As well, soon after the claim about transformation, they decry that the 2021 policies disregard the rights of parents, again without explaining how. Finally, this statement claims that the 2021 policies ignore legal principles that will “impact the way schools educate students, including transgender students,” which is ostensibly the intent of the law, to create model policies that deal with the treatment of transgender students in schools.

## Discussion

In the section that follows, I use a critical lens to analyze these Virginia model policies that instruct schools and school boards how to craft policy surrounding the treatment of transgender students, exploring the ways in which power and politics play a role in shaping discourse around transgender students in school policies. I revisit the theoretical frame of the culture wars and underlying political tactics cloaked as parental rights explored by Mayo (2021). I also look into other ways that the discourse in these model policies show how culture wars are being fought within schools and how right-wing populism is playing a role in these debates as well.

### Culture Wars in Schools

The Virginia model board policies used for this study address the way in which the conservative, individualist parental rights movement in Virginia influences how transgender student issues are addressed in school board policy, but they have broader implications, revealing the way that schools are playing a central role in the culture wars. Comparing the 2021 and 2022 model policies in Virginia reveal the way that differing political motivations can have a direct impact on the lives of students and the ways that schools approach treatment of gender diverse students. The stark difference in the text and regulations between the 2021 and 2022 documents show that in the wake of the parental rights campaign in Virginia, the guidelines specifically meant to address how transgender students are treated in schools, became guidelines about how parents should be more involved in schools, ignoring the original intent of the law and creation of such policies for transgender youth. The debate over the Virginia board policy reflects the larger culture wars in which schools are becoming battlegrounds in the struggle over values and beliefs. The conflict is not limited to political and legal issues but extends to all aspects of culture, including education, religion, and popular culture. At the heart of the debate are deeper disagreements about the nature of reality, human nature, and morality.

Using a critical lens to analyze educational policies can be valuable to discern their underlying ideologies and power dynamics (Apple, 2019). As seen in the shift of Virginia’s model policies, the push for parental rights has overtaken the initial goal of the policy—creating safer environments for transgender students. This reveals a subversion of democratic processes, where policy becomes an instrument of specific ideological agendas, rather than the broader public good (Ball, 1993). The subsequent shift in the text and regulatory substance of the policies between 2021 and 2022 unveils a narrative where schools are arenas for culture wars, reflecting broader societal conflicts about values and norms. As Aydarova (2022) suggests, these policy dynamics present an era of spectacle and post-truth politics, where the struggle is not merely over policies but over defining the narrative and perception of reality. This shift in policy focus from transgender rights to parental involvement also raises concerns about the reductionist approach to complex social realities and the moral dimensions of policy-making.



While the battle over parental rights and transgender rights in Virginia's school board policy is explicitly visible, it also acts as a mirror reflecting larger, systemic issues prevalent in society. The policy trajectory, in this case, raises critical questions about whose voices and whose rights are considered more legitimate and more valuable in policy-making decisions (Ball, 1993). Such shifts can perpetuate marginalization of already vulnerable groups, in this case, transgender students, further deepening societal divides and inequalities (Apple, 2019). The spectacle of policy-making (Aydarova, 2022) becomes a sort of smoke-screen, hiding the real, lived experiences of the individuals who are most affected by these policies, and diverting attention away from the original intent. Thus, it is important to illuminate the power structures at play, the marginalizing processes, and the unintended impacts of policy changes on the lives of individuals they are meant to protect and uplift. In the case of the 2022 model policies, the Virginia Department of Education released them quietly, but when activist groups realized this, they raised the issue to the public consciousness and flooded the department with over 71,000 public comments, which delayed the implementation of the new model policies and were adopted in July of 2023 keeping intact most of the parental rights commitments of the 2022 document (Elwood, 2023)

### **Populism and Experts**

Another key finding in this paper was that experts were left out of the 2022 policy guidelines. Ernesto Laclau's work on populism provides a lens through which to analyze the noticeable shift in the reliance on experts between the 2021 and 2022 model policy examples (Laclau, 2005). The populist logic, as outlined by Laclau, could be leveraged to explain the reduced emphasis on expert input in the 2022 model. Populism often constructs a divide between the "elite" and the "people," and within this dichotomy, experts, due to their perceived privileged position in society, are frequently characterized as part of the "elite" (Laclau, 2005). As such, they are positioned as separate and potentially opposed to the "people," leading to their exclusion or marginalization in the policymaking process in favor of the assumed "common sense" of the masses (Laclau, 2005).

In this scenario, the 2022 policy's pivot away from expert contributions could be interpreted as an act of anti-elitism, a common trope in populist discourses (Moffitt & Tormey, 2014). Populist tactics often entail delegitimizing experts, framing them as detached, untrustworthy, or even as impediments to the true will of the people (Moffitt, 2016). It is also noticeable that the resources in the 2022 guidelines shifted towards more general bullying issues rather than being trans-specific, potentially as a strategy to create a broader, more homogenous concept of "the people" (Jansen, 2011). In such a construction, specific identities and their unique struggles are often elided, emphasizing a unified "people" who ostensibly share the same concerns (Laclau, 2005). This move is not merely an attempt to challenge "elite" dominance but a means to forge a collective identity, which is a critical strategy in populist politics and the broader culture war (Laclau & Mouffe, 1985).

### **Less is More for Parent's Rights**

Findings from this study show that those who crafted the 2022 model policies simply refuse to engage with the topic of gender identity in schools, rather they avoid the topic except in places that the law explicitly states that they have to include the term. The 2022 policies are general, and claim to be the same for all students, and when they do mention transgender students, they immediately reference how parents must be involved in any decision, notified, rather than clarifying ways that transgender students, a minoritized group in schools, might need protections within policies. The policies bring up parents over and over again, even including the word "parent" in the title of the document, catering to the political issue of parental rights, where conservative political groups believe that parents should have almost entire control over their children's lives, even if this has a negative impact on students. Mayo (2021) suggests, these arguments about parental rights are

often used as a distraction to obscure explicit transphobia in schools. This can lead to policies that exclude trans students and undermine their right to an education in a safe and supportive environment.

The absence of certain information in the 2022 guidelines sheds light on the wider movement advocating for parental rights. While parents assert their desire to participate in their children's education, school policies remain vague, consistently yielding to parental authority. This approach creates potential difficulties for students, faculty, and other parents when confronted with school-related issues. Although the 2022 guidelines do not denounce specific gender identities, they do complicate the process for students to express varying gender identities outside the dominant heteronormative identity without explicit parental consent. By producing shorter policies, as evidenced by the substantial contrast in size between the 2021 and 2022 documents, it becomes evident that the document that caters to parental rights prefers to maintain ambiguity and subjectivity. This preference grants parents and politicians more authority to defer to parental rights when handling culturally sensitive topics like gender.

### **Favoring Only Some Parents**

This study's findings indicate that Virginia's 2022 model guidelines prioritize parental access to their child's information, even if it distresses the child due to their gender identity. This raises a critical question regarding the extent of parental rights concerning their children. If students feel constrained or excluded based on their gender or cultural background, their sense of safety and acceptance may be jeopardized. This can also affect students with supportive parents who witness their peers' struggles. Mayo (2021) argues that it is unacceptable for some parents to advocate policies harming students and opposing other parents promoting inclusivity and acceptance in schools. By neglecting the needs of marginalized and vulnerable students and demanding parental consent for name changes or disclosure of a student's gender identity, schools risk becoming oppressive environments that marginalize gender-diverse students and others. This approach advances a conservative political perspective on parental rights at the expense of students' well-being. What about the rights of parents who want their child to feel accepted at their public school?

The 2022 policy guidelines undermine the rights of parents who strive to foster a sense of acceptance and inclusivity for their children surrounding gender, sexuality, and race in public schools. The political maneuvering that sidelines the needs of certain students for the sake of advancing a particular ideological standpoint is emblematic of the spectacle of policy-making (Aydarova, 2022). This situation warrants a more critical and comprehensive assessment of the policy's impact on all students and parents, underscoring the importance of inclusivity and fairness in policy-making, above and beyond the narrative of a singular culture war.

### **Conclusion**

The alteration of Virginia's model board policies in 2022 following the 2021 gubernatorial race can be seen as a strategic utilization of "parental rights" rhetoric for political gain. This shift provides a clear instance of how the broader culture wars are manifesting within educational policy, and how politicians may leverage ostensibly neutral language to upend existing policies that do not align with their preferred narratives. The original 2021 policies, which were crafted in response to legal requirements to protect and prioritize the safety of transgender students, were replaced by policies that circumvented the spirit of the law and shifted control to parents. This change reveals how broad, benign policies can be leveraged to further specific ideological agendas under the guise of parental rights. This strategy can have significant implications not only for the directly affected students, but also for staff, parents, and the overall school culture. In the context of an increasing

trend toward “parental rights” it is crucial to discern the potential impacts of these policies and to reveal the underlying power dynamics and ideological battles embedded within them.

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