



Sexualiarte

ESPACIO **NO**-BINARIE

**Contributions to the Report on the human right to
education and protection against violence and
discrimination on grounds of sexual orientation and
gender identity - non-binary people
by Asociación Sexualiarte, Andalucía, Spain**

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Non-binary people in the education system in Andalusia and Spain

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Introduction

This report, prepared by Asociación Sexualiarte, an association of non-binary people based in Seville, Andalusia, focuses on the situation of non-binary people in the education system in Spain and Andalusia.

Non-binary people in the education system in Andalusia and Spain

Spain's Trans and LGBTI Law¹, in force since March 2023, left out non-binary people. Therefore, the obligations in the field of education included in this law do not include non-binary people either. In Spain, education is a competence of the Autonomous Communities, which is why the laws and protocols of Andalusia are particularly relevant:

- Trans Law of Andalucía, from 2014².
- LGTBI Law of Andalucía, from 2017³

Specifically in the field of education are relevant:

- Law of Education from 2006, modified in 2020, at the level of the Spanish State⁴.
- Law of Education of Andalucía from 2007⁵.
- Protocol for action on gender identity in the Andalusian education system, 2015.⁶

According to Law 17/2007 on Education in Andalusia, "*Students have the right to a quality education that contributes to the full development of their personality and abilities*". This includes "*respect (...) for their identity, privacy, personal integrity and dignity*" and "*protection against any physical or moral aggression*". However, non-binary people frequently suffer violations of these rights in the Andalusian education system.

Situation of non-binary people in the education system in the Spanish State

According to the latest survey by the European Union Agency for Fundamental Rights, of non-binary people aged 15-17, 67% answered 'Yes, by my peers' and 22% chose 'Yes, by teachers' to the question on bullying: '*During your schooling, have you ever been ridiculed, teased, insulted or threatened because you are LGBTIQ?*'. It is particularly alarming that one in five non-binary people have been bullied by teachers who have a legal obligation to respect the identity and dignity of all students.

- 1 Ley 4/2023, de 28 de febrero, para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGTBI., Entrada en vigor: 2 de marzo de 2023, <https://www.boe.es/eli/es/l/2023/02/28/4/con>
- 2 Ley 2/2014, de 8 de julio, integral para la no discriminación por motivos de identidad de género y reconocimiento de los derechos de las personas transexuales de Andalucía, <https://www.boe.es/eli/es-an/l/2014/07/08/2>
- 3 Ley 8/2017, de 28 de diciembre, para garantizar los derechos, la igualdad de trato y no discriminación de las personas LGTBI y sus familiares en Andalucía., <https://www.boe.es/eli/es-an/l/2017/12/28/8/con>
- 4 Ley Orgánica 2/2006, de 3 de mayo, de Educación, <https://www.boe.es/eli/es/lo/2006/05/03/2/con>
- 5 Ley 17/2007, de 10 de diciembre, de Educación de Andalucía, [https://www.juntadeandalucia.es/educacion/portals/delegate/content/75e32e1b-3e41-4de7-9ace-f5d1edb65210/LEYES%20EDUCATIVAS%20%3E%20LEYES%20AUTON%C3%93MICAS%20\(Ley%2017-2007%20LEA.pdf\)](https://www.juntadeandalucia.es/educacion/portals/delegate/content/75e32e1b-3e41-4de7-9ace-f5d1edb65210/LEYES%20EDUCATIVAS%20%3E%20LEYES%20AUTON%C3%93MICAS%20(Ley%2017-2007%20LEA.pdf))
- 6 Consejería de Educación, Cultura y Deporte: Protocolo de actuación sobre identidad de género en el sistema educativo andaluz, orden del 28 de abril de 2015, <https://www.juntadeandalucia.es/educacion/portals/ishare-servlet/content/0c4f4c50-b038-48c0-9a80-de10bf5ad75a>

Around 30% have never been supported, 38% have rarely been supported. 56% have experienced negative comments often or always. More than half always hide their non-binary identity in school, 23% often. Some 30% have experienced problems with going to the toilet always or often, and 38% have experienced problems with being accepted on sports teams always or often. Some 24% have considered changing school because of their gender identity⁷.

According to the *Study on the needs and demands of non-binary people in Spain*, 84% of non-binary people practice cis-passing in education, 56% frequently⁸. This is in line with the Fundamental Rights Agency's survey, according to which 60% of non-binary 15-17 year olds avoid being open about their identity at school⁹. According to *NoBinaries Spain*, in the education system, 52.7% have suffered violence at the hands of students and 39.7% at the hands of teachers. According to the same research:

- 59% have suffered bullying.
- 54% have been verbally abused and 26% have been physically abused.
- 15% have had to change school.
- 54% have been excluded or ostracised.
- 55% have been intimidated or threatened.
- 53% believe that teachers do not take them seriously.
- 21% say that there is no protocol for dealing with violence in their school and 58% do not know¹⁰.

These figures are alarming and signify a frequent violation of the right to education of non-binary people.

The situation of non-binary people in the education system in Andalusia

In April 2025 Sexualiarte started a survey on the realities of non-binary people in the Andalusian education system. The preliminary results of this survey do not yet allow for statistical analysis and are very limited, so we will leave qualitative data from the semi-structured digital interviews.

According to the Andalusian Trans Law of 2014, every person has the right to

"1. To receive comprehensive and adequate attention to their social, health, legal, employment and educational needs, among others, in effective equality of conditions and without discrimination compared to the rest of the citizens (...)

2. To the recognition of their freely determined gender identity.

3. To the free development of their personality in accordance with their freely determined gender identity.

4. To be treated in accordance with their gender identity and, in particular, to be identified in this way in the instruments that accredit their identity in the sphere of the Administration of the Andalusian Regional Government.

*5. To the exercise of their freedom, in accordance with their gender identity, in the different spheres of social life and, in particular, in access to and attention in the different public services provided by the Administration of the Andalusian Regional Government."*¹¹

According to article 15, the Autonomous Community of Andalusia "a) Shall ensure that the education system is a space of respect and tolerance free of any pressure, aggression or discrimination on

7 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtqi-survey-iii>

8 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

9 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtqi-survey-iii>

10 NoBinaries España: Estudio sobre las violencias que sufren las personas no binarias en España. 2024

11 Ley 2/2014, de 8 de julio, integral para la no discriminación por motivos de identidad de género y reconocimiento de los derechos de las personas transexuales de Andalucía. Artículo 2

grounds of gender identity, with protection for the students, teachers and families that comprise it. It will also ensure respect for all gender expressions present in the educational environment." This includes the use of the freely chosen name.

Article 15 includes a catalogue of specific measures for protection and prevention of discrimination and violence. However, the reality in the education system is different.

Article 19 of the same law *"recognises the right of minors with non-conforming gender identity to develop physically, mentally and socially in a healthy and full manner, as well as in conditions of freedom and dignity. This includes the determination and evolutionary development of their own gender identity and the right to freely use the name they have chosen"*.

The *Protocol for action on gender identity in the Andalusian education system* develops specific measures for transgender students (in primary and secondary schools). This protocol includes the right to be treated with the name and gender chosen, and to use the toilets, changing rooms and clothing with which the person feels identified. In the case of minors, it makes these rights subject to the consent of parents or legal guardians. In addition, the protocol states that educational staff who become aware of a student's identity should communicate this to the parents or legal guardians, without requiring the express consent of the transgender student. This may mean that a transgender pupil is outed to their parents against their will, with all the negative consequences that this may have.

87% of non-binary people practice cis-passing in their family environment, 58% frequently¹². According to the Fundamental Rights Agency survey, 31% of non-binary 15-17 year olds are not open about their gender identity with anyone in their family, and 18% of 18-24 year olds are not open about their gender identity with anyone in their family. 35% of non-binary 15-17 year olds have experienced conversion practices in the form of intervention by their family to 'rectify' their gender identity¹³.

In this context, making the right to one's own identity in the education system subject to the consent of parents or legal guardians puts the non-binary minor in a complicated situation, having to choose between respecting their gender identity in the education system or remaining in the closet vis-à-vis their family. It also does so for educational staff, who find themselves in a conflict between the interest, welfare and rights of the non-binary pupil and parental rights. In practice, some schools treat transgender students with their chosen name and gender on an informal level in the classroom without the consent of parents or legal guardians, without making this change in the school's IT systems. Others do not, for fear of being denounced.

Preliminary results of Sexualiarte's research

According to our own research, many non-binary people practice cis-passing in the education system, live their gender 'with discomfort' or are read according to their sex assigned at birth. Others hide behind binary trans identities: *"I say I am a trans man to be taken seriously (both students and teachers), because it is easier to explain and so that I don't feel so out of place. Even so, I don't hide who I am, if the subject comes up I have no problem saying that I am non-binary. Some teachers are respectful and it's not a problem, and others you can tell they think it's ridiculous"*. Many non-binary people, although open with their classmates, are not open with educational staff.

Names and pronouns

Many non-binary people do not change their name. Of those who did, the change in the national ID made it easier for the educational institution to respect their name. A legal name change is not necessary according to the Andalusian Trans Law in order to be respected by the educational institution.

12 Isabel López Gómez, Gorka Tobalina Pardo: Estudio sobre las necesidades y demandas de las personas no binarias en España, Ministerio de Igualdad, 2022

13 Fundamental Rights Agency: EU LGBTIQ Survey III, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtiq-survey-iii>

More problematic is the issue of pronouns. In most cases, educational staff do not respect the chosen pronoun:

- "It's very re-traumatising to remember every time I've been made to feel uncomfortable for being non-binary."
- "Everyone uses the masculine, no one uses the neutral, nor do they try to."
- "I haven't told my teachers that I am non-binary and use neutral pronouns, so they don't use them with me. Sometimes when they refer to me in the feminine it feels strange, as if they were talking about someone else, but I don't correct it. With my classmates I do use it habitually and most of them respect me, there are some who don't but I think it's more a lack of habit and that they don't do it on purpose. I do correct them sometimes if they misgender me, other times I don't correct them because it doesn't bother me that much and I get tired of having to remind people very often. That's why I feel more comfortable surrounded by people who are closer to me, who know how important it is to me and make the effort".
- "My preference is to use they/she/he alternately or they/them exclusively. But it is difficult for me to ask this of the people around me so I usually say that I prefer they/them but they can use either. This makes most of my classmates use she exclusively, which makes me feel invisible as if they don't take my identity into account. Teachers don't know that I am non-binary so they treat me as feminine".

Bathrooms and changing rooms

Many non-binary people use the toilet corresponding to the sex assigned at birth, others use the toilet that does not correspond to the sex assigned at birth:

- "I try not to go to the toilet at school. I'm usually afraid to go in and it's not uncommon for children to stare at me when I come out of the toilet. It's quite uncomfortable."
- "Because I have cis passing in my gender assigned at birth it is much easier for me to use that toilet and so I avoid problems (...) I wish there were gender neutral toilets so I could feel more assertive about using them. Also, I personally think it's the best".
- "I am comfortable using the women's toilets although I would prefer to be able to use a gender-neutral or mixed toilet."

The vast majority of non-binary people avoid using the changing rooms: "If I have to use them, it is with the people in my class who I trust the most. There are toilets inside the changing room and I go in there to change. It's a bit uncomfortable because they are men with a somewhat aggressive masculinity, so the atmosphere is not too pleasant for me".

Harassment

Most non-binary people have experienced negative comments, some even from education staff. Some have suffered insults, and most have been exposed to whispering and/or uncomfortable questions, although not frequently. Although this is considered harassment, only a minority identify these forms of violence as harassment.

Some people have been supported in situations of negative comments or harassment, others never. This support is important, as it makes the person feel "visible", or: "Much safer, I felt that I am not a burden and it gave me the strength to occupy the space that belongs to me and to demand a minimum of respect".

Positive experiences

We also want to reflect on some of the positive experiences:

- "It is possible to inhabit educational spaces where TIAQ+ realities are taken into account. where gender is taken into account, and people's pro-nouns are not questioned. where discussions are established in which a realistic society, inhabited by people who are not exclusively cis, is taken into account".

- "When I had not yet started the process of changing my name on my national ID, they changed my name on the class lists, there were two or three people in class who always defended me when some teachers said something they shouldn't have or when they said things to me in the corridors. Some teachers told me that I could talk to them whenever I wanted to, that they were a safe place and they also supported me when they heard comments or whatever".
- "At events in my faculty where people are named to go on stage, while others are called Mr. So-and-so or Mrs. So-and-so, I am called by my name only. This was not my request but the dean's own initiative and I am very grateful for it, even if it is a subtle detail. It is difficult for me to ask for accommodations like this.
- "When I have told classmates that I am a non-binary person they have always responded well and have tried to respect my identity and pronouns. Some professors at the university are implementing inclusive language in their classes."

These positive experiences provide pointers for improving the situation in the Andalusian education system.

Recommendations

- Mandatory ongoing training for all education staff on the realities of non-binary people, which should be provided by non-binary people and should include a reflection on cisgender privilege.
- With regard to the protocol for action:
 - Clarification that a student who is a minor can be treated with their chosen name and pronoun in an informal manner without the consent of their parents or legal guardians. Ideally, a change of name and gender should not be made subject to parental consent even for minors, at least from the age of 14.
 - The clarification that a pupil should not be outed against their will to their parents or legal guardians.
- Education on the diversity of gender identities, in an age-appropriate manner, starting in primary school.
- Education in intervention in cases of bullying, both for educational staff and students, based on the principles of transformative justice.
- The introduction of private or gender-neutral toilets and changing rooms in all educational institutions.