

## Students

### Transgender and Gender Non-Conforming Youth

#### Purpose

Federal and state law and District policy require that all programs, activities, and employment practices be free from discrimination based on sex, sexual orientation, or gender identity or expression. This policy is designed in keeping with these mandates to create a safe learning environment for all students and to ensure that every student has equal access to all school programs and activities.

This policy sets out guidelines for schools and District staff to address the needs of transgender and gender non-conforming students and clarifies how state law should be implemented in situations where questions may arise about how to protect the legal rights or safety of such students. This policy does not anticipate every situation that might occur with respect to transgender or gender non-conforming students and the needs of each transgender or gender non-conforming student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of the transgender or gender non-conforming student while maximizing the student's social integration and minimizing stigmatization of the student.

#### Definitions

The definitions provided here are not intended to label students but rather to assist in understanding this policy and the legal obligations of District staff. It is recognized that students might or might not use these terms to describe themselves.

"Gender identity" is a person's deeply held sense or psychological knowledge of their own gender, regardless of the gender they were assigned at birth. One's gender identity can be the same or different than the gender assigned at birth. Everyone has a gender identity.

"Transgender" describes people whose gender identity, expression or behavior is different from those typically associated with an assigned sex at birth.

"Gender expression" refers to the manner a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, or mannerisms.

"Gender non-conforming" describes people whose gender expression differs from stereotypical expectations, such as "feminine" boys, "masculine" girls, and those who are perceived as androgynous. This includes people who identify outside traditional gender categories or identify both genders.

"Cisgender" refers to individuals whose gender identity, expression, or behavior conforms with those typically associated with their sex assigned at birth.

"Gender Fluid" may be a form of both gender identity and gender expression. It generally describes individuals who may not identify as the same gender all the time, and whose gender expression may change accordingly.

"Gender Minority" is an umbrella term referring to individuals not identifying as cisgender.

"Gender Transition" is the process in which a person changes their gender expression to better reflect their gender identity. In order to feel comfortable and to express their gender identity to other people, transgender people may take a variety of steps such as using a nickname or legally changing their name; choosing to use different pronouns, clothes and hairstyles to reflect their gender identity; and generally living and presenting themselves to others, consistently with their gender identity. Some, but not all, transgender people take hormones or undergo surgical procedures to change their bodies to better reflect their gender identity. Transitioning may or may not include changing identity documents (e.g., driver's license, Social Security record) to reflect one's gender identity.

"Bullying" means an act that is direct or indirect and severe, persistent or pervasive which:

- a. causes physical or emotional harm to an individual,
- b. places an individual in a hostile environment at school,
- c. infringes on the rights and opportunities of an individual at school, or
- d. substantially disrupts the education process or the orderly operation of a school.

Bullying shall include, but need not be limited to, a written, oral, or electronic communication or physical act or gesture based on any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance, or mental, physical, developmental or sensory disability, or by association with an individual or group who has or is perceived to have one or more of such characteristics.

"Harassment" means written, verbal or physical conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities because the conduct is so severe, persistent or pervasive. This includes conduct that is based on a student's actual or perceived race, color, national origin, sex, disability, sexual orientation, sexual identity or expression, or religion. This also includes conduct that targets a student because of a characteristic of a friend, family member or other person or group with whom a student associates. Harassment also includes, but is not limited to, the bullying of and/or retaliation against transgender and gender non-conforming students by District staff, parents/guardians, visitors and/or other students. "Deadname" (noun) is the name a transgender or gender non-conforming person was given at birth and no longer uses after having changed their name as part of their transition.

"Deadname" (verb) to speak of or address someone by their deadname.

"Misgender" to refer to someone (especially a transgender or gender non-conforming person) using a word, especially a pronoun or form of address, that does not correctly reflect the gender with which they identify.

## Privacy

All persons, including students, have a right to privacy. This includes the right to keep private one's transgender status or gender non-conforming presentation at school. Information about a student's transgender status, legal name, or gender assigned at birth also may constitute confidential medical information. School personnel should not disclose information that may reveal a student's transgender status or gender non-conforming presentation to others, including parents and other school personnel, unless legally required to do so or unless the student has authorized such disclosure. Transgender and gender non-conforming students have the right to discuss and express their gender identity and expression openly and to decide when, with whom, and how much to share private information.

When contacting the parent or guardian of a transgender or gender non-conforming student, school personnel should use the student's legal name and the pronoun corresponding to the student's gender assigned at birth unless the student has specified otherwise.

## Official Records

The District recognizes, under the Family Educational Rights and Privacy Act (FERPA), that a student, or former student, has the right to request a permanent student record ("official record") and/or the school to change their name and gender on such student's "official record" and/or school records if the student or parent/guardian, if such a student is under 18 years of age, believe the records are incorrect, misleading, or violate a student's privacy. (In general, The District and all NHPS schools should treat requests to change student records based on transgender status no differently than it would treat any other request for a change to student records, e.g. an address or phone number change). Upon such a request, the District and NHPS schools should correct student education records to accurately reflect the student's chosen name, gender identity, and chosen pronouns regardless of whether the student has completed a legal name or gender change.

A review of Connecticut statutes and regulations and other legal resources has not provided a legal basis requiring a court order prior to changing a student's official record to reflect a change in legal name or legal gender. In situations where school staff or administrators are required by law to use or to report a transgender student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

## Names/Pronouns

A student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity. A court-ordered name or gender change is not required, nor is parental/guardian permission required, and the student need not change the student's official records.

The intentional or persistent refusal to respect a student's gender identity (for example, intentionally referring to the student by a name or pronoun that does not correspond to the

student's gender identity, i.e. misgendering, intentionally and/or repeatedly using a student's deadname, intentionally and/or repeatedly using a student's incorrect pronouns, refusing to allow a student to share their name or pronouns with others, or refusing to allow the student to correct others for using a name or pronoun that doesn't correspond to the student's identity) is a violation of this policy.

#### Gender-Segregated Activities

To the extent possible, schools should reduce or eliminate the practice of segregating students by gender. In situations where students are segregated by gender, students should be included in the group that corresponds to their gender identity.

#### Student Information Systems

The District shall modify its student information system, as necessary, to prevent disclosure of confidential information and ensure that school personnel use a student's preferred name and pronouns consistent with the student's gender identity.

#### Restroom Accessibility

Students shall have access to the restroom that corresponds to their gender identity consistently asserted at school. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided access to a single user restroom. However, no student shall be required to use such a restroom because they are transgender or gender non-conforming.

#### Locker Room Accessibility

The use of locker rooms by transgender students shall be assessed on a case-by-case basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports, ensuring the student's safety and comfort, and minimizing stigmatization of the student. In most cases, transgender students should have access to the locker room that corresponds to their gender identity consistently asserted at school, like all other students. Any student, transgender or not, who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a P.E. instructor's office in the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponds to their gender identity before or after other students).

Any alternative arrangement should be provided in a way that protects the student's ability to keep the student's transgender status confidential. In no case shall a transgender student be required to use a locker room that conflicts with the student's gender identity.

#### Physical Education Classes & Intramural Sports

Transgender and gender non-conforming students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity.

#### Interscholastic Competitive Sports Teams

Transgender and gender non-conforming students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity and in compliance with the applicable regulations of the Connecticut Interscholastic Athletic Association (CIAC).

#### Dress Codes

Transgender and gender non-conforming students have the right to dress in a manner consistent with their gender identity or gender expression. In general, District schools may not adopt dress codes that restrict students' clothing or appearance on the basis of gender.

#### Discrimination/Harassment

It is the responsibility of each school and the District to ensure that transgender and gender non-conforming students have a safe school environment. This includes ensuring that any incident of discrimination, harassment, or violence is given immediate attention, including investigating the incident, taking appropriate corrective action, and providing students and staff with appropriate resources.

Complaints alleging discrimination or harassment based on a person's actual or perceived transgender status or gender nonconformity are to be handled in the same manner as other discrimination or harassment complaints.

#### Transferring a Student to Another School (Opportunity Transfers)

In general, schools should aim to keep transgender and gender non-conforming students at the original school site. Opportunity transfers should not be a school's first response to harassment and should be considered only when necessary for the protection or personal welfare of the transferred student, or when requested by the student or the student's parent/guardian. The student or the student's parent or guardian must consent to any such transfer.

#### Professional Development

The Board of Education directs the Superintendent to provide for the training of all District staff in transgender sensitivity, in what it means to treat all people respectfully and equally. Developmentally age-appropriate training shall also be provided for all students.

(cf. 0521 - Nondiscrimination) (cf. 4131 - Staff Development) (cf. 5114 - Suspension and Expulsion/Due Process) (cf. 5131 - Conduct) (cf. 5131.21 - Violent and Aggressive Behavior) (cf. 5131.8 - Out-of-School Misconduct) (cf. 5131.912 - Aggressive Behavior) (cf. 5131.913 - Cyberbullying) (cf. 5131.91 - Hazing) (cf. 5144 - Discipline/Punishment) (cf. 5145.4 - Nondiscrimination) (cf. 5145.5 - Sexual Harassment) (cf. 5145.51 - Peer Sexual Harassment)

(cf. 5145.52 - Harassment) (cf. 5145.6 - Student Grievance Procedure) (cf. 6121 - Nondiscrimination) (cf. 6121.1 - Equal Educational Opportunity)

Legal Reference: Connecticut General Statutes

1-1n "Gender identity or expression" defined.

10-15c Discrimination in public school prohibited. (Amended by P.A. 97-247 to include "sexual orientation" and PA 11-55 to include "gender identity or expression")

10-222g Prevention and intervention strategy re bullying and teen dating violence as amended by PA 19-166.

46a-51 Definitions.

46a-58(a) Deprivation of rights. Desecration of property. Placing of burning cross or noose on property. Penalty.

46a-60 Discriminatory employment practices prohibited Federal Law.

46a-64(a)(1)(2) Discriminatory public accommodations practices prohibited. Penalty.

10-209 Records not to be public.

46a-60 Discriminatory employment practices prohibited.

Section 504 and the Federal Vocational Rehabilitation Act of 1973, 20 U.S.C. 706(7)(b).

Public Act 07-62 An Act Concerning the Deprivation of Rights on Account of Sexual Orientation.

Public Act 11-55 An Act Concerning Discrimination.

Title IX of the Education Amendments of 1972, 20 U.S.C. §1681(a).

Meritor Savings Bank. FSB v. Vinson, 477 U.S. 57 (1986).

Faragher v. City of Boca Raton, No. 97-282 (U.S. Supreme Court, June 26, 1998).

Burlington Industries, Inc. v. Ellerth, No. 97-569, (U.S. Supreme Court, June 26, 1998).

Gebbser v. Lago Vista Indiana School District, No. 99-1866, (U.S. Supreme Court, June 26, 1998).

Davis v. Monroe County Board of Education, No. 97-843 (U.S. Supreme Court, May 24, 1999).

Federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g

"Guidance on Civil Rights Protections and Supports for Transgender Students," Connecticut State Department of Education, June 2017

Bostock v. Clayton County, Georgia, 140 S.Ct. 1731, 2020 WL3146686 (June 15, 2020)

