

POLICY

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Students

SUBJECT: STUDENT GENDER IDENTITY

All students need a safe and supportive educational environment to progress academically and developmentally. The District is committed to fostering a safe learning environment for all students, free from discrimination and harassment on the basis of sex, gender, gender identity, gender nonconformity, and gender expression. In accordance with applicable law, regulations, and guidelines, the District will ensure that students have equal access to all school programs, facilities, and activities. The District will assess and address the specific needs of each student on a case-by-case basis.

District Responsibility and Annual Notification

The Division of Student Support Services and the Office of Intergovernmental Affairs, Planning, and Community Engagement shall be responsible to assure implementation of this policy. Further, the District shall post access to this policy on the home page of its website and annually distribute a user-friendly printed copy of the policy to all parents helping to assure knowledge of rights for all students, transgender or not, under this policy. The Division of Student Support Services and the Office of Intergovernmental Affairs, Planning, and Community Engagement shall confirm that principals have included a review of the policy in their annual parent and student orientations, similar to other policies or procedures of the District.

Engaging Parents

When apprised of a student's transgender or GNC status, the District will endeavor to engage the student and his or her or their parents or guardians, wherever possible, in an effort to agree upon a plan that will accommodate the student's individual needs at school. Transgender and GNC students have the right to discuss and convey their gender identity and expression openly and to decide when, with whom, and how much to share this confidential information.

Principals shall be responsible to complete the *School Planning Guide for Transgender/Gender Non-Conforming Students*. Prior to contacting a parent/guardian, the student should be informed that the school would like to contact their parent/guardian in order to develop a plan to best support the student. The student should be asked if they have a preference of which parent/guardian to contact. Student safety is of utmost concern, both at school and at home. Student comfort with contacting a parent/guardian must be assessed prior to contacting the home to better ascertain the level of support and safety inside the home. Parents/guardians of students in Grade 8 or below should be contacted to schedule a planning meeting once the student's comfort with doing so has been assessed. Students in Grade 9 or higher must provide consent to contact a parent/guardian.

Key Terms

Generally, District personnel should use the language that individual students are using to describe their own gender identity, appearance, or behavior. The most commonly used terms are:

Cisgender: a person whose gender identity corresponds to their assigned sex at birth.

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Gender expression: the ways a person conveys their gender identity to others, such as through behavior, appearance, clothing, hairstyle, activities, voice, and mannerisms.

Gender or Gender identity: a person's inner sense or psychological knowledge of being male, female, neither, or both.

Gender nonconforming (GNC): describes someone whose gender identity or gender expression does not conform to social or stereotypical expectations of the sex that the person was assigned at birth (this is also referred to as gender variant, gender queer, gender fluid, or gender expansive)¹.

Sex Assigned at Birth: The sex designation generally recorded on an infant's birth certificate determined by someone's chromosomes and genitalia.

Transgender: someone whose gender identity is different than their gender assigned at birth.

Transition: the process by which a person socially or physically aligns their gender expression more closely to their gender identity than their assigned sex at birth.

Records

As required by law, the District will maintain the confidentiality of student information and records. If a transgender or GNC student has officially changed his or her or their name, as demonstrated by court order or birth certificate, the District will change its official and unofficial records, as needed, to reflect the change. The District will maintain records with the student's assigned birth name in a separate, confidential file.

If a transgender or GNC student has not officially changed his or her or their name, but wishes to be referred to by a different name that corresponds to their gender identity, the District may create or change unofficial records to reflect the name and gender identity that the student asserts at school. On state standardized tests, certain reports to the New York State Education Department, and when necessary to ensure appropriate and coordinated medical care, however, the District will use the student's legal name and gender. Any student identification cards will be issued with the name reflecting the gender identity the student asserts at school. The District will maintain records with the student's assigned birth name and gender in a separate, confidential file.

Under the Family Educational Rights and Privacy Act (FERPA), a school may not disclose personally identifiable information from a student's education records to a third party unless the student has provided written consent. Parents and students have a right to file a complaint with the U.S. Department of Education concerning alleged failures by the School District to comply with the requirements of FERPA.² The Office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW Washington, DC 20202-5901

¹ Erickson-Schroth, L. *Trans bodies, trans selves: A resource for the transgender community*. Oxford: Oxford University Press.

² See: <http://buffaloschools.org/SharedAccountability.cfm?subpage=61650>; and, <http://familypolicy.ed.gov/faq-page/ferpa-school-officials>

Names and Pronouns

The plan to support students may include when and how to initiate the student's preferred name and associated pronoun use and if, when, and how this is communicated to others. District staff will use the name and pronoun that corresponds to the gender identity the student asserts at school, even if the student asserts a fluid or changing gender presentation. GNC students may use gender-neutral pronouns like the singular they/them/theirs. If staff is unsure of how to use someone's pronouns, one can simply ask the student how to use them in a sentence.³ For someone who identifies as "they," one can say "they went to the bathroom" or "that is their shirt" or "I just spoke with them."

Privacy in Restrooms, Locker Rooms, and Changing Facilities for All Students

The District will allow a transgender or GNC student to use the restroom, locker room, and changing facilities that corresponds to the student's expressed gender identity at school. Any student, transgender or not, requesting increased privacy or other accommodations when using bathrooms, locker rooms, and changing facilities will be provided with a safe and adequate alternative, but they will not be required to use that alternative.

At the same time, the District acknowledges that some students, for a variety of reasons, may feel uncomfortable using shared facilities. This may include transgender students and cisgender students (students who are not transgender). The responsibilities outlined below are intended to support all students, transgender or not, in an equitable, non-stigmatizing manner.⁴

School Responsibilities:

- 1) Principals shall be responsible to complete the *School Planning Guide for Transgender/Gender Non-Conforming Students* when a transgender student has asked to use a preferred name different than their legal name or to use restrooms, locker rooms, or changing facilities consistent with their gender identity.
- 2) When a transgender student has requested to use restrooms, locker rooms, or changing facilities consistent with their gender identity, the plan shall include the school location of the restroom(s), locker room(s), or changing facilities and the procedure for supporting and/or assisting the transgender student as discussed with the student.
- 3) In addition to documenting all specific considerations for restroom, locker room or changing facility access, the plan shall also provide the same required information for field trips and other off-campus activities.
- 4) Any student, transgender or not, who expresses a desire for increased privacy shall be provided with reasonable alternative arrangements. Reasonable alternative arrangements may include the use of a private area, a separate changing schedule, or

³ <http://www.transequality.org/issues/resources/supporting-the-transgender-people-in-your-life-a-guide-to-being-a-good-ally>

⁴ See: *NCAA Inclusion of Transgender Student Athletes*. NCAA Office of Inclusion, August 2011; *Transgender and Gender-Nonconforming Policy Guidance*. District of Columbia Public Schools, June 2015; *Model District Policy on Transgender and Gender Nonconforming Students*. Gay, Lesbian, Straight Education Network, (www.glsen.org retrieved 2016).

use of a single stall restroom. Any alternative arrangement should be provided in a non-stigmatizing way that protects the student's ability to keep his or her transgender status confidential.

- 5) The District shall help assure privacy for all students and athletes in every locker room by providing private, enclosed changing areas, showers, and toilets for any student or athlete who desires them.⁵ The provision of private areas shall be made available to all students, transgender or not, in a non-stigmatizing manner; recognizing that all students have a variety of reasons for which they may prefer to change or shower in a private area. No student or athlete shall be required to use such areas.
- 6) The principal shall ensure that all students, transgender or not, upon request, have access to single-user, gender neutral alternative restrooms; although no student shall be required to use those restrooms under this Policy.
- 7) The principal shall direct that all teachers follow the established restroom procedures of the building ensuring that appropriate supervision, student management, safety protocols, and requirements of the District Code of Conduct are fulfilled.

Student Responsibilities:

- 1) All students, transgender or not, are required to follow all standards for behavior stipulated in the District Code of Conduct.
- 2) All students, transgender or not, shall follow the established restroom procedures of their school building and report any observed violations of the procedure to an adult.
- 3) All students, transgender or not, shall report to an adult incidents of misconduct by any person that make them feel uncomfortable or threatens their safety in any way. This includes misconduct in which they were not engaged but observed or of which they were made aware.
- 4) All students, transgender or not, shall recognize that they are subject to disciplinary responses to misconduct pursuant to the District Code of Conduct. These responses, after a fair hearing and finding of facts, may include, but are not limited to, regulating student restroom access and restroom use locations for any student, transgender or not.

Physical Education or Other Classes, and Sports

Physical education is a required part of the District's curriculum. When any classes are sex-segregated, students will be allowed to participate in a manner consistent with their gender identity.

⁵ *NCAA Inclusion of Transgender Student Athletes*. NCAA Office of Inclusion, August 2011

Students will likewise be allowed to participate in intramural activities consistent with their gender identity.

Upon written notification that a transgender or GNC student would like an opportunity to participate in the District's interscholastic athletics program consistent with his or her or their gender identity, the District will determine his or her or their eligibility in accordance with applicable law, regulations, and guidelines. The District will confirm the student's asserted gender identity with documentation it considers appropriate from a parent/guardian, counselor, doctor, psychologist, psychiatrist, or other medical professionals. The student's gender identity should be the same as the identity used for District registration and other school purposes.

The District's athletic director will notify opposing team athletic directors or the New York State Public High School Athletic Association if a student needs any accommodations during competitions. Any appeal regarding the District's eligibility decision will be directly to the Commissioner of Education.

Other Activities

Generally, in other circumstances where students may be sex-segregated, such as overnight field trips, students may be permitted to participate in accordance with the gender identity that the student asserts at school. Student privacy concerns will be addressed individually and on a case-by-case basis in accordance with District policy and applicable law, regulations, and guidelines.

Dress Code and Team Uniforms

Transgender or GNC students may dress in accordance with their gender identity or expression, within the parameters of the District's dress code. The District will not restrict students' clothing or appearance on the basis of gender or traditional gender-role expectations at any school event or district event.

The District's dress code applies while its athletes are traveling to and from athletic contests. Athletes will have access to uniforms that are appropriate for their sport.

Considerations for Elementary School Students

In most cases, younger students possess considerable capacity for understanding a peer's expression of their gender identity.⁶ In elementary schools when a student expresses a transition in their gender identity careful attention should be given to:

1. Assess the student's trust and acceptance for involving their parents.
2. Make every effort to engage a parent after the student expresses consent.
3. Assure that the staff member trusted by the student remains engaged. This is often the adult to whom the child's gender identity was first expressed.

⁶ *Schools in Transition: A Guide for Supporting Transgender Students in K-12 Schools.* Orr, A. & Baum, J. 2015.

4. Confirm that school staff is aware of their responsibility to provide for a safe and supportive environment for the student in transition.
5. Remind staff that lessons on gender identity should remain age-appropriate and should involve personnel with distinct knowledge and qualifications for such discussions.

Administrator Resources for Best Practices

The Buffalo Public Schools is committed to assuring a safe, supportive, and non-discriminatory environment for all students. Administrators, as responsible heads of schools, benefit when they are informed by the latest best practices in the field. Successfully implementing this policy on *Student Gender Identity* at the school building level requires knowledge, skills, and professional commitment. The resources listed below will assist administrators, teachers, school staff, parents, and others to implement and monitor this policy with fidelity on behalf of our students.

Administration for Children and Families, *Resources for Serving Lesbian, Gay, Bisexual and Transgender Youth*, <http://ncfy.acf.hhs.gov/features/serving-lesbian-gay-bisexual-transgender-and-questioning-youth-open-arms/resources-serving>

Erickson-Schroth, L. *Trans bodies, trans selves: A resource for the transgender community*. Oxford: Oxford University Press.

Examples of Policies and Emerging Practices for Supporting Transgender Students (May 13, 2016), www.ed.gov/oese/osh/emergingpractices.pdf

<http://www.transequality.org/issues/resources/supporting-the-transgender-people-in-your-life-a-guide-to-being-a-good-ally>

Office for Civil Rights and U.S. Department of Justice's Civil Rights Division, *Dear Colleague Letter: Transgender Students* (May 13, 2016), www.ed.gov/ocr/letters/colleague-201605-title-ix-transgender.pdf

Schools in Transition: A Guide for Supporting Transgender Students in K-12 Schools. Orr, A. & Baum, J. 2015.

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NOTE: Refer also to Policies #3410 -- Code of Conduct on School Property
#3420 -- Non-Discrimination and Anti-Harassment in the School District
#7550 -- Dignity for all Students
#7551 -- Sexual Harassment of Students
#7553 -- Hazing of Students
#8242 -- Civility, Citizenship and Character Education/Interpersonal Violence Prevention Education

Family Educational Rights and Privacy Act (FERPA), 20 USC § 1232g
34 CFR Part 99
Title IX of the Education Amendments of 1972
Education Law Article 2 and §§ 2-d, 11(7), 3201-a
8 NYCRR § 100.2

Adoption Date: October 26, 2016

**SCHOOL PLANNING GUIDE FOR TRANSGENDER/GENDER NON-CONFORMING STUDENTS
(from OSL Leadership & Operations Handbook)**

DIRECTIONS:

This planning tool should be reviewed with the student and, wherever possible, the parent or guardian to ensure a safe and supportive school environment. This document is confidential, may be shared with relevant parties with consent of the student, and filed in the principal’s office. Questions should be directed to the Office of Intergovernmental Affairs, Planning, and Community Engagement (OIA) at (716) 816-3596.

School _____ Date _____

Legal Name of Student _____

Preferred Name of Student _____

Gender Identity of the Student (*may differ from gender marker on legal documents*) _____

Date of Birth _____

Student ID _____

Parent/Guardian Name(s) and contact information:

If the student is in grade 8 or below, has the parent been contacted to discuss this plan document? ____ Yes ____ No

Note: Prior to contacting parent/guardian, student should be informed that the school would like to contact their parent/guardian in order to develop a plan to best support the student. Student should be asked if they have a preference of which parent/guardian to contact. Student safety is of utmost concern, both at school and at home. Student comfort with contacting a parent/guardian must be assessed prior to contacting home to better ascertain the level of support and safety inside the home.

If yes, the document should be completed with both the parent/guardian and student.

If no, the parent/guardian should be contacted to schedule a planning meeting once the student’s comfort with doing so has been assessed.

If the student is Grade 9 or higher, has the student given consent to contact the parent? Yes No

If yes, the document should be completed with both the parent/guardian and student.

If no, the document may be completed with the student and relevant parties with consent of the student.

Student Request for Name/Gender Change

Is the student requesting to be addressed with a different name and/or pronoun? Yes No

Preferred Name _____

Preferred Pronoun _____

Is the student requesting to be recognized with a different gender than was assigned at birth? Yes No

If yes to either question above, has the student requested a change in the official educational record of the District?

Yes No

If yes, the student has requested a change in the official educational record, this requires the issuing of a court order or issuing of a new official birth certificate. Has the student or other relevant party produced either of these documents?

Yes No

If yes, please schedule a review of the request with OIA. District Counsel will review the documentation and authorize changes to the official educational record.

If the student requested a change in name/gender but does not have the required documentation to change name/gender in the official record, proceed with an unofficial change in how the student is addressed by name and pronoun.

Student Request for Gender Change Rights and Privileges

Has the student requested a change in restroom/locker room/changing facility access? ____ Yes ____ No

If Yes, proceed with the planning document.

If No, proceed to the **Plan Checklist**.

If the student has requested a change in restroom access, discuss options with the student and parent/guardian, wherever possible, that includes a gender-neutral restroom, a private restroom, a restroom consistent with the gender identity of the student, or some other arrangement. Specifically describe the restroom plan below (school location of the restroom, procedure for support or assistance as discussed with the student, etc.):

Specifically describe the locker room plan for Physical Education classes or sports participation (which locker room/changing facility, what assistance or support while changing, any measures taken to assure the privacy expected by the student, etc.):

Specifically describe the plan for field trips, other off-campus activities, and/or extra-curricular events. Which school staff person will be responsible to assure that the established plan is in place for off-campus activities?

Specifically describe the plan for gender-based class activities such as gender-separated health classes, presentations, etc. Which school staff person will be responsible to assure that the established plan is in place for gender-based class activities?

Plan Completion Checklist

Meetings to discuss this document were held on (list all meeting dates):

Name of School Administrator responsible for assuring that Planning Guide and Plan Checklist are completed:

Name

Name of Staff person assigned with student consent to check-in with the student (Daily check-ins are expected at first, then as needed based on student need.):

Name

Staff Person Phone Number: _____

Staff Person Email Address: _____

Name of back-up staff member assigned with student consent:

Name

Staff Person Phone Number: _____

Staff Person Email Address: _____

(NOTE: Staff to be informed must be determined with student consent, as being "out" is often situational, even within a school setting).

Describe how the relevant faculty and staff are to be informed of the unofficial or official change in the student's name/gender/pronouns. Include description of training/materials provided (list meeting dates, name of facilitator, titles of materials, etc.):

List the resources the school has made available with consent of the student (housing, mental health staff, legal, social support services):

NOTES:
