

TRANSGENDER AND GENDER NONCONFORMING STUDENTS

5756 - TRANSGENDER AND GENDER NONCONFORMING STUDENTS

A. Purpose of Policy

The Board of Education is committed to providing a safe, supportive, and inclusive learning environment for all students. To further this goal, the Board adopts this Policy to ensure that all students, including transgender and gender nonconforming students, enrolled in the school district have equal educational opportunities and equal access to the school district's educational programs and activities. The Board of Education, administration, and all school staff members will comply with Federal and State laws and regulations regarding transgender and gender nonconforming students, and no student shall be subjected to discrimination, harassment, or bullying on the basis of gender identity or expression.

B. Definitions

These definitions are included here to assist in the application of this policy, and to provide functional descriptors. When applying this policy to the situations of individual students, school staff members should bear in mind that students may or may not use these terms to describe themselves.

- “Gender identity” means a person’s deeply held sense or psychological knowledge of their own gender, regardless of the gender they were assigned at birth. All people have a gender identity.”
- “Gender expression” means a person’s gender-related appearance and behavior “whether or not stereotypically associated with a person’s assigned sex at birth” (NJ Law Against Discrimination, *N.J.S.A. 10:5-1 et seq.*, specifically, *N.J.S.A. 10:5-5(5) (rr)*). It is the way a person represents or expresses his or her gender to others, such as through behavior, clothing, hairstyles, activities, voice or mannerisms.
- “Gender nonconforming” describes a person whose gender traits are not consistent with stereotypical characteristics associated with one’s sex assigned at birth, one’s gender assigned at birth or others’ perceptions of that sex or gender. A gender nonconforming person is one whose gender expression differs from stereotypical expectations, such as “feminine” boys,” “masculine” girls, and those who are perceived as androgynous.



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- “Transition or Gender Transition” is the process and experience in which a person goes from living as one gender to living and identifying as another. This can include legal, medical and/or social transition.
- “LGBTQ” is an acronym that stands for “lesbian, gay, bisexual, transgender and questioning.”
- “Sexual Orientation” is a person’s romantic or sexual attraction to people of the other and/or same gender. Common terms used to describe sexual orientation include, but are not limited to, heterosexual, lesbian, gay and bisexual. Sexual orientation and gender identity are different. Transgender people may identify as gay, lesbian, bisexual or heterosexual.
- “Transgender” describes a person whose gender identity is different from the gender assigned at birth.
- “Gender expansive” is a term that conveys a wider, more flexible range of gender identity and/or expression than typically associated with the binary gender system.

C. Determining Gender Identity

The Board of Education believes the responsibility for determining a student’s gender identity rests with the student, or, in the case of students who are not yet able to advocate for themselves, with the parent or legal guardian.

Therefore, the Board’s staff shall accept a student’s assertion of his or her gender identity when there is consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as a part of the student’s core identity. If a student’s gender-related identity, appearance or behavior meets this standard, the Board of Education and the school staff shall not question or disregard the assertion of a student’s gender identity. The Board authorizes the Superintendent or designee to question a student’s asserted gender-related identity only when there is a credible basis for believing the student’s gender-related identity is being asserted for some improper purpose.

There is no threshold medical or mental health diagnosis or treatment requirement that any student must meet in order to have his or her gender identity recognized and respected by the Board or the school staff. The Board recognizes that for many transgender students, the experience of gender transition involves no medical intervention and that many transgender



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youth experience gender transition through a process referred to as “social transition,” whereby they begin to live and identify as the gender consistent with their gender identity.

A student is not required to have obtained a court-ordered name change or provide official documentation recognizing gender change (such as a social security card, a driver’s license or a passport) in order to have his or her requested name and/or gender identity recognized and respected by the Board or any school district staff member.

D. Gender Identity Support Planning

The Board recognizes that some transgender students have not disclosed their transgender status to their parents. The Board further recognizes that gender transition is a process that may proceed to stages over a period of time. The Board respects the privacy of the family, encourages educators to support healthy communication within the family, and discourages educators from interfering in the private communications that occur within a family.

With the student’s permission, a written support plan will be developed in collaboration with the student to address the student’s needs. A transgender student and/or their parent/guardian may initiate the planning process.

Whenever a transgender student initiates the planning process by disclosing an intent to transition to an educator, the educator should ask the student whether the student’s family members or parent/guardian are aware of the student’s transgender status or gender identity, and discuss whether or not the student has any concerns about family members’/parents’/guardians’ potential reactions to that information to avoid inadvertently putting the student at risk of harm by discussing the matter with the student’s family. Based on that information, the educators and the student should determine how to proceed through the collaborative process of determining how the school can support the student and balance the student’s needs at school with any concerns that might exist for the student’s safety at home.

This process should address the following basic topics and situations:

1. The modifications or accommodations the student is seeking currently, and, if applicable, the student’s expectations or plans regarding future accommodations during the course of the student’s transition (for example, use of a different name, pronoun and gender separated facilities).
2. Whether the student’s family members know about the student’s gender identity, transgender status, and/or intent to transition and whether or not the student has any concerns related to the reactions of family members to this information.



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3. How to refer to the student when communicating with the student's siblings, parents/guardian and other family members.
4. What information to share with the student's teachers and other adults on campus, including the student's assigned sex at birth, the student's assigned gender at birth, the student's gender identity, the student's transition status, plans and expectations.
5. What information to share with other students and, if information is to be shared, which information, how and in what context.
6. How to respond to questions from peers who know, notice, or perceive that the student is transgender and/or is transitioning.
7. Services the school can provide to assist the student in addressing any safety concerns at home and to support the student in implementing their decisions regarding what and how to self-disclose to parents and other family members.

Next, a transition plan is developed collaboratively and in writing based on the information obtained in the process of discussing the topics and situations described in paragraphs 1 through 7 above.

E. Prohibition of Discrimination

The Board will take reasonable measures to accommodate the needs of transgender students in accordance with Federal and State laws and regulations. No person shall be subjected to discrimination on the basis of actual or perceived gender identity, gender expression, gender, or sexual orientation. (*NJ Law Against Discrimination, N.J.S.A. 10:5-1 et seq.; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681*). The Board recognizes school-related issues regarding transgender students will vary on a case-by-case basis. Therefore, the Superintendent of Schools or designee will meet with the parent or legal guardian and the student, or the adult student, to discuss school-related issues to ensure that the student's educational needs are being addressed as required by law.

F. Privacy

The Board and school staff members shall ensure the privacy of any student's transgender status and shall not disclose or acknowledge a student's transgender status to others, including, but not limited to, other students, parents or legal guardians and/or other staff members unless (1) required to do so in accordance with any Federal or State laws or administrative regulations, (2) the parent or legal guardian and student, or the adult student, have authorized such disclosure in writing, (3) the Superintendent or designee deems disclosure to be necessary to protect the



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transgender student's interests or safety, or (4) the student's transition plan permits the disclosure or acknowledgement. The student's age shall be a factor for the Superintendent or designee to consider in making this determination. In circumstances where disclosure is deemed to be necessary, before making any disclosure, the school staff shall make reasonable efforts to inform the transgender student of the decision to disclose and provide the student with the opportunity and resources the student may need to make the disclosure on his or her own.

The Board recognizes that some transgender students have not disclosed their transgender status to their parents. Whenever possible, a school staff member designated by the Superintendent or the school Principal shall speak with the student to confirm the manner in which the student will be referred to in conversation with the parent or legal guardian. Generally, when contacting the parent or legal guardian of a transgender student, school staff members shall use the student's legal name and the gender pronoun that corresponds to his or her legal sex, unless the student, parent, or legal guardian, or the adult student, has specified otherwise.

All students, including transgender students, have the right to openly discuss and express their gender identity or transgender status and to decide when, with whom, and how much to share that private information. In sharing the information, a student does not give up the right to privacy and at no time may Board employees use a student's self-disclosure as grounds for sharing information about the student's gender identity or transgender status in violation of the student's right to privacy under the law.

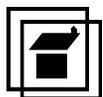
G. Use of Names and Pronouns

The Board and school staff shall honor and fully comply with requests of a student or parent or legal guardian to have the student addressed by a name and pronoun different from those associated with the student's assigned sex at birth. Proof of a court-ordered name change or official documentation recognizing gender change is not required.

The Board recognizes that inadvertent slips or honest mistakes in the use of names or pronouns may occur. However, intentional or persistent refusals by the Board's staff or students to respect a student's gender identity by using the wrong name and gender pronoun is a violation of this policy, and may also be a violation of this Board's policies prohibiting discrimination (Policy #5750, Equal Educational Opportunity), and harassment, intimidation and bullying (Policy #5512, Harassment, Intimidation and Bullying).

H. Education Records

The Board's official, permanent education records regarding all students shall be maintained in accordance with Federal and State laws and administrative regulations and shall indicate the legal name and gender appearing on the student's birth certificate, unless there is a legal name



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change and/or gender change. To the greatest extent possible, the Board and school staff shall use the name, gender marker and gender pronoun requested by the student and the student's parent or legal guardian, or adult student, in other school-related records and documents, including, but not limited to, student identification cards, library cards, school photographs, grade books, posted lists of student names (or genders), and any other records or documents in which students' names (or genders) are commonly written. When a student or the student's parent or legal guardian, or an adult student, presents the school with documentation of a court-ordered legal name change and/or official documentation recognizing a gender change, the Board's staff shall modify the Board's official education records to reflect the student's new legal name and/or gender.

In order to protect the student's privacy, the student's school shall maintain the official, permanent pupil record in a secure location, separate from the student's other records. If the official record is maintained electronically, similar security measures shall be implemented to protect student privacy.

In the event that a student identifies as transgender, but is unable to obtain consent from a parent or legal guardian to change the student's education records, or legal documentation to support a change in the student's education records, a school administrator, counselor or psychologist shall meet with the student to discuss how the student would like to be addressed at school and implement a support plan to ensure that the student's privacy is protected.

I. Restroom Accessibility

Schools may maintain gender-separated restroom. However, students shall have access to the restroom that corresponds to their gender identity. The use of a "gender neutral" restroom, if available, shall be a matter of choice for a transgender student.

Where available, a single stall, "gender neutral" restroom (such as in the health office) may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such a "gender neutral" restroom shall be a matter of choice for a student and no student shall be compelled to use such a restroom.

As a proactive measure, school principals shall take reasonable measures to identify private gender-neutral restrooms on their campus and to make these restrooms available to any student. Principals also shall establish and communicate clear guidelines and expectations with regard to students' physical privacy and boundaries, either through student handbooks, posted expectations, staff training or meetings, or through orientation and other processes for familiarizing students and parents and legal guardians with the school and its facilities.



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J. Locker Room Accessibility

Schools may maintain gender-separated locker room facilities. However, students shall have access to the locker room facilities that correspond to their gender identity.

If any student has a need or desire for increased privacy or safety, regardless of the underlying reason, the student may be provided access to a reasonable alternative changing area or locker room such as:

- Use of a private area in the public area of the locker room facility (for example, a nearby restroom stall with a door, an area separated by a curtain, or a P.E. teacher's office in the locker room).
- A separate changing schedule (utilizing the locker room either before or after other students).
- Use of a nearby private area (for example, a nearby restroom or a health office restroom).

However, use of such an alternative changing space shall be a matter of choice for a student and no student shall be compelled to use such an alternative. School staff shall work to educate students about such options, as well as to establish, communicate and model clear guidelines and expectations with regard to respecting privacy and boundaries in changing areas and other close quarters.

In all cases, school staff shall take reasonable measures to protect and ensure the physical privacy and safety of all students.

K. Participation in Athletics and Physical Education Classes

Transgender students shall be permitted to participate in physical education classes and intramural sports. Transgender students shall be considered eligible to participate in the school district interscholastic athletic programs in a manner consistent with the student's gender identity.

Nothing in this policy shall be construed to excuse any student from following necessary or customary protocols for obtaining parental consent for athletic participation, including permission slips, consent forms and waivers. School staff shall adhere to this policy, including the provisions of this policy regarding student privacy, when advising transgender students about the process for obtaining such parental consent.



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L. Participation in Other Activities

In any other circumstances in which students are separated by gender in school activities (for example, on overnight school trips), transgender students shall be permitted to participate in accordance with their gender identity consistently asserted at school. Activities that may involve the need for accommodations to address student privacy concerns shall be addressed on a case-by-case basis.

M. Dress Code

All students have the right to dress in accordance with their gender identity and gender expression. School dress code policies and guidelines shall be gender-neutral, and shall not be interpreted or applied so as to restrict students' clothing choices on the basis of gender or traditional stereotypes about what males and females "should" wear.

N. Harassment, Intimidation and Bullying Prohibited

The Board recognizes its duty to provide all students, including transgender students, with a safe and supportive learning environment that is free of discrimination, harassment, intimidation and bullying. All of the Board's policies, including Policy #5512 (Harassment, Intimidation and Bullying) and any other Board policy (for example, Policy #5750, Equal Educational Opportunity) or Board or school rule prohibiting discrimination, apply to the treatment of transgender and gender nonconforming students.

Complaints alleging discrimination, harassment, intimidation or bullying based on a student's gender identity, gender expression, or gender nonconformity, are to be handled with the same seriousness as all other such complaints. Any complaint alleging discrimination or harassment based on a student's gender identity, gender expression, or gender nonconformity shall be given immediate attention; shall be fully and appropriately investigated in a timely manner; and shall be resolved through appropriate corrective action.

Legal Authorities:

NJ Law Against Discrimination, N.J.S.A. 10:5-1 et seq.
Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681

Adopted: November 20, 2017

