

SECTION: STUDENTS

**TITLE: NONDISCRIMINATION –
 TRANSGENDER AND GENDER
 EXPANSIVE STUDENTS**

FIRST READING: May 23, 2016

SECOND READING: June 13, 2016

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REVISED:

NONDISCRIMINATION – TRANSGENDER AND GENDER EXPANSIVE STUDENTS	
1. Purpose	The Board is committed to creating a safe and inclusive learning environment for all students that is free from discrimination, regardless of sex, sexual orientation, gender identity, or gender expression and to ensuring that every student has equal access to all components of the educational program.
2. Authority Pol. 103, 249.1, 260; Title IX, 20 U.S.C. § 1681(a) Pol. 218	<p>The purpose of this policy is to facilitate compliance with District policy and state and federal laws concerning bullying, harassment and discrimination.</p> <p>This policy covers conduct that takes place in the school, on school property, at school-sponsored functions and activities, on school buses, or vehicles and at bus stops, and on school computers, networks, forums, and mailing lists. This policy applies to the entire school community, including educators, school staff, students, parents/guardians, and volunteers. This policy applies when a student or the student’s parent(s) or guardian(s) notifies the District that a student is a transgender or gender expansive student.</p> <p>This policy may also apply to off-campus conduct committed in violation of District policies.</p>
3. Definitions	<p>Sex Assigned at Birth or Assigned Sex: Refers to the gender designation listed on one’s original birth certificate.</p> <p>Gender Identity: Refers to one’s internal sense of gender, which may be different from one’s assigned sex, and which is consistently and uniformly asserted most or all of the time, or for which there is other evidence that the gender identity is sincerely held as part of the individual’s core identity. It is one’s innermost concept of self as</p>

male, female, a blend of both, or neither (which is referred to as agender.) One's gender identity can be the same or different from their sex assigned at birth.

Gender Expression: Refers to external cues that one uses to represent or communicate one's gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.

Transgender: An adjective describing an individual whose gender identity is different from the individual's assigned sex. "Transgender boy" and "transgender male" refer to an individual assigned the female sex at birth who has a male gender identity. "Transgender girl" and "transgender female" refer to an individual assigned the male sex at birth who has a female gender identity. Other terms that can have similar meanings are transsexual and trans. An individual can express or assert a transgender gender identity in a variety of ways, which may but do not always include specific medical treatments or procedures. Medical treatments or procedures are not considered a prerequisite for one's recognition as transgender. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc.

Transgender Student: A student who consistently and uniformly asserts a gender identity different from the student's assigned sex most or all of the time; or for which there is documented medical evidence that the gender identity is sincerely held as part of the student's core identity.

Gender Transition: The processes by which some individuals strive to more closely align their internal knowledge of gender with its outward manifestations. Some people socially transition, whereby they might begin dressing, using names and pronouns and/or be socially recognized as the "other" gender. Others undergo physical transitions in which they modify their bodies through medical interventions. It is also important to know that many people are unable or choose not to transition medically.

Gender Stereotypes: Refers to stereotypical notions of masculinity and femininity, including expectations of how boys or girls represent or communicate one's gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.

Gender Expansive: A term for people whose gender expression differs from stereotypical expectations, such as "feminine" boys,

“masculine” girls, and those who are perceived as androgynous. Conveys a wider more flexible range of gender identity and/or expression than typically associated with the binary gender system. This includes people who identify outside traditional gender categories or identify as both genders. Other terms that can have similar meanings include gender diverse or gender fluid.

Note: Transgender and gender expansive youth use a number of words to describe their lives and gender experiences. Terminology and language describing transgender individuals can differ based on language, race or ethnicity, age, culture, and many other factors. Generally speaking, school staff and educators should inquire which terms students may prefer and avoid terms that make these students uncomfortable. A good general guideline is to employ those terms which the students use to describe themselves.

Bullying: An intentional electronic, written, verbal or physical act or series of acts directed at another student or students, which occurs in a school setting, that is severe, persistent or pervasive and has the intent or effect of: (1) creating an intimidating or hostile environment that substantially interferes with a student’s education; (2) physically, emotionally or mentally harming a student; or (3) placing a student in reasonable fear of physical or emotional harm; or (4) placing a student in reasonable fear of damage to or loss of personal property. Bullying, as defined in this policy, includes cyber-bullying. Bullying may include acts that occur outside of school if those acts are intentional, electronic, verbal or physical, are directed at another student or students, are severe, persistent or pervasive, and have the effect of (i) substantially interfering with a student’s education; (ii) creating a threatening environment; or (iii) substantially disrupting the orderly operation of the school.

Unlawful Harassment: For purposes of this policy, unlawful harassment shall consist of verbal, written, graphic or physical conduct relating to an individual’s race, color, national origin/ethnicity, gender, age, disability, sexual orientation, or religion when such conduct: (1) Is sufficiently severe, persistent, or pervasive that it affects an individual’s ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening or hostile educational environment; (2) Has the purpose or effect of substantially or unreasonably interfering with an individual’s academic performance and (3) Otherwise adversely affects an individual’s learning opportunities.

Gender-Based Harassment: May include acts of verbal, nonverbal, or physical aggression intimidation, or hostility based on sex stereotyping.

	<p>Thus, harassment of a student for failing to conform to stereotypical notions of masculinity and femininity constitutes sex discrimination. Gender-based harassment can rise to a violation of District policy and/or Title IX when such conduct denies or limits a student’s ability to receive educational aid, benefits, services, or treatment; or when such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the student’s ability to participate in or benefit from the school’s program (i.e., creating an intimidating, hostile or offensive educational environment).</p>
<p>4. Guidelines</p> <p>Pol. 103, 249.1, 260, SC 1303.1-A Title IX</p> <p>20 U.S.C. Sec. 1681 43 P.S. Sec. 951 et seq. 29 CFR Sec. 1606.8(a)</p> <p>20 U.S.C. §1232g 34 C.F.R. Part 99</p>	<p><u>Bullying, Harassment and Discrimination</u></p> <p>Complaints alleging discrimination or harassment based on a person’s actual or perceived gender identity or expression shall be handled in a manner consistent with Board policies, including but not limited to Board Policy # 249.1 (Bullying/Cyber Bullying) and Board Policy # 260 (Unlawful Harassment), law and regulation.</p> <p><u>Privacy and Confidentiality</u></p> <p>All students have a right to privacy and this right includes the right to keep one’s transgender status private at school. Information about a student’s transgender status, legal name and sex assigned at birth may also constitute confidential protected health information. Disclosing this information to other students, their parents/guardians, or other third parties may violate privacy laws, such as the Family Educational Rights and Privacy Act (FERPA). The District shall ensure that protected health information and education records relating to a student’s transgender or gender expansive status, legal name, or sex assigned at birth will be kept confidential in accordance with applicable state and federal privacy laws.</p> <p>Transgender and gender expansive 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. The fact that a student chooses to disclose his or her transgender status to District staff or other students does not authorize District staff to re-disclose that information, but such information may be re-disclosed by District staff as reasonably necessary to perform District operations related to the student.</p>

Title IX
20 U.S.C.
Sec. 1681 et seq.
34 C.F.R.
Part 106

To ensure the safety and well-being of the student, District personnel should not disclose a student's transgender status to others, including the student's parents/guardians or other District personnel, unless: (1) legally required to do so, (2) the student has authorized such disclosure or (3) it is reasonably necessary to disclose to perform District operations related to the student. When contacting the parent or guardian of a transgender student, District staff should use the student's legal name and the pronoun corresponding to the student's sex assigned at birth unless the student, parent, or guardian has specified otherwise.

Names and Pronouns

Every student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity. Misgendering is addressing a student in a way that contradicts the student's gender identity. It is recommended that District staff privately ask transgender or gender expansive students at the beginning of the school year how they want to be addressed in class, in correspondence to the home, or at conferences with the student's parent(s) or guardian(s). A court-ordered name or gender change is not required and the student need not change his or her official records.

Student Records

The District is required to maintain a mandatory permanent student record that includes a student's legal name and legal gender. However, to the extent that the District is not legally required to use a student's legal name and gender on other school records or documents, such as school IDs, classroom rosters or the yearbook, the District will use the name and gender preferred by the student. The District will change a student's official record to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order, or through amendment of state or federally-issued identification. In situations where District staff are required by law to use or to report a transgender student's legal name or gender, such as for purposes of standardized testing, administration and school staff shall adopt reasonable practices to reduce the likelihood of the inadvertent disclosure of such confidential information to persons or entities other than to whom the use or reporting of the information is made.

Title IX
20 U.S.C.
Sec. 1681 et seq.
34 C.F.R.
Part 106

Medical Treatments or Procedures

Some, but not all transgender youth choose medical treatments to assist their transition. Treatments such as hormone therapy may be unaffordable, not medically indicated or contraindicated for many youth. Surgical treatments are generally not available for school-age transgender youth. With this in mind, District staff should not require proof of medical treatments as prerequisite for respecting the student's gender identity or expression. If any objective basis should occur that would justify questioning whether a student's asserted gender identity or expression is genuine, information may be requested to show that the gender identity or expression is sincerely held. No particular type of information (such as medical history information) should be specifically required.

Dress Code

Individual schools within the District may enforce dress codes, but individual school dress codes shall not differentiate student dress on the basis of gender. Students shall have the right to dress in accordance with their gender identity, within the constraints of the dress code adopted by the school. District staff shall not enforce a school's dress code more strictly against transgender and gender expansive students than other students.

Sex-Specific Facilities

District students shall have access to facilities including all restrooms, locker rooms, changing facilities, or overnight facilities, that correspond to their gender identity.

In any gender-segregated facility, any student who is uncomfortable using a shared facility, regardless of the reason, shall, upon the student's request, be provided with a safe and reasonable alternative. This may include, for example, addition of a privacy partition or curtain, provision to use a nearby private restroom or office, or a separate changing schedule.

A transgender or gender expansive student may request to use a separate restroom or changing area, however, no student shall be required to use an alternative restroom or changing facility because they are transgender or gender expansive. Under no circumstance should any student be required to use sex-segregated facilities that are inconsistent with their gender identity.

<p>Title IX 20 U.S.C. Sec. 1681 et seq. 34 C.F.R. Sec. 106.34</p>	<p>School staff who are responsible for supervising student activity in sex-specific facilities are directed to closely monitor such facilities when being used by an identified transgender or gender expansive student in order to foster student safety.</p> <p><u>Physical Education Classes and Intramural and Interscholastic Athletics</u></p> <p>All students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity.</p> <p>Regarding interscholastic sports teams, the District will follow the Pennsylvania Interscholastic Athletic Association’s (PIAA) rules regarding mixed-gender participation.</p> <p><u>Other Gender-Based Activities, Rules, Policies and Practices</u></p> <p>As a general rule, in any other circumstance where students are separated by gender, for instance at field trips, classroom activities, school ceremonies and school photos, each student should be permitted to participate in a manner consistent with his/her gender identity. Single-gender classes and activities may only be offered in certain circumstances and in accordance with District policy, law and regulation.</p> <p>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. All staff will adhere to this policy when advising transgender students about the process for obtaining such parental consent.</p>
<p>5. Delegation of Responsibility</p>	<p><u>Training and Professional Development</u></p> <p>The Superintendent or designee shall ensure that training is provided for all staff members on their responsibilities under applicable laws and this policy, including teachers, administrators, counselors, social workers, security and health and physical education staff. Information regarding this policy shall be incorporated into training for new school employees.</p> <p>The District shall implement ongoing professional development to build the skills of all staff members to prevent, identify, and respond to bullying, harassment and discrimination. The content of such professional development shall include but not be limited to:</p>

1. Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents.
2. Developmentally appropriate strategies for communication with students and parents/guardians about issues related to gender identity and gender expression that protect student privacy;
3. Developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyber bullying;
4. School and District policies regarding bullying, discrimination, and gender identity and expression issues and responsibilities of staff.

Publication and Media Communications

The Transgender and Gender Expansive Student Policy shall be posted on the District's website. A summary of the policy shall be included in the Code of Student Conduct. The District and individual schools shall make reasonable efforts to ensure the visibility of this policy, as well as the school team for all students to confer with regarding its details and applicability.

References:

School Code – 24 P.S. Sec. 1302-A, 1303.1-A

State Board of Education Regulations – 22 PA

Code Sec. 12.3 Pennsylvania Human Relations

Act – 43 P.S. Sec. 951 et seq.

Federal Anti-Discrimination Law (Title IX) – 20 U.S.C.

Sec. 1681 et seq. Federal Anti-Discrimination Regulations

– 34 CFR Part 106

Harassment Regulations and Guidelines, Code of Federal Regulations – 29 CFR Sec. 1604.11(a), 1606.8(a)