

## **Transgender and Gender Nonconforming Student Guidelines**

*"If we lack respect for one group, then there is a tendency for that attitude to spread. It becomes infectious and no one becomes safe from the ravages of prejudice."*

Walter Annenberg

### **Introduction**

It is the policy of the New York City Department of Education to maintain a safe and supportive school environment for all students free from harassment, intimidation, and/or bullying and free from discrimination on account of actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability, or weight.

Educators play an essential role in creating a supportive school culture and advocating for the wellbeing of students. It is important for school staff, students and parents to be aware that transgender and gender nonconforming students may be at a higher risk for peer ostracism, victimization, and bullying because of bias and/or the possibility of misunderstanding and lack of knowledge about their lives. Schools must be proactive in creating a school culture that respects and values all students and fosters understanding of gender identity and expression within the school community.

These guidelines are intended to help schools promote the educational and social integration of transgender and gender nonconforming students and ensure a safe learning environment free from discrimination and harassment. Each principal is responsible for ensuring that all staff are made aware of these guidelines and for making staff aware of appropriate training and professional development opportunities. Every student and school is unique and these guidelines do not anticipate every situation that may occur. The needs of each student must be assessed on a case-by-case basis. School administrators should discuss the needs and concerns of transgender and gender non-conforming students with them and their families and draw on the experiences and expertise of their colleagues as well as external resources where appropriate.

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## Definitions and Terminology

**Assigned Sex at Birth:** Refers to the sex designation recorded on an infant’s birth certificate should such a record be provided at birth.

**Cisgender:** An adjective describing a person whose gender identity corresponds to their assigned sex at birth. For example, an individual who was assigned the sex designation of female at birth and whose gender identity is female.

**Gender Expression:** The way a person expresses gender to others in ways that are socially defined as either masculine or feminine, such as through behavior, clothing, hairstyles, name, pronouns, activities, voice or mannerisms. (Note: Gender expression can vary depending on one’s culture as well as changes in social norms and expectations, such as shifts in clothing and hairstyles.)

**Gender Identity:** A person’s gender-related identity, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth. Everyone has a gender identity. Gender Identity is a person’s inner sense of being a man or a woman, some combination of both, or neither.

**Gender Nonconforming:** An adjective used to describe an individual whose gender expression does not conform to the social expectations or norms or stereotypical expectations for a person of that sex assigned at birth. Gender nonconforming individuals may identify as male, female, some combination of both, or neither.

**Gender Transition:** Refers to the process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth. During gender transition, individuals may begin to live and identify as the sex consistent with their gender identity and may dress differently, adopt a new name, and use pronouns consistent with their gender identity. Transgender individuals may undergo gender transition at any stage of their lives, and gender transition can happen swiftly or over a long period of time.

**Intersex:** A term used for individuals born with variations in sex characteristics – reproductive or sexual anatomy or chromosome pattern- that do not fit the typical binary notions of male or female bodies.

**Sexual Orientation:** A person’s sexual orientation is the individual’s enduring pattern of physical, romantic, emotional, aesthetic or other attraction to another person. Sexual orientation can be towards persons of the opposite sex or gender, the same sex or gender, or to both sexes and more than one gender. Sexual orientation is not the same as gender identity.

**Transgender:** Describes a person whose gender identity or gender expression is different from their assigned sex at birth.

Transgender and gender nonconforming youth use a number of words to describe their lives and experiences. Some examples these students may use to refer to themselves include, but are not limited to, trans, transgender, male-to-female (MTF), female-to-male (FTM), genderqueer, non-binary, gender

fluid, two-spirit, trans boy, and trans girl. The terminology and language used to describe transgender individuals may differ based on varied factors such as geographic location, race, ethnicity, age, country of origin, etc. and may change over time.

The individual student is the best person to determine their own identity. School staff should be sensitive to, and use, the terminology that supports and respects the wishes of the individual child.

## **Addressing Discrimination/Harassment**

It is the policy of the New York City Department of Education to maintain a safe and supportive learning and educational environment that is free from harassment, intimidation, and/or bullying and free from discrimination on account of actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability, or weight.

The DOE's [Citywide Behavioral Expectations to Support Student Learning](#) (the Discipline Code), prohibits slurs, harassment, discrimination, intimidation and/or bullying behavior, including using electronic communication to engage in such behavior (cyber-bullying), on any of the above noted bases.

Complaints alleging discrimination or harassment based on a person's actual or perceived transgender status or gender nonconformity must be handled in accordance with the procedures set forth in [Chancellor's Regulation A-832](#) (for student-on-student allegations) and [Chancellor's Regulation A-830](#) (for staff-on-student allegations).

Additional Chancellor's regulations that address discrimination/harassment by students and staff include [Chancellor's Regulation A-831](#) (student-to-student sexual harassment); [Chancellor's Regulation A-420](#) (corporal punishment); and [Chancellor's Regulation A-421](#) (verbal abuse.)

## **Privacy**

In accordance with the Family Education Rights Privacy Act (FERPA) and Chancellor's Regulation A-820, only those school or other DOE employees with a legitimate educational interest are permitted to access a student's records. Absent parental consent, or the student's consent if they are 18 years of age or older, information contained in, learned from or to be recorded in a student's records, including information regarding a student's transgender status, may only be disclosed in the following very limited circumstances: 1) in a health or safety emergency; 2) to employees with a legitimate educational interest in the information; or 3) in various other circumstances explicitly permitted by Chancellor's Regulation A-820 and FERPA. (See Chancellor's Regulation A-820 for additional information regarding these exceptions).

Moreover, transgender and gender nonconforming students have the ability, as do all students, to discuss and express their gender identity and expression openly and decide when, with whom, and how much of their private information to share with others. Schools should work closely with the student and parent(s) in devising an appropriate plan regarding the confidentiality of the student's transgender status. (See Supporting Transgender or Transitioning Students section below.) Note that using a student's name and

the corresponding pronoun that is preferred and consistently asserted at school as set forth below does not constitute a violation of a student's privacy or this policy.

In some cases, transgender students may not want their parents to know about their transgender status. These situations must be addressed on a case-by-case basis and will require schools to balance the goal of supporting the student with the requirement that parents be kept informed about their children. The paramount consideration in such situations is the health and safety of the student.

## **Supporting Transgender or Transitioning Students**

Schools have a unique and powerful opportunity to support transgender students, including those going through a gender transition, while providing education to the entire school community. Regardless of how a student transitions or expresses their gender identity, all students have the right to have their gender identity recognized and respected by their school community.

For most youth, and for all young children, the experience of gender transition is focused solely on "social transition," whereby they begin to live as the gender consistent with their gender identity. Transgender youth who are in the process of social gender transition often choose a new first name and the gender pronoun that better reflects their gender identity. They may *or may not* begin to dress and style their hair in ways that better reflect their gender identity, and, as all young people do, seek social affirmation of their gender identity from peers and other important figures in their lives. Transition can also include changing identity documents such as the person's social security record, passport, driver's license, etc. Not all transitions are binary, meaning male-to-female or female-to-male.

Some transgender youth who are close to reaching puberty, or after commencing puberty, may complement social transition with medical intervention that may include hormone suppressants, cross-gender hormone therapy, and, for a small number of young people, a range of gender-affirming surgeries. An individual's decision about whether and how to undergo gender transition is personal and it will depend on the unique circumstances of each student.

It is not unusual for a child's desire to transition to first surface at school. In some cases, a parent will approach a school or district administrator about their child's transition. In other cases, the student is the person who informs the school about their transition.

The administrator should meet with the parents and student to discuss the school's role in supporting the student's transition, make resources available to parents who have questions or concerns, work with the family to prepare for a formal gender transition at school and put in place measures for supporting the child and creating a sensitive supportive environment at school. This meeting should include, but not be limited to, discussion of the timing of the transition, planning responses to questions from school staff and students, and changing the student's information in school records.

School officials must be mindful that transgender and gender nonconforming youth often experience significant family challenges. Some transgender students have not talked to their parents about their gender identity and/or do not want their parents to know about their transgender status based on safety

concerns or concerns about a lack of acceptance. The school principal or their designee should speak with the student first to ascertain concerns the student may have. As noted above, these situations must be addressed on a case-by-case basis. The school principal or their designee should confer with their Senior Field Counsel about how to proceed.

Schools should be especially vigilant for any bullying or harassment issues that may arise. Pursuant to DOE policy, schools must work to prevent bullying and harassment, and respond promptly when allegations of bullying and harassment arise in accordance with Chancellor's Regulation A-832.

## **Names and Pronouns**

Every student is entitled to be addressed by the name and pronoun that corresponds to the student's gender identity that is consistently asserted at school. Students are not required to obtain parental consent or a court ordered name and/or gender change as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity. Teachers and other school staff should be made aware of and honor a student's request to be referred to by the name and gender that corresponds to their gender identity.

It is important to note that for students who are gender non-conforming or who do not prescribe to the gender binary, they may prefer gender neutral pronouns such as they, ze, or other pronouns.

## **Student Records**

Each school is required to maintain a permanent pupil record of each student (e.g. transcript, report cards, attendance records), in the student's legal name and gender.

In those records which are not permanent pupil personnel records (e.g. guidance logs, anecdotal records, yearbooks, graduation programs), schools must use the name and gender that is preferred and consistently asserted by the student at school.

Student IDs should be issued in the name that reflects a student's gender identity that is preferred and consistently asserted at school.

## **Procedures to Change a Student's Permanent Pupil Record**

A student's permanent pupil record can be changed to reflect a change in legal name or gender only upon receipt of documentation that such legal name and/or gender have been changed pursuant to applicable law.

### **Required Documents**

- The documentation required for a **legal change of name** is a court order or birth certificate demonstrating the student's new name.

- For a **legal change of gender**, the student must provide a birth certificate indicating the student's legal gender, or a valid passport indicating the student's legal gender. (Please see **Changing Birth Certificate, Passport, and Social Security Record** in the **Resources** section of this document.)

The following procedures should be followed if a school receives a request to change a student's record to reflect a change in legal name and/or gender.

- For **students who are currently enrolled** in a New York City public school, the school in which the student is enrolled should make the legal name and/or gender change in ATS upon receipt of the required documentation (see above).
- For **students who have been discharged**, the school should forward the request for the legal name and/or gender change to the Field Support Center (FSC) data/applications specialist with the appropriate documentation (see above). The FSC specialist will follow-up to make sure the appropriate change is made in ATS.

In all cases, the former name and/or gender will be maintained in archived data in the DOE'S central database, in order to ensure that records accurately reflect circumstances in effect at the time each record was made, to enable records to be cross-referenced, and to maintain the confidentiality of the student's transgender status to the extent possible.

### **Medical Records**

With respect to student medical records, school nurses and other licensed professionals need accurate and reliable information to confirm a student's identity in order for the student to receive appropriate care and to enable them to coordinate care with other health care providers or licensed professionals, as well as to file health insurance claims with other organizations, such as Medicaid. In accordance with applicable law and regulations, nurses are required to maintain patient records that contain all pertinent information which identifies a patient and that accurately document clinical information relating to their patients, and to keep such records confidential.

In the case of a transgender student, a school nurse should use the student's preferred name, and should use the student's legal name only when necessary for the student to receive appropriate care and to enable the school nurse to coordinate care for the student with other health care providers or licensed professionals, as well as to file health insurance claims.

### **Sports and Physical Education**

Sports and physical education programs, including physical education classes and school teams, are educational opportunities. Participation in these activities plays an integral role in developing a child's fitness and health, self-esteem and general well-being. Transgender students are to be provided the same opportunities to participate in physical education as are all other students.

Students must be permitted to participate in physical education and intramural sports in accordance with the student’s gender identity that is consistently asserted at school. Participation in competitive athletic activities and contact sports will be resolved on a case-by-case basis.

## **Restroom and Locker Room Accessibility**

Transgender and gender nonconforming students must be provided access to facilities (restrooms, locker rooms or changing rooms) consistent with their gender identity consistently asserted at school. A transgender student may not be required to use a facility that conflicts with the student’s gender identity consistently asserted at school. A student whose gender identity is fluid should work with their school to facilitate restroom and locker room access that affirms their identity.

Schools must provide reasonable alternative arrangements for any student who expresses a need or desire for increased privacy. Reasonable alternative arrangements may include a single occupancy restroom, use of a private area, or a separate changing schedule. Any alternative arrangement should be provided in a non-stigmatizing way and in a manner that protects a student’s ability to keep their transgender status confidential. Alternative accommodations must be made available to students who request them, but may never be forced upon students.

## **Gender Segregation in Other Areas**

Gender-based policies, rules, and practices can have the effect of marginalizing, stigmatizing, stereotyping and excluding students, whether or not they are transgender or gender nonconforming. For these reasons, schools should review such policies, rules and practices, and should eliminate any that do not serve a clear pedagogical purpose. Examples may include such practices as gender-based graduation gowns, lines, and/or attire for yearbook pictures.

Students must be permitted to participate in all school activities (e.g., overnight field trips) in accordance with their gender identity consistently asserted at school. Requests for accommodations to address privacy concerns will be addressed on a case-by-case basis.

With respect to single gender schools, students are eligible for admission on the basis of gender identity consistently asserted at school. If a student has not changed their gender in ATS, the student’s guidance counselor should work with the Office of Student Enrollment.

## **Dress Codes**

Schools may enforce dress codes that are adopted pursuant to Chancellor’s Regulation A-665 and consistent with this policy. Schools must carefully examine their dress codes to ensure that the code does not stereotype or require students to wear different articles of clothing based on gender, gender expression or gender identity. (e.g., requiring girls to wear skirts)

## **Notification**

The Principal or designee are responsible for ensuring that school staff and students are familiar with these guidelines.

## Questions/Inquiries

Questions about these guidelines should be directed to your school's Senior Field Counsel, or to Jaye Murray, Executive Director of the Office of Counseling Support Programs at [JMurray7@schools.nyc.gov](mailto:JMurray7@schools.nyc.gov) or to Jared Fox LGBT Community Liaison at [JFox16@schools.nyc.gov](mailto:JFox16@schools.nyc.gov).

## Resources

### School Based Resources

Schools have implemented a number of initiatives to ensure that students feel affirmed in their school regardless of sexual orientation and gender identity/expression. These include:

**Out for Safe Schools Badges:** The Out for Safe Schools program helps educators, administrators, and other school district employees “come out” as visible allies for LGBTQ students. As part of the program, participating staff wear badges identifying themselves as allies in order to make school a safer, more welcoming place.

**Gender and Sexuality Alliances (GSAs):** GSAs are student-run clubs that may serve as a social, support, and advocacy channel for LGBTQ students. They primarily exist in middle and high schools while elementary schools have opted to host Respect for All clubs with similar purposes.

**Curriculum:** Schools should ensure that their curriculum is both a window and a mirror, allowing students who are not LGBTQ to see the experiences of others and providing a reflection for LGBTQ students. This can include incorporating LGBTQ history, reading books by LGBTQ authors, and ensuring sexual health curriculum is inclusive of all identities.

**Respect for All:** Respect For All (RFA) which was formulated in the aftermath of 9/11, is the NYC DOE's program designed to promote respect for diversity and combat harassment, discrimination and bullying. This initiative provides professional development for K-12 school staff, as well as direct services to students. The goal of this work is to ensure that every NYC school provides a learning environment where all children feel safe, valued and respected. Trainings offered to RFA Liaisons include a 2-day LGBTQ specific training.

### Educators

New York State Education Department [Guidance to School Districts for Creating a Safe and Supportive School Environment for Transgender and Gender Nonconforming Students](#)

### Parents, Educators and Students

The following organizations provide resources for parents, students and educators on supporting transgender individuals

- [Ackerman Institute's Gender and Family Project](#) offers a range of services (e.g., support groups and family therapy), as well as training and research.
- [GLSEN](#) is a national organization addressing LGBTQ issues in K12 education, which provides resources and supports to students, educators, administrators, and other constituents.

- [The Hetrick Martin Institute](#) is the nation's oldest and largest LGBTQ youth serving agency providing free programming for young people ages 13-24 and their families.
- [PFLAG NYC](#) is the local chapter of PFLAG which provides general support and informational resources, including the TransParents Project, a dedicated support group for parents and families of transgender children.
- [The Trevor Project](#) is a national organization focused on crisis and suicide prevention efforts among lesbian, gay, bisexual, transgender and questioning youth.

### **Parents, Educators, Service Providers**

The following organizations provide informational materials and resources for discussing gender identity and expression:

- [National Center for Transgender Equality](#)
- [American Psychological Association](#)

### **Parent Resources**

The following organizations offer support to parents of transgender individuals:

- [Gender Spectrum](#)
- [Trans Youth Equality Foundation](#)
- [Families in TRANSition: A Resource Guide for Parents of Trans Youth](#)

### **Information on Changing Birth Certificate, Passport and Social Security Record**

The New York City Department of Health and Mental Hygiene will issue an applicant a new birth certificate with a changed gender marker. To obtain a birth certificate with a changed gender marker, an applicant must provide an affirmation from a physician licensed to practice in the United States, or an affidavit from a doctoral-level psychologist, master social worker, clinical social worker, physician assistant, nurse practitioner, marriage and family therapist, mental health counselor, or midwife, licensed to practice in the United States that the applicant's gender marker must be changed to accurately reflect their gender identity.

To change a birth certificate of an individual born in one of the five (5) boroughs of New York City (Manhattan, Brooklyn, Queens, the Bronx, and Staten Island), please visit the [New York City Department of Health and Mental Hygiene web site](#).

For students 18 or over who were born in New York state outside of New York City, the New York State Department of Health will issue a new certificate to an applicant who submits a notarized affidavit from a physician, nurse practitioner or physician assistant licensed in the United States that either states that the applicant has undergone appropriate clinical treatment for a person diagnosed with gender dysphoria or transsexualism, or confirms that surgical procedures have been performed on the applicant to complete sex reassignment.

**NOTE:** At the federal level, the U.S. Department of State policy allows the gender designation on passports to be changed for applicants producing certifications from attending internists, endocrinologists, gynecologists, urologists or psychiatrists stating that the provider has a doctor/patient relationship with

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the applicant and that the applicant has undergone appropriate clinical treatment for gender transition. Likewise, the Social Security Administration will change an individual's gender on social security records upon receipt of a medical certification of appropriate clinical treatment for gender transition from a licensed physician or doctor of osteopathy.