

TRANSGENDER AND GENDER EXPANSIVE STUDENTS

A. PURPOSE

The purposes of this policy are to: (1) foster a learning environment that is safe and free from discrimination, harassment and bullying; and (2) assist in the educational and social integration of transgender and gender expansive students in our schools. This policy is intended to be interpreted in light of applicable federal and state laws/regulations, as well as other applicable Board policies, procedures and school rules.

This policy is not intended to anticipate every possible situation that may occur, since the needs of particular students and families may differ depending on the student's age and other factors. The programs, facilities and resources of each school may also differ.

Administrators and school staff are expected to consider the needs of students on a case-by-case basis, and to utilize this policy and other available resources.

B. DEFINITIONS

The following definitions are not intended to provide rigid labels for students, but to assist in discussing and addressing the needs of students. Excepting those which are specifically defined in Maine law (indicated by "*quoted text*"), the terminology in this area is constantly evolving, and preferences for particular terminology vary widely. Administrators, school staff, volunteers, students and others who interact with students are expected to be sensitive to the ways in which individual transgender and gender expansive students may wish to be identified. However, for the sake of brevity, this policy refers to "transgender students" and "gender expansive students."

1. *Sexual orientation* – Sexual orientation is defined in the Maine Human Rights Act as an individual's "*actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.*"

2. *Gender identity* – Gender identity is defined in the Maine Human Rights Act as "*gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth.*"

3. *Gender expression* – The manner in which a person represents or expresses gender to others, such as through clothing, hairstyles, activities, voice, behaviors or mannerisms.

4. *Gender expansive* – An umbrella term used to describe a person who expands notions of gender expression and identity beyond a perceived or expected societal gender binary (male/female).

5. *Transgender* – An adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned sex at birth.

6. *Transition* – The process by which a person transitions from presenting as one gender to another. Transgender students under the age of 18 may be in a process of social transition from one gender to another, regardless of whether or not they are undergoing medical interventions.

C. RIGHTS OF TRANSGENDER AND GENDER EXPANSIVE STUDENTS

The Maine Human Rights Act prohibits discrimination, bullying, and harassment against students because they're transgender.

Children have a constitutional right not to have intimate facts about their lives disclosed without their consent. Public school staff have the responsibility of upholding the rights of transgender students to equal access to education under Maine law along with other school policies that maintain the safety and well-being of all our students.

D. SUPPORT PLAN FOR TRANSGENDER AND GENDER EXPANSIVE STUDENTS

Gender identity or expression is a personal decision and does not require public affirmation.

If and when a student requests a support plan or if the administration determines it is necessary, the following procedure will be used:

1. The student and/or their parent(s)/guardian(s) should contact the building administrator or the student's school counselor or trusted school staff person. In the case of a student who has not yet enrolled in school, the appropriate building administrator should be contacted.
2. A designated staff person will meet with the student to discuss the student's preferences, needs and accommodations. If requested by the student, a meeting will be scheduled to discuss the student's needs, and may include other

participants at the request of the student, such as parents/guardians, other school staff, and/or outside providers and/or support persons.

3. In the case of a student who has not yet discussed a change in their gender identity with their parent(s)/guardian(s), the designated staff person will discuss parent/guardian involvement with the student to ensure that the student feels safe and supported. It is the goal of the RSU to support communication between students and their parent(s)/guardian(s) about the student's gender identity. The RSU will offer support to the parents/guardians and students as needed.

4. The school will develop a support plan in consultation with the student and other relevant meeting participants to address the student's particular needs. If the student has an IEP and/or a 504 Plan, the provisions of these plans should be taken into consideration when developing a plan for addressing transgender and gender expansive issues within the school program.

5. The school administration may request documentation from family/guardians and/or outside providers if deemed necessary to assist in developing a plan appropriate for the student.

6. Any support plan developed must be reviewed and approved by the building administrator and ensure alignment with other existing plans. If the parties developing the plan cannot reach an agreement about the elements of the student's plan, the Superintendent/designee shall be consulted.

7. School personnel shall not prescribe or suggest medical treatment nor provide tools that promote or conceal gender expression at any time.

E. GUIDANCE ON SPECIFIC ISSUES

1. **Privacy:** All students have a right to privacy. This includes the right to keep private one's transgender status or gender non-conforming presentation at school. In some cases, a student may want school staff and students to know that they are transgender or gender expansive, and in other cases the student may not want this information to be widely known. Accordingly:

a. The student's support plan shall be kept confidential and shared only with individuals attending the plan development meeting, the Superintendent/designee, others with a bona fide need to know.

b. As part of the development of the student's plan, the discussion should include what information may be shared, to whom the information may be shared, and how the information should be shared.

c. School staff should take care to follow the student's plan and not to inadvertently disclose information that is intended to be kept private or that is protected from disclosure (such as confidential medical information, the student's transgender status, their legal name, or sex assigned at birth).

d. No portion of this policy precludes a student from speaking confidentially with a school counselor or social worker about transgender or gender expansive issues. Such conversations are confidential to the extent set forth in applicable law.

e. School staff should keep in mind that under FERPA, student records may only be accessed and disclosed to parents/guardians and to staff with a legitimate educational interest in the information. Disclosures to others should only be made with appropriate authorization from the administration and/or parents/guardians.

2. **School Records:** Schools are required to maintain a large number of records for students. If a student makes a legal change in their name and/or gender, appropriate documentation should be provided to the building administrator and records will be changed.

A student who has not legally changed their name and/or gender may still request that the school unit utilize their preferred name and/or gender on school records, and this request will be honored to the extent that the school unit is not legally required to use a student's legal name or gender on particular records. This information should be included in any plan developed for the student.

If a student requests a change to their name and/or gender in school records without parental approval, the Superintendent should be consulted, and the matter resolved on a case-by-case basis. Students should be informed that parents/guardians have a right to access all education records of their child. This information should be discussed in the development of the student's plan.

In the event of a student transferring to a new school unit from RSU5, the building administrator will designate a person who will inform the new school

unit or out-of-district school program that the student's records indicate a change in name preference, and what the student's prior and current name preferences are.

3. **Names/Pronouns:** The student should be addressed by school staff, substitutes, volunteers and other students by the name and pronoun corresponding to their gender identity that is expressed at school.

4. **Restrooms:** Students are permitted to use the restrooms that most closely match their gender identity. If any student expresses a need for privacy, they will be provided with access to reasonable alternative facilities or accommodations such as a single-occupancy toilet facility or a staff facility. However, the student shall not be required to use a separate non-communal facility over their objection.

5. **Locker Rooms:** Students are permitted to use the locker room that most closely matches their gender identity. If any student expresses a need for privacy, they will be provided with access to reasonable alternative facilities or accommodations, such as using a separate stall, a staff facility, or an alternative schedule.

6. **Other Gender-Segregated Facilities or Activities:** As a general rule, in any other facilities or activities when students may be separated by gender, the student may participate in accordance with their gender identity. Participation in interscholastic athletic activities will be addressed in accordance with current Maine Principals Association guidelines and procedures.

7. **Dress Code:** Transgender or gender expansive students may dress in accordance with any applicable requirements in the dress code or school rules.

F. SAFETY AND SUPPORT FOR TRANSGENDER AND GENDER EXPANSIVE STUDENTS

1 School staff are expected to comply with any plan developed for a transgender or gender expansive student.

2. School staff are expected to promptly notify the building administrator or other designated support person for the student if there are concerns about the support plan, or about the student's safety or welfare.

3. School staff should be sensitive to the fact that transgender and gender expansive students can be at higher risk for being bullied or harassed, and should immediately notify the appropriate administrator if they become aware of a problem.

4. As part of the support plan development, the concerned parties should discuss safe zones (ex. main office, counselor’s office) the student may access at any time the student feels unsafe or uncomfortable. A support person (and possibly a back-up person) should also be identified for each student.

G. STAFF TRAINING AND INFORMATIONAL MATERIALS

1. Teachers and other staff who have responsibilities for a transgender student with a plan will receive support in implementing the plan. The Superintendent and/or building administrators shall institute in-service training and/or distribute educational materials regarding the legal rights, personal safety and emotional wellbeing of transgender and gender expansive students.

Legal Reference: 5 MRSA §§ 4553(5-C), (9-C); 4592(9)
Maine Human Rights Act 5MRSA §§ 4602

Cross Reference: AC–Non Discrimination/Equal Opportunity and Affirmative Action
ACAA – Harassment and Sexual Harassment of Students
ACAD – Hazing
JICK – Bullying

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