

## **OAKLAND UNIFIED SCHOOL DISTRICT**

### **Board Policy**

#### AR 5145.3 –Transgender Students

##### Students

The District is committed to providing a safe, supportive, and inclusive learning environment for all students, including transgender students. The District is also committed to ensuring that every student has equal educational opportunities and equal access to the District’s educational programs and activities.

This regulation sets out guidelines for supporting the needs and rights of transgender and gender nonconforming students. This regulation does not anticipate every situation that may arise with respect to transgender or gender nonconforming students. Schools are encouraged to assess the needs of each transgender or gender nonconforming student on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of the transgender or gender nonconforming student.

##### **Definitions**

The definitions below are intended to clarify the guidance provided in this regulation. Students may or may not use these terms to describe themselves.

- Gender identity means a person’s gender-related identity, appearance, or behavior, 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.
- Transgender student means a student whose gender identity or gender expression is different from that traditionally associated with the assigned sex at birth.
- Gender expression means a person’s gender-related appearance and behavior whether or not stereotypically associated with the assigned sex at birth.
- Gender-nonconforming student means a student whose gender expression differs from stereotypical expectations.

##### **Applicable Laws and Policy**

The California Education Code states that “all pupils have the right to participate fully in the educational process, free from discrimination and harassment.” Cal. Ed. Code Section 201(a).

California Education Code 221.5(f) specifically requires that “[a] pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the

gender listed on the pupil's records.”

The California Code of Regulations similarly provides that “[n]o person shall be excluded from participation in or denied the benefits of any local agency’s program or activity on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability in any program or activity conducted by an ‘educational institution’ or any other ‘local agency’ . . .that receives or benefits from any state financial assistance.” 5 CCR Section 4900(a).

The California Code of Regulations defines “gender” as: “a person’s actual sex or perceived sex and includes a person’s perceived identity, appearance or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with a person’s sex at birth.” 5 CCR Section 4910(k).

Board Policy 5141.3 prohibits discrimination against transgender and gender nonconforming students.

## **Privacy**

Students have a right to decide when, with whom, and how much personal information to share with others. This right to privacy includes the right to control dissemination of information about one’s gender identity, including one’s transgender status, or sexual orientation.

School personnel should not disclose information that may reveal a student’s transgender status or gender nonconforming presentation to others unless legally required to do so, the student has authorized such disclosure, or there is a specific “need to know.” In the rare circumstances where disclosure is necessary, school officials shall inform the transgender student of the need to disclose and provide the student with an opportunity to make the disclosure themselves before making any disclosure.

## **Names/Pronouns**

A student has the right to be addressed by a name and pronoun corresponding to their gender identity that is exclusively and consistently asserted at school. Upon request, a school shall recognize a student’s gender identity that is exclusively and consistently asserted at school.

The intentional or persistent refusal to respect a student’s gender identity, as opposed to an inadvertent slip or honest mistake, is a violation of this regulation. For example, intentionally referring to the student by a name or pronoun that does not correspond to the student’s gender identity would violate this regulation.

## **School Records**

The District is committed to ensuring that students are addressed by the name and pronoun corresponding to their gender identity that is exclusively and consistently asserted at school. A parent/guardian may request that their child’s name or gender be changed in official school

records to reflect a gender transition without a court order. To do so, a parent/guardian must submit the School Roster Information Change Request Form to the Student Assignment Center. District staff will undertake efforts to ensure that a change in name and gender is reflected throughout the District's electronic information systems.

The District is required to maintain a mandatory permanent pupil record ("official record") that includes a student's legal name and legal gender. The birth certificate or hospital document with legal name and gender will be maintained in the cumulative folder, as required by state regulation. 5 Cal. Code. Reg. 432(b)(1)(A).

### **Restroom Accessibility**

Students shall have access to the restroom that corresponds to their gender identity exclusively and consistently asserted at school. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided access to a single stall restroom, but no student shall be required to use such restroom.

### **Locker Room Accessibility**

Students shall have access to use facilities consistent with their gender identify as expressed by the student and asserted at school, irrespective of the gender listed on the student's records, including but not limited to locker rooms. Where available, accommodations may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such accommodations shall be a matter of choice for a student, and no student shall be compelled to use such accommodations.

Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a P.E. instructor's office in the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponds to their gender identity before or after other students). Any alternative arrangement should be provided in a way that protects the student's ability to keep his or her transgender status confidential. In no case shall a transgender student be required to use a locker room that conflicts with the student's gender identity.

### **Gender-Segregated Activities**

To the extent possible, schools should reduce or eliminate the practice of segregating students by gender. In situations where students are segregated by gender, such as for health education classes, students should be included in the group that corresponds to their gender identity.

Transgender students shall not be denied the opportunity to participate in physical education, nor shall they be forced to have physical education outside of the assigned class time. Transgender and gender nonconforming students shall be permitted to participate in gender-segregated physical education classes, interscholastic athletic teams, and intramural sports in a manner

consistent with their gender identity.

As a general rule, in any other circumstances where students are separated by gender in school activities or programs (i.e. class discussions, field trips), students shall be permitted to participate in accordance with their gender identity that is exclusively and consistently asserted at school. Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case by case basis. In such circumstances, staff shall make a reasonable effort to provide an available accommodation that can address any such concerns.

### **Dress Codes**

Transgender and gender nonconforming students have the right to dress in a manner consistent with their gender identity or gender expression.

### **Discrimination/Harassment**

Transgender and gender nonconforming students must be provided a safe school environment and protected from discrimination and harassment in the public school system. Staff must respond appropriately to ensure that schools are free from any such discrimination or harassment. This includes ensuring that any incident of discrimination, harassment, or violence is given immediate attention, including investigating the incident, taking appropriate corrective action, and providing students and staff with appropriate resources. Complaints alleging discrimination or harassment based on a person's actual or perceived transgender status or gender nonconformity are to be handled in the same manner as other discrimination or harassment complaints.

Complaints about violations of BP 5145.3 or this regulation should be handled through the Uniform Complaint Procedures. Cal. Code of Reg. tit. 5 §§ 4600-4687.

(cf - AR 5131.2)

(cf – BP/AR 1312.3)

### **Transferring a Student to Another School (Safety Transfers)**

In general, schools should aim to keep transgender and gender nonconforming students at the original school site. Safety transfers should not be a school's first response to harassment and should be considered only when necessary for the protection or personal welfare of the transferred student, or when requested by the student or the student's parent.

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