

Book: Policy Manual  
Section: 100 Programs  
Title: Nondiscrimination – Transgender and Gender Diverse Employees  
Code: 102.6  
Status: Proposed  
Adopted: TBD

### **Purpose**

The Board is committed to creating a safe and inclusive working environment for all employees that is free from discrimination, regardless of sex, sexual orientation, gender identity, or gender expression. Employees who identify as transgender, non-binary, or another gender diverse identity have the same access, rights, responsibilities, and protections to which all employees are entitled.

### **Authority**

The purpose of this policy is to facilitate compliance with District policy and state and federal laws concerning harassment and discrimination. [1][2]

This policy covers conduct that takes place on school district property, at district-sponsored functions and activities, on district transportation, and on district computers and networks.

This policy may also apply to off-campus conduct committed in violation of District policies. [3][4]

### **Definitions**

Definitions relevant to this policy are provided below; however, transgender and gender diverse individuals use a number of words to describe their lives and gender experiences, and these terms are always evolving as individuals find identities that better align with their sense of self. Terminology and language describing gender identity and expression can differ based on language, race or ethnicity, age, culture, and many other factors. One should respect and use the terms preferred and used by an individual with whom they are interacting.

**Deadnaming:** Occurs when an individual, intentionally or not, refers to the name that a transgender or gender diverse individual used at a different time in their life. Regardless of intent, deadnaming has a harmful impact.

**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 male, female, a blend of both or neither. One's gender identity can be the same or different from their sex assigned at birth. **Gender Diverse:** An umbrella term that is used to describe gender identities that demonstrate a diversity of expression beyond the binary framework.

**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.

**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 male, female, a blend of both or neither. One's gender identity can be the same or different from their sex assigned at birth.

**Harassment:** Verbal, written, graphic or physical conduct relating to an individual's race, color, national origin/ethnicity, gender (including gender identity or expression), 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 abusive educational environment; (2) Has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or (3) Otherwise adversely affects an individual's learning opportunities.

**Misgender:** To refer to an individual using a word, especially a pronoun or form of address, that does not reflect the individual's gender identity. This may be unintentional and without ill intent or can be a maliciously employed expression of bias. Regardless of intent, misgendering has a harmful impact.

**Non-Binary:** A term used to describe gender identities that exist between, beyond, or outside of the man-woman gender binary.

**Pronouns:** The words used to refer to a person other than their name. Common pronouns are they/them, he/him, and she/her. Pronouns are not preferred; they are a statement of fact.

**Sex:** Refers to anatomical, physiological, genetic, or physical attributes that determine if a person is male, female, or intersex. These include both primary and secondary sex characteristics, including genitalia, gonads, hormone levels, hormone receptors, chromosomes, and genes.

**Sex Assigned at Birth:** Refers to the sex designation listed on one's original birth certificate.

**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.

## **Guidelines**

### **Harassment and Discrimination**

Complaints alleging discrimination or harassment based on a person's actual or perceived gender identity or expression are to be taken seriously and handled in a manner consistent with Board policies, law and regulation. [1][2][5][6][7]

### **Privacy and Confidentiality**

All employees have a right to privacy and this right includes the right to keep one's transgender or gender diverse status private at work.

Transgender and gender diverse employees 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 an employee chooses to share their transgender or gender diverse status does not authorize District staff to re-share that information. Sharing or discussing an employee's transgender or gender diverse status when shared in confidence without the consent of the employee is a violation under this policy.

Information about an employee's gender identity or transgender status, legal name, or sex assigned at birth may constitute confidential protected health information. Sharing this information to other employees, students, parents/guardians, or other third parties may violate privacy laws. The District shall ensure that protected health information and personnel records relating to transgender and gender diverse employees shall be kept confidential in accordance with applicable state and federal privacy laws.

### Personnel Records

In compliance with Federal Equal Employment Opportunity laws, the District is required to maintain and report mandatory personnel records that include an employee's legal name and legal sex. Additionally, certain types of personnel records, such as those relating to payroll and retirement accounts, may also require the use of an employee's legal name and legal sex. In situations where the District is required by law to use or report an employee's legal name or legal sex, protecting the privacy of transgender and gender diverse employees shall be a top priority to avoid the inadvertent disclosure of such confidential information.

To the extent that the District is not legally required to use an employee's legal name and legal sex on school and employment records or documents, such as employee ID badges or staff directories, the District will use the name and gender identified by the employee.

The District will change an employee's official personnel 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.

The District shall ensure that protected health information and personnel records relating to transgender and gender diverse employees shall be kept confidential in accordance with applicable state and federal privacy laws.

### Names and Pronouns

Every employee has the right to be addressed by a name and pronoun that corresponds to their gender identity. A court-ordered name or gender change is not required, and the employee need not change their official records. Intentional or persistent refusal to respect an employee's gender identity (e.g., misgendering, deadnaming) can constitute harassment and is a violation under this policy. [1][2]

### Gender-Neutral Language

To the extent possible, employees should use gender-neutral language in written and verbal communication with employees, students, parents/guardians, or other third parties. This includes employing "they" (singular) instead of "he/she."

### Gender-Affirming Medical Treatments or Procedures

Some, but not all, transgender or gender diverse individuals may choose medical treatments to affirm their gender identity. The District does not require proof of medical treatments as prerequisite for respecting an employee's gender identity or expression.

#### Dress Code

Transgender and gender diverse employees have the right to dress in a manner consistent with their gender identity or gender expression. The District shall not enforce or impose policies regarding dress codes more strictly against transgender and gender diverse employees than it does all employees. [8]

#### Restrooms and Facilities

With respect to all restrooms and facilities, employees shall have access to restrooms and facilities that correspond to their gender identity.

Employees who are uncomfortable using a sex-segregated restroom or facility, regardless of the reason, may use or request to use a single occupancy restroom or facility, where feasible. No employee shall be required to use a restroom or facility that is inconsistent with their gender identity.

No employee shall be required to use a separate restroom or facility because they are transgender or gender diverse.

#### Other Gender-Based Activities, Rules, Policies and Practices

As a general rule, in any other circumstance where employees are separated by gender, for instance at field trips, classroom activities, school ceremonies and school photos, each employee should be permitted to participate in a manner consistent with their gender identity.

#### Delegation of Responsibility

##### Nondiscrimination – Compliance

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Chief Human Resources Officer as the District's Compliance Officer. All nondiscrimination notices or information shall include the position, office address, telephone number and email address of the Compliance Officer.

The Compliance Officer shall develop administrative regulations to implement this policy and shall maintain records documenting compliance.

The Compliance Officer shall publish and disseminate this policy and complaint procedure at least annually employees to notify them of where and how to initiate complaints under this policy.

The Compliance Officer shall be responsible to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures, and to monitor the implementation of nondiscrimination procedures.

##### Training and Professional Development

The District shall implement ongoing professional development to build the skills of all staff members to prevent, identify, and respond to harassment and discrimination. The content of such professional development shall include but not be limited to:

1. Terms, concepts, and current understandings of gender identity, gender expression, and gender diversity.
2. District policies regarding harassment and discrimination based on gender identity and gender expression.
3. Strategies for communicating about gender identity and gender expression.
4. Strategies for identifying, preventing, and intervening in situations where harassment and discrimination based on gender identity and gender expression may be occurring.

#### Legal

1. Pol. 102.4
2. Pol. 103
3. Pol. 311
4. Pol. 312
5. 43 P.S. 951 et seq
6. 29 CFR 1606.8
7. Pol. 321
8. Pol. 303