

## **Students**

### **Transgender, Non-Binary, and/or Gender-Expansive Youth**

The Board of Education (Board) believes that a school culture that supports student achievement respects and values all students and fosters understanding of gender identity or expression within the school community. Connecticut law and District policy require that all programs, activities, and employment practices are free from discrimination based on sex, sexual orientation, and gender identity or gender expression. Therefore, in keeping with these mandates the Board is committed to creating a safe learning environment for all students and to ensure that every student has equal access to all school programs and activities.

The Board believes that fostering this understanding is a joint responsibility that requires cooperation and good communication between the parents/guardians, school administration, school staff and the school community.

### **Privacy**

The Superintendent of schools and/or his or her designees are expected to work closely with the student and family in formulating an appropriate plan regarding the confidentiality of the student's transgender status that works for both the student and the school. Privacy considerations may also vary with the age of the student.

Where the transgender student feels more supported and safe when other students are aware that they are transgender, school staff shall be given guidance and training appropriate for facilitating a respectful school climate. School personnel may be directed to work closely with the student, families and other staff members on a plan to inform and educate the student's peers. It may also be appropriate to engage external resources to assist with educational efforts.

### **Confidentiality**

School personnel may not disclose information that may reveal a student's transgender status, except as allowed by law. Under the Family Education Rights Privacy Act (FERPA), only those school employees with a legitimate educational need may have access to a student's records or the information contained within those records. Disclosing confidential student information to other employees, other students, other parents, or other third parties may violate privacy laws, including but not limited to FERPA. Transgender 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.

Instances where students do not want their parents/guardians to know about their transgender status shall be addressed on a case-by-case basis. The appropriate staff member shall consider the needs of the student and the school district's expectation for parents/guardians to be kept informed about their child. While there is no law that specifically requires districts or schools to inform parents or guardians of a student's gender identity or expression, the legislature has recognized the importance of fostering both effective communication between schools and parents and parental involvement in their children's school.

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#### Confidentiality (continued)

Additionally, parents are entitled to access their children's education records pursuant to FERPA. While the Board expects open communication with families as partners in the care of students, school district staff shall operate in good-faith if there is a concern that sharing transgender status information with a parent or guardian could threaten a student's physical or emotional health, and shall consult with their legal counsel as to how best to proceed if the school staff has reason to believe such communication could in any way endanger a student. This would be by rare exception. In accordance with law, if a school employee has reasonable cause to suspect or believe that a student has been abused or neglected, has had nonaccidental physical injury, or is in imminent risk of serious harm, such employee will notify DCF and/or the appropriate local officials, as well as parents/guardians, where appropriate

To proactively plan for a safe learning environment free of discrimination and harassment parents/guardians of students with gender identity or expression concerns are encouraged to alert the school district and schedule a meeting with the chief school administrator. Upon request, the Superintendent of Schools or his/her designee shall schedule a meeting with the parent/guardian and the student for the purpose of evaluating the needs of the student and planning any accommodations that may be considered to facilitate a respectful and comfortable school program that supports the student's achievement.

#### Definitions

- A. **Gender identify** is a person's inner sense of being male or female, regardless of their gender assigned at birth.
- B. **Transgender** is a term which describes people whose gender identity or gender expression is different from their assigned gender at birth.
- C. **Gender expression** refers to 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, activities, voice or mannerisms.
- D. **Gender non-conforming** refers to gender-related identity and/or gender expression which does not conform to the social expectations or norms for a person of that gender assigned at birth.
- E. **Transition** refers to the process in which a person goes from living and identifying as one gender to living and identifying as another.

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### **Transgender, Non-Binary, and/or Gender-Expansive Youth (continued)**

#### **Coordination of School Accommodations**

The meeting between the Superintendent of Schools or his/her designee, parents/guardians and the student and other qualified staff or consultants as necessary shall comprise a discussion of actions the District and school personnel may take to create a safe learning environment, including:

#### **Names/Pronouns**

School staff shall be directed to address the student by the name and pronoun corresponding to their gender identity that is consistently asserted at school. Students are not required to obtain a court ordered name and/or gender change or to change their pupil personnel records as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity. To the extent possible and consistent with these guidelines, school personnel shall make efforts to maintain the confidentiality of the student's transgender status.

School documentation such as student IDs shall be issued in the name that reflects a student's gender identity that is consistently asserted at school.

#### **Sports and Physical Education**

Transgender students shall be provided the same opportunities to participate in physical education as are all other students. Generally, students may be permitted to participate in physical education and sports in accordance with the student's gender identity that is consistently asserted at school.

#### **Restroom Accessibility**

Title IX permits school districts to provide single-sex restrooms so long as both sexes are treated equitably. Nonetheless, while a school may provide single-sex restrooms under Title IX and C.G.S. §10-15c, all students must be allowed to access those facilities that correspond to their gender identity. Just as cisgender males and females must be allowed to use facilities that comport with their respective gender identities, so too must gender-diverse students be allowed to use facilities that align with their individual gender identities. In keeping with both federal and Connecticut law, Marlborough Elementary School cannot require that gender-diverse students use facilities that are inconsistent with their gender identity. Similarly, the school cannot compel gender-diverse students to use individual-user facilities when other students are not required to do so. Although students cannot be required to use such alternatives, if either a cisgender or gender-diverse student requests a private bathroom or changing option for themselves, we will provide it. This can be in the form of a single stall "unisex" restroom or the health office restroom. These options, however, cannot be forced upon any student.

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### **Transgender, Non-Binary, and/or Gender-Expansive Youth** (continued)

#### **Restroom Accessibility**

The District aims to support transgender students while also ensuring the safety and comfort of all students. The Superintendent of Schools or his/her designee, together with the parents/guardians, student and other qualified staff or consultants shall evaluate the use of restrooms by the transgender students and consider the following factors, including, but not limited to:

- A. The transgender student's preference;
- B. Protecting student privacy;
- C. Maximizing social integration of the transgender student;
- D. Minimizing stigmatization of the student;
- E. Ensuring equal opportunity to participate;
- F. The student's age; and
- G. Protecting the safety of the students involved.

A transgender student who expresses a need or desire for increased privacy may be provided with reasonable alternative arrangements. Reasonable alternative arrangements may include the use of a private area, or use of a single stall, gender neutral restroom. Any alternative arrangement shall be provided to the extent possible in a way that protects the student's ability to keep his or her transgender status confidential.

A transgender student should not be required to use restroom that conflicts with the student's gender identity.

#### **Gender Segregation in Other Areas**

As a general rule, in any other circumstances where students are separated by gender in school activities (i.e. overnight field trips), students may be permitted to participate in accordance with their gender identity 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 considering the factors set forth above.

#### **Dress Code**

Students have the right to dress in accordance with their gender identity that is consistently asserted at school, within the constraints of the school policy for student dress (#5132-Student Dress).

## **Students**

### **Transgender, Non-Binary, and/or Gender-Expansive Youth** (continued)

#### **Resources for Transgender or Transitioning Students**

If a school staff member observes that a gender identity issue is creating challenges for a student at school or if a student indicates an intention to transition, the staff member shall alert a school counselor and encourage the student to meet with the school counselor if appropriate. School staff shall make every effort to support the student and encourage the support and respect of student peers and staff during school.

When a student indicates an intention to transition, the school counselor, as appropriate, shall offer assistance and provide the student and/or their parents/guardians with information, resources and referral services regarding the issues associated with gender identity and expression and/or formal gender transition. The school counselor shall also provide information regarding gender transition planning at school. The counselor shall coordinate the measures planned and taken at school for supporting the student and creating a sensitive supportive environment at school. These measures may include:

- A. Making resources available to parents who have additional questions or concerns;
- B. Developing age-appropriate lessons for students about gender diversity and acceptance; and
- C. Staff training surrounding vigilance to prevent possible harassment, intimidation and bullying issues that may arise for transgender students.

Reports of harassment, intimidation and bullying shall be promptly investigated and resolved according to Board policy #5131.911-Bullying.

#### **Harassment, Intimidation and Bullying**

The Board shall make every effort 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, national origin, ancestry, age, sex, affectional or sexual orientation, gender identity or expression, marital status, domestic partnership status, nationality, atypical hereditary cellular or blood trait of any individual, genetic information, or refusal to submit to a genetic test or make the results of a genetic test known, disabilities, social or economic status, pregnancy, childbirth, pregnancy-related disabilities, actual or potential parenthood, family status or other distinguishing characteristic.

Complaints alleging discrimination shall be reported to the school affirmative action officer according to board policies.

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### **Transgender, Non-Binary, and/or Gender-Expansive Youth**

#### **Harassment, Intimidation and Bullying** (continued)

Any student experiencing or observing harassment, intimidation and bullying is encouraged to report the incident to a member of school staff. Any staff member observing or receiving a report of harassment, intimidation or bullying shall report the incident to the Principal the same day the incident is observed or the report received according to Board policy #5131.911-Bullying. All reported incidents of discrimination, harassment, intimidation, and bullying shall be promptly investigated and resolved according to law and Board policy.

#### **Official Records**

To the extent that the school is not legally required to use a student's legal name or gender on school records and other documents, the school shall use the name and gender preferred by the student.

Each school is required to maintain a mandatory permanent student record of each student, which includes the legal name of the student as well as the student's biological gender. However, the District is not required to use a student's legal name and gender on other school records or documents. The District will change a student's official record to reflect a change in legal name or legal gender upon receipt of documentation that such change has been made pursuant to a court order. In situations where school staff or administrators are required by law to use or to report a transgender student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

A student's permanent pupil record may 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. The following documentation may be provided:

- 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.

(cf. 0521 – Nondiscrimination)

(cf. 4131 – Staff Development)

(cf. 5114 – Suspension and Expulsion/Due Process)

(cf. 5131 – Conduct)

(cf. 5131.21 – Violent and Aggressive Behavior)

(cf. 5131.8 – Out-of-School Misconduct)

(cf. 5131.912 – Aggressive Behavior)

(cf. 5131.913 – Cyberbullying)

## Students

### Transgender, Non-Binary, and/or Gender-Expansive Youth (continued)

- (cf. 5131.91 – Hazing)
- (cf. 5132 – Dress Code)
- (cf. 5144 – Discipline/Punishment)
- (cf. 5145.4 – Nondiscrimination)
- (cf. 5145.5 – Sexual Harassment)
- (cf. 5145.51 – Peer Sexual Harassment)
- (cf. 5145.52 – Harassment)
- (cf. 5145.6 – Student Grievance Administrative Regulation)
- (cf. 6121 – Nondiscrimination)
- (cf. 6121.2 – Equal Educational Opportunity)

Legal Reference: Connecticut General Statutes  
10-15c Discrimination in public school prohibited. (Amended by P.A. 97-247 to include “sexual orientation” and PA 11-55 to include “gender identity or expression”)  
46a-60 Discriminatory employment practices prohibited Federal law.  
10-209 Records not to be public.  
46a-60 Discriminatory employment practices prohibited.  
Section 504 and the Federal Vocational Rehabilitation Act of 1973, 20 U.S.C. 706(7)(b).  
Public Act 07-62 An Act Concerning the Deprivation of Rights on Account of Sexual Orientation.  
Public Act 11-55 An Act Concerning Discrimination.  
Title IX of the Education Amendments of 1972, 34 CFR Section 106.  
*Meritor Savings Bank, FSB v Vinson*, 477 U.S. 57 (1986).  
*Faragher v. City of Boca Raton*, No. 997-282 (U.S. Supreme Court, June 26, 1998).  
*Burlington Industries, Inc. v. Ellerth*, No. 97-569, (U.S. Supreme Court, June 26, 1998).  
*Gebbs v. Lago Vista Indiana School District*, No. 99-1866, (U.S. Supreme Court, June 26, 1998).  
*Davis v. Monroe County Board of Education*, No. 97-843 (U.S. Supreme Court, May 24, 1999).

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MARLBOROUGH PUBLIC SCHOOLS  
Marlborough, Connecticut

## **Students**

### **Accommodating Transgender Students or Gender Non-Conforming Students**

This administrative regulation's accommodation and support guidelines advance the District's goals of (1) providing all students equal access to a safe, non-hostile learning environment, and (2) implementing risk management controls in a developing and unsettled area of the law in which the federal Office of Civil Rights and Department of Justice has issued guidance.

While there is no mandate requiring administrative regulations for accommodating transgender students or gender non-conforming students, this administrative regulation guides school officials through the: (1) application of State and federal anti-discrimination laws to this student population, and (2) common needs in which transgender or gender non-conforming students may request accommodations and support at school. This administrative regulation applies to all school activities, school-provided transportation, and school-sponsored events regardless of where they occur.

The Building Principal, Nondiscrimination Coordinator, and/or Complaint Manager, with input from others as appropriate, will implement this administrative regulation. They will work with each transgender or gender non-conforming student, and as appropriate with the student's parent(s)/guardian(s), to manage a student's accommodations and supports on a case-by-case basis. The Board Attorney will be consulted concerning legal compliance.

### **Gender-Based Discrimination is Prohibited**

School districts must provide equal educational opportunities to transgender students and gender non-conforming students. Under State law, sex discrimination extends to claims of discrimination based on sexual orientation and gender identity or expression.

Federal law prohibits exclusion and discrimination on the basis of sex. 20 U.S.C. §1681(a), Title IX of the Education Amendments of 1972. According to the U.S. Department of Education's Office for Civil Rights (OCR) and the U.S. Department of Justice, Title IX protects lesbian, gay, bisexual, and transgender students, from gender discrimination.

### **Gender-Based Bullying and/or Harassment is Prohibited**

The laws prohibiting gender discrimination require the District to protect transgender students and gender non-conforming students from bullying and harassment by other students. According to the federal Office of Civil Rights, a school district is responsible for damages suffered by a student who was the victim of protected-class harassment: (1) that is severe, pervasive, or persistent; (2) about which school officials knew or should have known; and (3) that interferes with or limits a student's participation in or benefit from services, activities, or opportunities offered by the school.



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### Accommodating Transgender Students or Gender Non-Conforming Students

#### Gender-Based Bullying and/or Harassment is Prohibited (continued)

State statute 10-15c, as amended, prohibits bullying on the basis of actual or perceived sexual orientation, gender-related identity or expression, and/or association with a person or group with one of the aforementioned actual or perceived characteristics. The Board policy on bullying and its Safe School Climate Plan must be used to address and resolve peer bullying and harassment of transgender or gender non-conforming students. (see policy #5131.911)

#### Terminology and Definitions

The District uses the following terms and definitions when discussing accommodations for a transgender student or gender non-conforming student. NOTE: Definitions are not intended to label students, but rather to assist with understanding.

***Gender-based discrimination*** is a form of sex discrimination, and refers to differential treatment or harassment of a student based on the student's sex, including gender identity, gender expression, and non-conformity with gender stereotypes, that results in the denial or limitation of education services, benefits, or opportunities. Conduct may constitute gender-based discrimination regardless of the actual or perceived sex, gender identity, or sexual orientation of the persons experiencing or engaging in the conduct.

***Sex assigned at birth and assigned sex*** refers to the gender designation listed on one's original birth certificate.

***Gender expression*** refers to the manner a person represents or expresses gender to others, often through 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, or for which there is other evidence that the gender identity is sincerely held as part of the student's core identity.

***Transgender*** describes an individual whose gender identity or expression is different from the individual's assigned sex at birth. Transgender boy and transgender male refer to an individual assigned the female sex at birth who has a male gender identity. 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 administrative regulations. Medical treatments or administrative regulations are not considered a prerequisite for one's recognition as transgender. For purposes of this administrative regulation, a transgender student is a student who consistently and uniformly asserts a gender identity different from the student's assigned sex, or for whom there is documented legal or medical evidence that the gender identity is sincerely held as part of the student's core identity.



## Students

### Accommodating Transgender Students or Gender Non-Conforming Students (continued)

#### Terminology and Definitions (continued)

**Gender transition** refers to the process in which a person changes their gender expression to better reflect their gender identity. It is the experience by which a transgender person goes from living and identifying as one's assigned sex to living and identifying as the sex consistent with one's gender identity. A gender transition often includes a social transition, during which an individual begins to live and identify as the sex consistent with the individual's gender identity, with or without certain medical treatments or administrative regulations.

**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 non-conformity** refers to one's gender expression, gender characteristics, or gender identity that does not conform to gender stereotypes.

**Facilities** refers to facilities and accommodations used by students at school or during school-sponsored activities and trips, and include, but are not limited to, restrooms, locker rooms, and overnight facilities.

#### Relevant Board Policies for Accommodations, Supports, and Inclusion of Transgender or Gender Non-Conforming Students

- *5145.6, Uniform Grievance* administrative regulation, contains the process for an individual to seek resolution of a complaint. A student may use this policy to complain about bullying. The District Complaint Manager shall address the complaint promptly and equitably.
- *6121.1 & 0521, Equal Educational Opportunities*, requires that equal educational and extracurricular opportunities be available to all students without regard to, among other protected statuses, sex, sexual orientation, and gender identity.
- *5145.4, 5145.5, 5145.52. Harassment of Students Prohibited*, prohibits any person from harassing, intimidating, or bullying a student based on an actual or perceived characteristic that is identified in the policy including, among other protected statuses, sex, sexual orientation, and gender identity.
- *5132, Student Appearance*, prohibits students from dressing or grooming in such a way as to disrupt the educational process, interfere with a positive teaching/learning climate, or compromise reasonable standards of health, safety, and decency.

## Students

### Accommodating Transgender Students or Gender Non-Conforming Students

#### Relevant Board Policies for Accommodations, Supports, and Inclusion of Transgender or Gender Non-Conforming Students (continued)

- *5131.911, Prevention of and Response to Bullying, Intimidation and Harassment*, contains the comprehensive structure for the District's bullying prevention program.
- *5145, Student Use of Buildings – Equal Access*, grants student-initiated groups or clubs the free use of school premises for their meetings, under specified conditions.
- *5125, Student Records*, contains the comprehensive structure for managing school student records, keeping them confidential, and providing access as allowed or required.

#### Common Needs for Transgender or Gender Non-Conforming Students; Accommodations and Supports

The goal of an accommodation is to allow a transgender or gender non-conforming student to equally participate in educational and extracurricular opportunities. The right of transgender students to accommodations is generally found in legislation such as Title IX but has not been fully interpreted by the courts. Determining appropriate accommodations is difficult because school officials must balance the rights of transgender or gender non-conforming students to freedom from discrimination and freedom of expression with the rights of other students to freedoms of religion and expression. The Board Attorney is an indispensable member of the team that will identify accommodations for a specific student.

This list is not exhaustive, and each student's request must be managed on a case-by-case basis. A particular student may not be interested in an accommodation for each item listed. Seek the Board Attorney's advice concerning the scope and extent of accommodations.

1. Gender transition
2. Names and pronouns
3. School student records
4. Student privacy and confidentiality
5. Access to gender-segregated areas (e.g. locker rooms and restrooms)
6. Sports and physical education classes – participation in competitive athletic activities and contact sports is resolved pursuant to CAFE policy #5145.53
7. Dress codes
8. Gender segregation in other areas (e.g. class discussions and field trips)

## **Students**

### **Accommodating Transgender Students or Gender Non-Conforming Students (continued)**

#### **Training for School Staff Members**

When and where appropriate, professional development for staff members should include opportunities to gain a better understanding of equal educational opportunity laws, gender identity, gender expression, and gender diversity; the development of gender identity in children and adolescents; developmentally appropriate strategies for communicating with students and parents/guardians about issues related to gender identity; gender-affirming approaches to ensuring the safety and support of transgender students and gender non-conforming students; developmentally appropriate strategies for preventing and intervening in bullying incidents; and Board policies regarding bullying, discrimination, and student privacy.

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MARLBOROUGH PUBLIC SCHOOLS  
Marlborough, Connecticut