

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 School Committee 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 differ depending on the student's age and other factors. In addition, the programs, facilities and resources of each school 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 as appropriate.

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. Except as specifically defined in Maine law, 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, often through behavior, clothing, hairstyles, activities, voice or mannerisms.
4. *Gender expansive* – An umbrella term used to describe a person who expands notions of gender expression and identity beyond perceived or expected societal gender norms.

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 goes from living and identifying as one gender to living and identifying as another gender. For most elementary and secondary students, this involves no or minimal medical interventions. Transgender students under the age of 18 are often in a process of social transition from one gender to another.

C. Addressing the Needs of Transgender and Gender Expansive Students

For the purposes of this policy, a student will be considered transgender or gender expansive if, at school, they assert a gender identity or expression different from the gender assigned at birth. This involves more than a casual declaration of gender identity or expression, but it does not require a medical diagnosis.

If a student and/or their parent(s)/guardian(s) want the school to recognize the student's identity as transgender or gender expansive, the following procedure will be used.

1. A transgender or gender expansive student and/or their parent(s)/guardian(s) should contact the building administrator or the student's guidance counselor. In the case of a student who has not yet enrolled in school, the appropriate building administrator should be contacted.

2. If requested by the student, or if deemed necessary by the administration to address school-related issues, a meeting will be scheduled to discuss the student's particular circumstances and needs. In addition to the student **and parents or guardians**, and depending on the particular needs of the student, other participants in the meeting may include the building administrator, a guidance counselor or social worker, the school nurse, and other school staff. Outside providers and/or a support person for the student may also be included if appropriate. **If a student is over the age of 18, then parents and guardians may not be included if the student requests.**

If requested by the student, or deemed necessary by the administration to address school-related issues, a plan will be developed by the school in consultation with the student, **parents or guardians** and other meeting participants. If the student has an IEP and/or a 504 Plan, the provisions of these plans should be taken into consideration in developing a plan for addressing transgender and gender expansive issues within the school program. **If a student is over the age of 18, then parents and guardians may not be included if the student requests.**

3. The school administration may request documentation from outside providers if deemed necessary to assist in developing a plan appropriate for the student.

4. Any plan developed must be reviewed and approved by the building administrator. If the parties involved in developing the plan cannot reach an agreement about the elements of the student's plan, the Superintendent shall be consulted as appropriate.

D. 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. **This right also includes students who may feel uncomfortable or unsafe sharing facilities or overnight accommodations with someone of a different biological sex.** 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 plan shall be kept confidential and shared only with individuals attending the plan development meeting, the Superintendent, **parents or guardians**, and others with a bona fide need to know, and, if necessary, the School Departments legal counsel.

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. School staff should keep in mind that under FERPA, student records may only be accessed and disclosed to parents or 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 parents or 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

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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, **then the request will be disapproved unless the student is over the age of 18.**

In the event of a student transfer to a new school unit, the building administrator will identify 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 asserted at school, **with the understanding that occasions may inadvertently occur of using the old name, wrong pronouns, and wrong gender by staff.**

4. **Restrooms:** The student **can** use the restrooms that match their gender identity. **If a student or parents or guardians 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.**

5. **Locker Rooms:** The student **can** use the locker room that matches their gender identity. **If a student or parent or guardians 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. **Overnight Accommodations:** **No student will be forced to share overnight accommodations with someone of a different biological sex.**

7. **Other Gender-Segregated Facilities or Activities:** As a general rule, in any 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.

8. **Dress Code:** The student is expected to comply with School Committee policies and school rules regardless of gender identity.

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E. Safety and Support for Transgender and Gender Expansive Students

1. 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.

2. School staff are expected to comply with any plan developed for a transgender or gender expansive student.
3. School staff are expected to promptly notify the building administrator or other designated support person for the student if there are concerns about the plan, or about the student's safety or welfare.
4. 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.

E. Staff Training and Informational Materials

1. The Superintendent and/or building administrators may institute in-service training and/or distribute educational materials about transgender and gender expansive issues to school staff as they deem appropriate.

Legal Reference: 5 M.R.S. §§ 4553(5-C), (9-C); 4592(9)