

TRANSGENDER STUDENTS GUIDELINES

A. Purpose

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

A school's obligation to ensure nondiscrimination on the basis of sex requires schools to provide transgender students equal access to educational programs and activities.

These guidelines are 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 also differ. Administrators and school staff are expected to consider the needs of students on a case-by-case basis, and to utilize these guidelines 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. 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 particular transgender students may wish to be identified. However, for the sake of brevity, these guidelines refer to "transgender 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." This is the only term related to these guidelines which is defined in Maine law.
2. *Gender identity* refers to an individual's internal sense of gender. One's gender identity can be the same or different from the gender assigned 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. *Transgender*: Those individuals whose gender identity is different from the sex they were assigned at birth.
5. *Transition* – The process by which a person goes from living and identifying as one gender to living and identifying as another. Transgender individuals may undergo gender

transition at any stage of their lives and gender transition can happen swiftly or over a long duration of time.

C. Addressing the Needs of Transgender Students

For the purposes of these guidelines, a student will be considered transgender if, at school, he/she consistently asserts a gender identity or expression different from the gender assigned at birth. This involves more than a casual declaration of gender identity or expression.

The following procedure will be used to address needs raised by transgender students and/or their parent(s)/guardian(s).

1. A transgender student and/or his/her parent(s)/guardian(s) should contact the building administrator or the student's school counselor. In the case of a student who has not yet enrolled in school, the appropriate building administrator should be contacted.
2. At the request of a student/parent/guardian, a meeting may be scheduled to discuss the student's particular circumstances and needs. In addition to the student, parent(s)/guardian(s) and building administrator, the student/parent/guardian may request the presence of other participants such as school counselor or social worker, school nurse, teachers and/or other school staff, and possibly outside providers. Parents/guardians and student retain final choice about attendees.
3. A plan should be developed by the school, in consultation with the student, parent(s)/guardian(s) and others as appropriate, 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 in developing the plan for addressing transgender issues.
4. If the parties cannot reach an agreement about the elements to be included in the plan, the building administrator and/or Superintendent shall be consulted as appropriate.

D. Guidance on Specific Issues

1. Privacy: The student plan should address how to deal with disclosures that the student is transgender. In some cases, a student may want school staff and students to know, and in other cases the student may not want this information to be widely known. School staff are required 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).

School staff should keep in mind that under FERPA, student records may only be accessed and disclosed 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. Official Records: Schools are required to maintain a permanent record for each student which includes legal name and gender. This information is also required for standardized tests and official school unit reports. This official information will only be changed upon receipt of documentation that a student's name or gender has been changed in accordance with any applicable laws. Any requests to change a student's legal name or gender in official records should be referred to the Superintendent.

The school will use the name and gender identified in the student's plan. A school must treat students consistent with their gender identity even if their education records, to include student information and learning systems, or identification documents indicate a different sex.

3. Names/Pronouns: A student who has been identified as transgender under these guidelines should be addressed by school staff and other students by the name and pronoun of their choice.
4. Restrooms: A student who has been identified as transgender under these guidelines will be permitted to use the restrooms assigned to the gender which the student consistently asserts at school. A transgender student who expresses a need for privacy will be provided with reasonable alternative facilities or accommodations such as using a separate stall or a staff facility. However, a student will not be required to use a separate noncommunal facility over his/her objection.
5. Locker Rooms: Transgender students will be permitted to use the locker room assigned to the gender which the student consistently asserts at school. A transgender student will not be required to use a locker room that conflicts with the gender identity consistently asserted at school. A transgender student who expresses a need for privacy will be provided with reasonable alternative facilities or accommodations, such as using a separate stall, a staff facility or separate schedule.
6. Other Gender-Segregated Facilities or Activities: In any other facilities or activities when students may be separated by gender, transgender students may participate in accordance with the gender identity consistently asserted at school. Interscholastic athletic activities should be addressed through the Maine Principals Association Transgender Participation Policy.
7. Dress Code: Transgender students may dress in accordance with their consistently asserted gender identity, consistent with any applicable requirements in the dress code or school rules.
8. Housing and Overnight Accommodations: Transgender students will be permitted to access housing consistent with their gender identity. Transgender students will not be required stay in single-occupancy accommodations or to disclose personal information when not required of other students. A school may honor a student's voluntary request for single occupancy accommodations.

9. Safety and Support for Transgender and Transitioning Students: School staff are expected to comply with any plan developed for a transgender student and to 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.

School staff should be sensitive to the fact that

- a) A school's failure to treat students consistent with their gender identity may create or contribute to a hostile environment
- b) Transgender and transitioning students are at higher risk for being bullied or harassed, and should immediately notify the appropriate administrator if he/she becomes aware of a problem.

E. Staff Training and Informational Materials

1. The Superintendent and/or building principal may institute in-service training and/or distribute educational materials about transgender issues to school staff as he/she deems appropriate.
2. Teachers and other staff who have responsibilities for a transgender student will receive support in implementing the plan.

Addendum

Privacy and Education Records

Protecting transgender students' privacy is critical to ensuring they are treated consistent with their gender identity. The Departments may find a Title IX violation when a school limits students' educational rights or opportunities by failing to take reasonable steps to protect students' privacy related to their transgender status, including their birth name or sex assigned at birth. Nonconsensual disclosure of personally identifiable information (PII), such as a student's birth name or sex assigned at birth, could be harmful to or invade the privacy of transgender students and may also violate the Family Educational Rights and Privacy Act (FERPA). A school may maintain records with this information, but such records should be kept confidential.

▪ **Disclosure of Personally Identifiable Information from Education Records.**

FERPA generally prevents the nonconsensual disclosure of PII from a student's education records; one exception is that records may be disclosed to individual school personnel who have been determined to have a legitimate educational interest in the information. Even when a student has disclosed the student's transgender status to some members of the school community, schools may not rely on this FERPA exception to disclose PII from education records to other school personnel who do not have a legitimate educational interest in the information. Inappropriately disclosing (or requiring students or their parents to disclose) PII from education records to the school community may violate

FERPA and interfere with transgender students' right under Title IX to be treated consistent with their gender identity.

- **Disclosure of Directory Information.** Under FERPA's implementing regulations, a school may disclose appropriately designated directory information from a student's education record if disclosure would not generally be considered harmful or an invasion of privacy. Directory information may include a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. School officials may not designate students' sex, including transgender status, as directory information because doing so could be harmful or an invasion of privacy. A school also must allow eligible students (i.e., students who have reached 18 years of age or are attending a postsecondary institution) or parents, as appropriate, a reasonable amount of time to request that the school not disclose a student's directory information.
- **Amendment or Correction of Education Records.** A school may receive requests to correct a student's education records to make them consistent with the student's gender identity. Updating a transgender student's education records to reflect the student's gender identity and new name will help protect privacy and ensure personnel consistently use appropriate names and pronouns.
 - Under FERPA, a school must consider the request of an eligible student or parent to amend information in the student's education records that is inaccurate, misleading, or in violation of the student's privacy rights. If the school does not amend the record, it must inform the requestor of its decision and of the right to a hearing. If, after the hearing, the school does not amend the record, it must inform the requestor of the right to insert a statement in the record with the requestor's comments on the contested information, a statement that the requestor disagrees with the hearing decision, or both. That statement must be disclosed whenever the record to which the statement relates is disclosed.
 - Under Title IX, a school must respond to a request to amend information related to a student's transgender status consistent with its general practices for amending other students' records. If a student or parent complains about the school's handling of such a request, the school must promptly and equitably resolve the complaint under the school's Title IX grievance procedure.

Adopted: January 10, 2017