

Transgender Issues in School

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Transgender Basics

DEFINITIONS

- **Gender:** A person's actual sex or perceived sex and includes a person's perceived appearance or behavior if it's different than that traditionally associated with a person's sex at birth. IT IS NOT THE SAME AS SEX
- **Sex:** Biological sex refers to chromosomal, hormonal and anatomical selves and is used to assign gender at birth and is typically determined by anatomy.
- **Gender Expression:** The way a person expresses his or her gender, often through behavior, gestures, mannerisms, emotional expression, movement, dress and grooming.
- **Gender Identity :** One's deeply felt internal sense of being female or male, or both, or neither, regardless of their gender assigned at birth. It is an innate, largely inflexible characteristic of each person's personality that is generally established by age four, although the age at which individuals come to understand and express their gender identity may vary based on each person's social and familial social development. IT IS NOT THE SAME AS SEXUAL ORIENTATION.

Transgender Basics (Cont'd)

- **Sexual Orientation:** A person's emotional and sexual attraction to another person based upon the gender of the other person. Common terms used to describe sexual orientation include, but are not limited to, heterosexual, lesbian, gay and bisexual.
- **Gender Nonconforming :** A term used to describe a person whose gender expression differs from stereotypical expectations about how they should look or act based on the gender they were assigned at birth. This includes people who identify outside traditional gender categories or identify as both genders, or as gender neutral (e.g., feminine boys, masculine girls, students who are androgynous or students who view their gender as fluid). It can also include a boy who comes to school in girls' clothing or the girl who plays boys' games.
- **Transgender:** A general term (an adjective) used to describe a person whose gender identity or expression is different from that traditionally associated with the person's gender assigned at birth. Other terms that can have similar meanings are transsexual (a little different meaning, more narrow category of transgendered persons) and trans.

Transgender Basics (Cont'd)

- **Transgender and Gender Nonconforming** are umbrella terms that includes a cross-dresser, transvestite, drag king/queen, androgynous, gender queer, gender fluid, bi-gender, transgender, transsexual, transwoman/man and others.
- **Transition:** The process (and period of time) in which a person changes their gender expression to better reflect their gender identity (goes from living and identifying as one gender to living and identifying as another).
- **LGBTQ:** An acronym that stands for
 - Lesbian** – An individual whose primary physical, romantic, emotion or spiritual attraction is to someone of the same sex.
 - Gay** – Same as Lesbian.
 - Bisexual** – An individual who is physically, romantically, emotionally and/or spiritually attracted to men and women.
 - Transgender** - (see above)
 - Queer** – A generic term meaning not straight; can also refer to someone's gender identify as fluid in the masculine/feminine continuum.
 - Questioning** – Someone who is unsure or less certain of their sexual orientation and/or gender identity.

Transgender Legal Protections

Federal Laws:

- **Title VII of the Civil Rights Act of 1964** (harassment and discrimination applicable to employees).
- **Title IX of the Education Amendments of 1972** (harassment and discrimination applicable to students). The U.S. Department of Education's Office for Civil Rights in *Questions and Answers on Title IX and Sexual Violence*, dated April 29, 2014, stated: "Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity and femininity."
- **Equal Protection Clause of the 14th Amendment to the U.S. Constitution, Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c - 2000c-9) and Title IX of the Education Amendments of 1972 (20 U.S.C. 1681)** provide protection from sex-based harassment, including harassment or discrimination based on nonconformity with gender stereotypes and sexual harassment.
- **U.S. Department of Education's Office for Civil Rights and U.S. Department of Justice work together on these issues and complaint resolution.**

State Laws:

- **The Dignity Act (DASA)** - Prohibits harassment, discrimination, bullying based upon actual or perceived gender, gender identity and gender expression. Requires proactive measures to ensure students are not harassed or discriminated on these bases (and others) and to foster a climate of mutual respect and dignity.
- **Human Rights Laws** – Prohibits harassment, discrimination in employment and education based upon sex, sexual orientation, disability etc.

Transgender Guidelines

- The responsibility for determining a student's gender identity rests with the student or, in the case of a young student not yet able to advocate for themselves, with the parent.
- A school should accept a student's assertion of his or her gender identity when there is consistent and uniform assertion of the gender-related identity or other evidence that the gender-related identity is sincerely held as part of the individual's core identity.

Transgender Guidelines (Cont'd)

- However, if school personnel have a credible basis for believing that a student's gender identity is being asserted for an improper purpose, this should be documented and confirmation of a student's asserted gender identity may be requested:
 - A letter from a parent, health care provider, clergy member, school staff member familiar with the student (e.g., teacher, guidance counselor, social worker, school psychologist).
 - Meeting with student and/or parents.

Transgender Etiquette

Privacy

- All students have a right to privacy under federal law – the Family Educational Rights and Privacy Act (FERPA).
- Information about a student's transgender status, legal name, or gender assigned at birth is confidential.
- Disclosing this information to others would violate FERPA.

Transgender Etiquette (Cont'd)

To ensure safety and well-being of transgender students:

- School personnel should not disclose a student's status to others, including the student's parents and/or other school personnel, unless legally required to do so or the student has authorized disclosure.
- When discussing a particular issue, such as conduct, discipline, grades, attendance with a transgender student, focus on the issue and not the student's actual or perceived gender identity.
- When contacting the student's parents, school personnel should avoid gender pronouns unless the student has been consulted first to determine what the student thinks is an appropriate way to reference the student's gender identity.

Transgender Etiquette (Cont'd)

Names/Pronouns – What do I call you?

- Students have the right to be addressed by a name and pronoun corresponding to the gender identity consistently asserted at school.
- Students are not required to obtain a court ordered name and/or gender change or to change their official records as a prerequisite to being addressed by the name and pronoun that corresponds with their gender identity.
- While it is possible that inadvertent slips or honest mistakes in use of preferred names or pronouns may occur initially, the District cannot condone the intentional and persistent refusal to respect a student's gender identity.

Transgender Etiquette (Cont'd)

Names/Pronouns – What do I call you? (cont'd)

- The student's requested name shall be included in the electronic student record system along with the student's legal name to inform teachers and administrators of the name and pronoun to use when addressing the student.
- Terminology and language describing transgender individuals can differ based on region, language, race or ethnicity, age, culture, and other factors. Generally speaking, school personnel should inquire which term the student may prefer and avoid terms that make the student uncomfortable; a good general guideline is to employ those terms which the student uses to describe themselves.

Transgender Etiquette (Cont'd)

Official Records – The District is required to maintain a permanent student record which includes the legal name of the student and the student's gender.

- The District should change a student's official records to reflect a change in legal name or gender upon receipt of documentation that the legal name or gender has been changed pursuant to a court order or through amendment of state or federally issued identification.
- To the extent that the District is not required to use a student's legal name and gender on school records and documents, the District should use the name and gender by which the student identifies.

Transgender Etiquette (Cont'd)

Restrooms – Students will be allowed to use the restroom that is consistent with the gender identity they consistently assert at school.

- All students, whether a transgender person or not, who have a need or desire for increased privacy, regarding of the underlying reasons, should be provided access to an alternative restroom (e.g., staff or health office restroom).
 - This allows students who may feel uncomfortable sharing the facility with a transgender student the option to make use of a separate restroom and have their concerns addressed without stigmatizing the individual student.
- To the extent practicable, the District should take reasonable measures to ensure increased privacy for all students (e.g., putting up curtains or dividers).

Transgender Etiquette (Cont'd)

Restrooms (cont'd)

- Transgender students should be given the option of using a gender neutral restroom or the restroom that is consistent with the gender identity they assert. However, no student will be required to use an alternative restroom because they are transgender.
- If there are concerns about the safety and privacy of students related to the transgender student's use of the restroom, these concerns should be brought to the Principal, who will meet with the student and/or parents to determine if there is a need for an alternative facility. The decision will be made on a case-by-case basis.

Transgender Etiquette (Cont'd)

Locker Rooms – The use of locker rooms by transgender students should be assessed on a case-by-case basis, with the goal of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports, ensuring the student's safety and comfort, and minimizing the stigmatization of the student.

- In most cases, transgender students should have access to the locker room that corresponds to the gender they consistently assert at school.
- If there is a reason or desire for increased privacy and safety, regardless of the underlying reason, any student should be provided access to a reasonable alternative locker room.

Transgender Etiquette (Cont'd)

Locker Rooms (cont'd)

- Reasonable alternative locker rooms include:
 - Use of a private area (e.g., nearby restroom stall with door, an area separated by a curtain or other divider, an office in the locker room or a nearby health office restroom).

School Climate

- The School must address all issues that may negatively impact school climate for transgender students.
 - Training for Staff
 - Training for Students as part of character and civility education, assemblies, targeted training as needed
 - Clear guidelines for staff

Transgender Legal Guidelines (Cont'd)

Gender Segregated Activities

- To the extent possible, school personnel should reduce or eliminate the practice of segregating students by gender.
- Where students are segregated by gender, the transgender student should be included in the group that corresponds to their gender identity.

Dress and Grooming

- The transgender student has the right to dress in a manner consistent with their gender identity or gender expression.
- Dress codes may not restrict students' clothing or appearance on the basis of gender, including at school events and activities.

Common Sense Rules

- Do not take action against a student on the basis of their status as transgender or gender conforming.
- Do not let your personal beliefs conflict with your responsibility towards the student.
- Be sensitive to verbal harassment (e.g., deliberate use of pronouns inconsistent with the student's gender identity, name calling, insults or remarks about a student's body parts or behavior) and physical and sexual actions and assaults
- Intervene and take action when students make fun of each other based upon gender-specific terms (such as gay, pussy, faggot, dyke, homo, he-she). These terms are not acceptable and perpetuate stereotypes about gender, gender identity etc.

Common Sense Rules

- Investigate complaints of harassment or discrimination in accordance with the School District's DASA policy and regulations.
- If a student talks to you about their gender identity, listen in a respectful and non-judgmental way.
- Ask the student how they would like to be addressed.
- If you use the wrong pronoun when addressing a transgender student, or use the wrong name, apologize and admit you made a mistake.
- Never "Out" someone without their permission.