

Superintendent Procedure 3210SP.C
**Nondiscrimination and Affirmative Action:
Transgender and Gender Nonconforming Students**



Approved by: s/Larry Nyland Date: 6/16/2017

Dr. Larry Nyland, Superintendent

This procedure is to advise District staff regarding issues relating to transgender and gender non-conforming students. Its purpose is to create a safe and inclusive learning environment for all students, and to ensure that every student has equal access to all components of their educational program.

This procedure does not anticipate every situation that might occur. Rather, it offers suggested approaches to specific instances when the protection or the safety of transgender and gender nonconforming students may be implicated. Questions regarding the application of this policy should be directed to the Manager of Health Education.

SUMMARY

Washington State law and District policy require that all programs, activities and employment practices be conducted without discrimination based on sex, sexual orientation, gender expression or gender identity.

Our schools are expected to implement state law and District policy in the following ways:

- **Names/Pronouns:** Students shall have the right to be addressed by a name and pronoun corresponding to their gender identity consistently asserted at school.
- **Official Records:** A parent/guardian or eligible student (18 years of age or older) may request changes to a student educational record at the Admissions Center located at the John Stanford Center for Educational Excellence (JSCEE).
- **Restroom Accessibility:** A student must be provided access to the restroom facility that corresponds to the gender identity the student consistently asserts at school.
- **Locker Rooms:** A student must be provided access to the locker room facility that corresponds to the gender identity the student consistently asserts at school.
- **Physical Education, Club Sports, and Interscholastic Athletics:** Students shall be permitted to participate in physical education, club sports, and interscholastic athletic teams in a manner consistent with the gender identity they consistently assert at school.
- **Dress Codes:** Students shall have the right to dress in accordance with the gender identity they consistently assert at school, within the constraints of the dress codes adopted at their school site.

- **Overnight Field Trips:** Students have the right to be assigned to overnight accommodations in accordance with the gender identity they consistently assert at school.
- **Gender Segregation in Other Areas:** As a general rule, schools should consider options to avoid separating students by gender unless necessary. In circumstances where students are separated by gender in school activities, students shall be permitted to participate in accordance with the gender identity they consistently assert at school.

DEFINITIONS/TERMS

*Note: The following definitions provided are not meant to label students, but instead are intended as functional descriptors.

“Gender expression” refers to the way a person expresses her or his gender, often through behavior, gestures, emotional expression, movement, dress and grooming.

“Gender identity” refers to one’s deeply felt internal sense of being female, or male, or both, or neither, regardless of their gender assigned at birth.

“Gender nonconforming” is a term for people 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. For example, “feminine boys,” “masculine girls,” and students who are androgynous, or view their gender as fluid. Another example might be the boy who comes to school in clothing that some might perceive as “girls’ clothing,” or the girl who plays games on the playground that might be perceived as “boys’ games.”

“Sex” Biological sex refers to our chromosomal, hormonal, and anatomical selves.

Biological sex is used to assign gender at birth and is typically determined by anatomy.

“Transgender” is a general term used to describe a person whose gender identity or expression is different from that traditionally associated with the person’s gender assigned at birth.

“Transitioning” is the process in which a person changes their gender expression to better reflect their gender identity.

GUIDELINES:

Issues of Privacy:

All persons have a right to privacy; this includes keeping a student’s transgender status private. Information about a student’s transgender status, legal name, or gender assigned at birth may constitute confidential medical or educational information.

Disclosing this information to other students, their parents, or other third parties may violate privacy laws, such as the federal Family Education Rights and Privacy Act (FERPA) (20 U.S.C. s 1232g; 34 C.F.R. Part 99). Therefore, to ensure the safety and well-being of the student, school personnel should not disclose a student’s transgender status to others, including the student’s parents and/or other school personnel, unless (1) legally required to do so or (2) the student has authorized such disclosure.

Whenever discussing a particular issue such as conduct, discipline, grades, attendance, or health with a transgender or gender nonconforming student, focus on the conduct or particular issue, and not on any assumptions regarding the student’s actual or perceived gender identity. When contacting the parents of a transgender or gender nonconforming student, school personnel should avoid gender pronouns, unless the

student has been consulted first to determine an appropriate way to reference the student's gender identity. For example, one could say "I am calling about P.J.'s attendance," rather than, "I am calling about your son's attendance."

Official Records:

The District is required to maintain a permanent student education record which includes the legal name of the student and the student's gender. A parent/guardian or eligible student (over age 18) may request education record changes at the Admissions Center located at the John Stanford Center for Educational Excellence.

- **Legal Name:** The District shall change a student's legal name on their education record when a parent/guardian or eligible student (over age 18) provide documentation of a legal name change, such as documentation of a court-ordered name change or an affidavit of name change made pursuant to common law.
- **Gender:** The District shall change a student's gender on their education record upon request from the parent/guardian or eligible student by completion of an enrollment form at the Admissions Center.

Upon the receipt of all required documentation, the Admissions Center will ensure that all student systems are updated to reflect changes in name and/gender, e.g. PowerSchool and The Source.

To the extent that the District is not legally required to use a student's legal name and gender on school records or documents, the District should use the name and gender by which the student identifies. In situations where school staff or administrators are required by law to use or report a student's legal name or gender, such as for standardized testing, school staff should adopt practices to avoid the inadvertent disclosure of such confidential information.

Names/Pronouns:

Students shall 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 legally change their name or change their name or gender on their educational record as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity.

The District acknowledges that initially, inadvertent slips or honest mistakes in the use of the preferred names or pronouns might occur, but does not condone the intentional and persistent refusal to respect a student's gender identity. The student's requested name shall be included in the electronic student record system along with the student's legal name in order to inform teachers of the name and pronoun to use when addressing the student.

Restroom Accessibility:

Schools must allow students to use the restroom that is consistent with the gender identity they consistently assert at school. Further, all students—transgender or not—who have a need or desire for increased privacy, regardless of the underlying reason, should be provided access to an alternative restroom (e.g., staff restroom or health office restroom). This allows students who may feel uncomfortable sharing the facility with the transgender student(s) the option to make use of a separate restroom and have their

concerns addressed without stigmatizing any individual student. No student, however, should be required to use an alternative restroom because they are transgender or gender nonconforming.

If school administrators have legitimate concerns about the safety or privacy of students as related to a transgender student's use of the restroom or locker room, school building administrators should bring these concerns to the Manager of Health Education. Such privacy or safety issues should be immediate and reasonably foreseeable, not speculative. School building administrators and/or the Manager of Health Education should meet with the student and/or parents to determine if there is a need for an alternative facility. The decision to provide an alternative facility for any student should be made on a case-by-case basis.

Locker Room Accessibility:

All students must have access to the locker room that corresponds to the gender identity they consistently assert at school. However, 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. Reasonable alternative locker rooms include, but are not limited to:

- Use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, an office in the locker room, or a nearby health office restroom).
- A separate changing schedule (either utilizing the locker room before or after the other students).

For transgender students, any alternative arrangement should be provided in a way that protects the student's ability to keep his or her transgender status private. However, no student should be required to use a locker room that conflicts with his or her gender identity.

Physical Education, Club Sports, and Interscholastic Athletics:

Students shall be allowed to participate in physical education, club sports, and interscholastic athletics consistent with the gender identity they consistently assert at school.

Dress Codes:

Washington state law prohibits discrimination in public schools based on gender expression and identity (RCW 28A.642.010). Students must be permitted to dress according to the gender with which they consistently identify and should be addressed using the name and pronouns of their choice (i.e., "he" and "him" or "she" and "her"). If a school is adopting a dress code, it should be gender-neutral and not restrict a student's clothing choices on the basis of gender. Dress codes should be based on educationally relevant considerations, apply consistently to all students, include consistent discipline for violations, and make reasonable accommodations when the situation requires an exception.

Students have the right to dress in accordance with the gender identity they consistently assert at school, within the constraints of the dress codes adopted at their school site, and within the constraints of the District guidelines for dress, as they relate to health and safety issues (e.g., prohibitions on wearing gang symbols, regalia, and apparel).

Overnight Field Trips:

In situations where students are separated by gender for overnight accommodations, all students shall be assigned to accommodations in accordance with the gender identity they consistently assert at school. Further, a school may not require transgender students to stay in single-occupancy accommodations or disclose personal information when not required of other students. This does not prevent a school from honoring a student's voluntary request for single-occupancy accommodations if they so choose.

Gender Segregation in Other Areas:

Teachers/school employees should make every effort to separate students based on factors other than gender when possible. Listed below are examples of common situations where students are separated by gender where there are other reasonable alternatives:

- **Class Discussions:** Students can be divided by birth month or birth order instead of gender.
- **Graduations:** Students can be divided by color preference of graduation gown instead of gender.
- **Calling for Students' Attention:** Instead of using gendered phrases to get students' attention such as "girls and boys," "you guys," and "ladies and gentlemen," it is recommended to use phrases such as "calling all readers," "could all the athletes/scholars/learners come here."

Activities that may involve the need for accommodations to address student privacy concerns should be addressed on a case-by-case basis. In such circumstances, staff shall make reasonable efforts to provide an accommodation that addresses any such concerns.

Variations:

Recognizing that this procedure's goal is to provide for the safety and protection of transgender and gender nonconforming students, the rules provided may not always be appropriate to apply in every situation. Therefore, for any given situation, the parent/guardian of a transgender or gender nonconforming student, a transgender or gender nonconforming student, and/or school principal may request a procedure variation from the Manager of Health Education. Upon request for a procedure variation, the Manager of Health Education will consult with district legal counsel and determine whether or not to grant the variation. A decision to deny a procedure variation may be appealed to the Superintendent. The decision of the Superintendent is final.

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Revised: February 2015; August 2016; December 2016; June 2017

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Cross Reference: Policy Nos. 2145; 3207; 3210; Supt Proc. 3210SP.A; Supt. Proc. 3210SP.B

RCW 28A.642, Discrimination prohibition; WAC 392-190 WAC; RCW 49.60 RCW, Washington Law Against Discrimination; Prohibiting Discrimination in Washington Public Schools - OSPI Guidelines for school districts to implement Chapters 28A.640 and RCW 28A.642 and WAC 392-190 (February 2012);

