

# Superintendent Procedure 3210SP.C

## **Nondiscrimination and Affirmative Action: Transgender and Gender-Expansive Student Rights and Supports**



Approved by:     s/Denise Juneau     Date:   3/5/2020    
Denise Juneau, Superintendent

This procedure is to advise District staff regarding the rights and supports Seattle Public Schools provides transgender and gender X, gender-expansive, students. Its purpose is to create a safe, welcoming, 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 there may be implications regarding the protection or the safety of transgender and gender X, gender-expansive, students.

### **PRIMARY CONTACT**

The Manager of Health Education is designated as the District’s primary contact regarding this procedure and its associated policy in relation to transgender and gender X students. The primary contact will receive copies of all informal and formal complaints regarding transgender students. As primary contact, the Manager of Health Education will receive training required by RCW 28A.642.080. All questions regarding the application of this procedure should be directed to the Manager of Health Education.

### **DEFINITIONS**

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

**“Assigned sex at birth”** refers to the sex a person was given at birth, usually based on anatomy or chromosomes (e.g. male, female, intersex, or X).

**“Cisgender”** is a term used to describe people whose assigned sex at birth matches their gender identity and/or gender expression (e.g., a person who was assigned female at birth and whose gender identity and/or gender expression is also female).

**“Gender identity”** refers to a person’s internal and deeply felt sense of being female, male, both, or neither. Persons may identify as nonbinary, gender-expansive, or other -- regardless of their assigned sex at birth. The District records the gender identity of students one of three ways: male, female, or X.

**“Gender-Expansive”** refers to a wider, more flexible range of gender identities than those typically associated with the binary (male or female) gender system. People who are gender-expansive may use a variety of terms including nonbinary or others to describe their gender identity. For the District, the gender X designation is inclusive of all identities associated with a gender-expansive identity.

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

**“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 assigned sex at birth.

**“Transitioning”** is the process in which a person goes from living and identifying as one gender to living and identifying as another.

## **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. Furthermore, and as a general rule, decisions regarding assignment, participation, and use in Seattle Public Schools are determined pursuant to a student’s gender identity and not their assigned sex at birth.

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

- **Names/Pronouns:** Students have the right to be addressed by the name and pronoun that corresponds to their gender identity consistently asserted at school.
- **Name on Educational Records:** A parent/guardian or eligible student (18 years of age or older) may request to have the legal name changed on their educational record at Enrollment Services located at John Stanford Center for Educational Excellence (JSCEE).
- **Gender on Educational Records:** A student or their parent/guardian may request to have the gender changed on their educational record at Enrollment Services located at JSCEE.
- **Restroom Accessibility:** Students have the right to use the restroom that corresponds to the gender identity they consistently assert at school. Students who identify as gender X have the right to use the restroom the student determines to best align with their gender identity.
- **Locker Rooms:** Students have the right to use the locker room that corresponds to the gender identity they consistently assert at school. Students who identify as gender X have the right to use the locker room the student determines to best align with their gender identity.
- **Physical Education Courses and Club Sports:** Students have the right to participate in physical education courses and club sports in a manner consistent with the gender identity they consistently assert at school.
- **Interscholastic Athletic Teams:** Transgender students have the right to participate on the interscholastic athletic team consistent with the gender identity they consistently assert at school.
- **Student Dress:** Students will not be contacted or disciplined for wearing clothing perceived to be not consistent with their gender identity. All student attire, and the enforcement of student attire is determined by Board Policy No. 3224 and its associated Superintendent Procedure.
- **Overnight Field Trips:** Students have the right to be assigned to overnight accommodations in accordance with the gender identity they consistently assert at school. Staff will never assign students to shared sleeping accommodations

when they are aware of a romantic interest or relationship between the students assigned.

- **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 have the right to participate in accordance with the gender identity they consistently assert at school.

## **GUIDELINES**

### **Issues of Privacy:**

All persons have a right to privacy; this includes keeping a student's transgender or gender X status private. Information about a student's gender identity, legal name, or assigned sex at birth may constitute confidential medical or educational information. Disclosing this information to others may violate privacy laws, including the federal Family Education Rights and Privacy Act (FERPA) (20 U.S.C. s 1232g; 34 C.F.R. Part 99). Therefore, to ensure student safety and well-being, and to provide identity-safe schools for all, staff should not disclose a student's transgender or gender X status to others unless (1) legally required to do so or (2) the student has authorized disclosure.

Whenever speaking with a transgender or gender X student about a particular issue such as conduct, discipline, grades, attendance, or health, focus on the conduct or particular issue and avoid making assumptions regarding the student's actual or perceived gender identity. Further, when contacting the parents/guardians of a transgender or gender X student and it is unclear whether the student asserts the same gender identity at home, it is best practice to avoid using gender pronouns. For example, one could say, "I am concerned about P.J.'s attendance," rather than, "I am concerned about his 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 18 years old) may request a change to a student's recorded legal name. A student or their parent/guardian may request a change to their recorded gender. Requests for name and gender changes are accepted and processed at JSCEE Enrollment Services.

- **Legal Name:** The District will change a student's legal name on their education record when a parent/guardian or eligible student (over age 18) provides 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. Affidavit of name change templates are available from JSCEE Enrollment Services.
- **Gender:** A Seattle Public Schools student has the right to have the gender on their educational record reflect their gender identity consistently asserted at school. For educational purposes, there are no legal requirements surrounding gender. The District will change a student's gender on their education record upon request from the student or their parent/guardian upon completion of an enrollment form at JSCEE Enrollment Services.

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

To the extent that the District is not legally required to use a student's legal name on school records or documents, the District will use the name 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, such as for standardized testing, school staff should adopt practices to avoid the inadvertent disclosure of such confidential information.

### **Names/Pronouns:**

Students have the right to be addressed by a name and pronoun corresponding to the gender identity they consistently assert at school. The District uses the term "preferred name" to reference names corresponding to gender identity that are different from a student's legal name on their educational record. A Student or their parent/guardian are not required to change their gender, and a parent/guardian is not required to legally change their student's name, as a prerequisite for the student to be 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 will not condone an intentional and persistent refusal to respect a student's gender identity. The student's preferred name will be included in the electronic student record system along with the student's legal name to inform teachers of the name and pronoun to use when addressing the student.

### **Restroom Accessibility:**

Students have the right to use the restroom that is consistent with the gender identity they consistently assert at school. Students who identify as X, gender-expansive, will be provided access to the restroom that the student determines to best align with their gender identity. Further, all students regardless of the underlying reason who have a need or desire for increased privacy 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 transgender or gender X 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 X.

If school administrators have legitimate concerns about the safety or privacy of students, as related to a transgender or gender X (gender-expansive) 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/guardians to determine if there is a need for an alternative facility. The decision to provide an alternative facility for any student will be determined on a case-by-case basis.

### **Locker Room Accessibility:**

All students have the right to use the locker room that corresponds with the gender identity they consistently assert at school. Students who identify as X (gender-expansive) will be provided access to the locker room that the student determines to

best align with their gender identity. 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 and gender X students, any alternative arrangement should be provided in a way that protects the student's ability to keep his or her transgender or gender X 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 have the right to participate in physical education courses and club sports consistent with the gender identity they consistently assert at school. Further, subject to the participation policies of the Washington Interscholastic Activities Association (WIAA) for high school interscholastic athletics, transgender students have the right to participate on the interscholastic athletic team consistent with the gender identity they consistently assert at school.

In circumstances where physical education courses and club sports are gender specific and there is not a gender X option, students who identify as gender X have the right to participate in the course and/or on the club sport team that the gender X student determines best aligns with their gender identity.

### **Student Dress:**

Providing students an environment where they can express their identity through their attire is a value of the District and an important element in providing identity-safe spaces for students. Board Policy No. 3224, Student Dress, provides that all Seattle Public Schools' students have the right to be treated equitably and dress code enforcement will not be more strictly enforced against students because of their gender identity, gender expression, or gender nonconformity.

### **Overnight Field Trips:**

In situations where students are separated by gender for overnight accommodations, all students will be assigned to accommodations in accordance with the gender identity they consistently assert at school (M, F, or X). In situations where there are not overnight accommodations identified for gender X students, the student will determine the gendered overnight accommodations that best align with their gender identity. A school will not require transgender or gender X students to stay in single-occupancy accommodations or disclose personal information when not required of other students. However, this does not prevent a school from honoring any student's voluntary request for single-occupancy accommodations if they so choose.

Note: A staff member will never assign students to shared sleeping accommodations when they are aware of a romantic interest or relationship between the students assigned.

### **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 should be divided their color preference instead of assigned a graduation gown color based on their 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 X 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 X student, a transgender or gender X 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 to grant the variation. A decision to deny a procedure variation may be appealed to the Superintendent. The decision of the Superintendent is final.

Approved: December 2012

Revised: February 2015; August 2016; December 2016; June 2017; March 2020 (typo corrected April 14, 2020)

Cross Reference: Policy Nos. 2145; 3207; 3210; 3224; Supt Proc. 3210SP.A; Supt. Proc. 3210SP.B; Supt. Proc. 3224SP

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); 20 U.S.C. 1232g, Family Education Rights and Privacy Act; 34 C.F.R. Part 99; U.S. Department of Education Office for Civil Rights, Dear Colleague Letter: Transgender Students (May 2016).