



To: Advisory Committee to Develop a Plan to Reorganize the Clark County School District

Date: August 16, 2016

Re: AB 394: Reorganization of the Clark County School District

Dear Committee Members,

AB 394 charged this committee with developing a "Plan" to "reorganize Clark County School District" by January 1, 2017, and then filing that "Plan" with the State Board of Education and CCSD Trustees. The bill further required the State Board of Education to then adopt regulations necessary to implement the "Plan." But today we face possible action by the committee with a vote on adopting regulations, not a "Plan." A rush to deconsolidate the Clark County School District (CCSD) may cause more harm than the deficiencies that already exist. This committee was created to draft a plan--not the regulations and we are concerned that the adoption of these regulations may run afoul of Nevada's Administrative Procedures Act.

We also take issue with the "Plan" as published for these reasons: 1. Promoting and creating segregated school districts violates Title VI of the Civil Rights Act of 1964; 2. Underfunding mental health services and mental health support staff violates the federal Individuals with Disabilities Education Act (IDEA) requirements; 3. The plan is unclear on whether the local precincts or CCSD control civil rights enforcement and policy; and 4. The plan does not identify whether the local precincts or CCSD determine curricula.

Of note, in 1997, during a previous attempt at deconsolidating CCSD, then Superintendent Brian Cram, stated, "In fact, what you would find out is if an area wishes to deconsolidate, it's usually wealthier, with fewer minorities and they'll find themselves in violation of civil rights laws."<sup>1</sup>

The task force of the Moapa Valley Community Educational Advisor Board, writing on behalf of AB 394, specifically acknowledged support for deconsolidation because of the "large isolation and cultural differences between Moapa Valley and Las Vegas" where a vast majority of the CCSD schools are located.<sup>2</sup> Further adding that a connection to the CCSD central administration office "fatally ties [their] community

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<sup>1</sup> <http://lasvegassun.com/news/1997/aug/07/group-may-try-to-break-up-district/>

<sup>2</sup> <https://www.leg.state.nv.us/interim/78th2015/committee/studies/ccsdtechadv/other/finaltacfinalreport.pdf>

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back to urban Las Vegas with whom [they] have very little in common and has been a source of unintended policy conflict.<sup>3</sup>

Of the 6,924 residents in Moapa Valley 91% identify as white.<sup>4</sup> In contrast, the 315,000 students that comprise CCSD are 45.7% Hispanic, 26.2% white, 13.3% African-American, 6.4% Asian, and 8.4% other -- representing a racially diverse student body reflective of the State.<sup>5</sup> This diversity can be seen as a strength or a threat depending on one's view, but the likely eventuality in pushing to separate the urban and rural areas served by CCSD is segregation and discrimination.

How will students in older facilities with lower income households, or ELL student's specific needs be met as they compete with schools from wealthier suburban neighborhoods and newer facilities? The same issue was raised by MAP in its 1997 report to the legislature considering deconsolidation then, "When boundaries were drawn to avoid creating majority minority districts, great disparities in relative wealth were created within the proposed districts. The conclusion reached by the legislative consultant then, was that without some mechanism to equalize school district wealth for school construction purposes, any proposed change to district boundaries would result in similar demographic or fiscal inequities."<sup>6</sup>

Moreover, dividing each of the CCSD schools into local precincts may underfund precincts with a significant number of students with disabilities violating the federal individuals with disabilities education act (idea) requirements for school districts.

Under the Federal Individuals with Disabilities Education Act (IDEA), schools are required to provide "related services," to students with disabilities.<sup>7</sup> This includes psychological services, social work services, and counseling services.<sup>8</sup> The state of

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<sup>3</sup>*Id.*

<sup>4</sup> <https://suburbanstats.org/population/nevada/how-many-people-live-in-moapa-valley>

<sup>5</sup> <http://static.ccsd.net/ccsd/content/media-files/fast-facts-15-16-final-5.pdf>

<sup>6</sup> Reconfiguring the Structure of School Districts, LCB Bulletin No. 97-4

<sup>7</sup> Kenny C. Guinn Center for Policy Priorities, Examining Nevada's Education Priorities: Which Initiatives are Worth the Investment? 2005 available at <https://guinncenter.org/wp-content/uploads/2015/02/Guinn-Center-Nevada-Succeeds-Education-Priorities-FINAL.pdf> citing Sara Ruff Et al. Mental Health Related Services on IEPs. <http://www.williamdikel.com/mental-health-relatedservices-on-ieps.html>.

<sup>8</sup> *Id.*



Nevada already faces a shortage of mental health professionals throughout the state including psychiatrists, psychologists, clinical counselors, social workers and school psychologists. Currently CCSD has only one psychologist for every 1500 students, when the National Association of School Psychologists recommends a ratio of one to 500-800 students.

Under IDEA, a school district is out of compliance when it is violating any provision of Section 504 statute or regulations. The Section 504 regulations under IDEA, require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability.<sup>9</sup> Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

Although this "plan" currently affords greater funding for students with disabilities, the possibility of decentralized services provided by the individual local precincts leaves open the real possibility of violating federal law.

Further, the "plan" is silent on whether there will be local or centralized control and/or enforcement of civil rights laws such as the prohibition of discrimination in public accommodations based on race, sex, religion, gender, sexual orientation or gender identity. This is especially important in a time when there are ongoing legal battles across the nation regarding transgender students' use of bathrooms and locker rooms. Nevada law plainly prohibits discrimination against students based on their gender identity, yet decentralized enforcement may make discrimination against this vulnerable population of students more difficult to stop.

And, as indicated in the submissions from a Technical Advisory Committee Member, there have been policy conflicts between rural communities and urban Las Vegas, presumably this references the sex education conflicts of the past three years. The ACLU of Nevada undertook the review of sex education policies throughout the state to determine if the policies were meeting the needs of every student in Nevada. Sadly, we found that many school districts neglected, shunned, and ignored vulnerable LGBTQ students. We discovered that some districts were teaching decades old

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<sup>9</sup> U.S. Department of Education, <http://www2.ed.gov/about/offices/list/ocr/504faq.html>

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materials that were inadequate, discriminatory, medically inaccurate, blatantly sexist, and homophobic.

Unfortunately, thus far, nothing in this plan addresses the needs of this vulnerable student population. There is no indication of who will be responsible for the curriculum that must include these students. For this reason, I am including “Schools in Transition: A Guide for Supporting Transgender Students in K-12 Schools,”<sup>10</sup> the document is an effort to educate policy makers, school districts, and schools about their legal obligations to transgender students in educational environments.

I would also point to Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9–12 the CDC report<sup>11</sup> released last week that identifies vulnerable sexual minority youth populations or LGB students that concluded:

To reduce the disparities in health-related behaviors experienced by sexual minority students, ***it is important to use this and other reports based on scientifically sound data*** to raise awareness about the prevalence of priority health-related behaviors among sexual minority students in grades 9–12 among policy makers, the public, and a wide variety of agencies and organizations that work with youth. These agencies and organizations, including schools and youth-friendly health care providers, can help facilitate access to education, health care, and evidence-based interventions designed to address priority health-related behaviors among sexual minority youth (Emphasis added).

This plan is additionally concerning because the organizational team meetings under Section 26 are declared exempt from open meeting law requirements. These meetings would unquestionably otherwise qualify as a meeting of a public body and be subject to the provisions of NRS 241 *et seq.* Especially in light of the many substantive concerns discussed in this letter, these meetings must fall under the protections of open meeting law in order to ensure oversight and monitoring by the public.

AB 394 created this committee to develop a plan to deconsolidate CCSD, while the debate over that necessity may never be resolved, we must agree on the need to

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<sup>10</sup> See attachment.

<sup>11</sup> Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9–12 — United States and Selected Sites, 2015

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address the specific needs and legal requirements of educating every student in an inclusive and equitable approach, free of discriminatory practices. This “plan” or these regulations do not appear to achieve these outcomes yet, and we urge this committee to address these issues before proceeding.

Sincerely,

Tod Story  
Executive Director

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# Schools In Transition

## A Guide for Supporting Transgender Students in K-12 Schools



NATIONAL CENTER FOR LESBIAN RIGHTS





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For almost 100 years, the ACLU has worked to defend and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States. The ACLU LGBT & HIV Project helps protect young people's right to express themselves, start gay-straight alliance clubs, have their gender identity respected, and be taught in a safe environment.



Gender Spectrum provides education, training and support to help create a gender-sensitive and inclusive environment for all children and teens. We provide an array of services designed to help families, schools, professionals and organizations understand and address the concepts of gender identity and expression.



The Human Rights Campaign Foundation improves the lives of lesbian, gay, bisexual and transgender (LGBT) people. Through public education, research, and trainings and professional development, the HRC Foundation has an array of programs that encourage inclusive policies and practices, including Welcoming Schools, an evidence-based program that works to create inclusive elementary schools.



NATIONAL CENTER FOR LESBIAN RIGHTS

NCLR is a national legal organization committed to protecting lesbian, gay, bisexual and transgender people and their families through litigation, legislation, policy and public education. NCLR litigates precedent-setting cases, advocates for equitable public policies, provides free legal assistance and public education to LGBT people and their advocates.



The National Education Association (NEA), the nation's largest professional employee organization, is committed to advancing the cause of public education. NEA believes every student in America, regardless of family income or place of residence, deserves a quality education. NEA focuses the energy and resources of its 3 million members on improving the quality of teaching, increasing student achievement and making schools safer, better places to learn.





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## Foreword

# A Letter from a Superintendent

One day about eight years ago, a mother came to me and asked what I could do to support her child who would be starting kindergarten in the fall. While I was accustomed to addressing the fears of worried parents, this family's situation was one I had never encountered — Toni was assigned male at birth, but her parents were considering letting her start school as a girl, which is how she had been identifying for some time.

I told Toni's mom that while I hadn't dealt with a situation like this before, I believed every child had the right to feel safe, welcomed and valued, and I would work with the family to make sure we supported her child. Our journey began that day.

Toni eventually transitioned to living openly and authentically as a girl in second grade. Her family, school staff, counselor and I worked together to support her throughout the process. This was a new experience for all of us and we had few models to follow, so we all learned as we went and the process evolved over time. We had a plan in place for those things we could predict, but other things caught us off guard and we had to make it up as we went along.

By far the easiest part of the process was the acceptance by Toni's classmates, who embraced her and affirmed her identity. As we worked to balance the need to educate and inform parents while protecting Toni's right to privacy, I met with a small number of concerned parents individually and attended a parent night facilitated by Gender Spectrum. We provided education regarding transgender children to the school's staff, our administrative team and the governing board. For the most part there was a compassionate response to do the right thing. There were people who struggled with changes we put in place, but we continually focused on supporting Toni and doing what was right.

**I believed every child had the right to feel safe, welcomed and valued, and I would work with the family to make sure we supported her child.**

Two years later another second grade student in our district transitioned — but this time we were prepared, and the process went more smoothly. Both of these students have since entered middle school. Both girls are courageous and wise beyond their years. They have taught me and others valuable lessons about what it means to truly support your students.

When I began this journey, I had little experience with working with transgender students, particularly those who were so young. I learned so much during this process from working with Gender Spectrum, but also from Toni's parents and — most of all — Toni herself.

I encourage anyone looking to support a transgender student to always focus on the needs of the transitioning child and think about what they need to feel safe, included and supported. I never had a political agenda; my agenda was to support our students. I listened and tried to understand when I faced obstacles. I worked to be an advocate, not an activist.

If your experience is anything like my own, you will be in unfamiliar — perhaps even uncomfortable — territory. It is important, however, that your own personal uncertainties do not interfere with your ability to do the right thing to protect the safety and well-being of these vulnerable children. This guide to supporting transgender students builds on the experiences of educators like myself and the advocates who have supported us along the way. Moreover, it ensures that the knowledge we have gained as we worked to support these students can serve as a model for other educators, parents, counselors and students. In doing so, we hope to provide a foundation so that schools and classrooms become more accepting of gender diversity and where all students can feel supported and safe.



Janice Adams  
Superintendent  
Benicia Unified School District



# Introduction

## Supporting Transgender Students

Today's society is recognizing the experiences and needs of transgender people as never before. This trend is most evident in our nation's schools, where an increasing number of transgender and gender-expansive students live openly as their authentic selves. At the same time, parents, students, educators, administrators and other stakeholders are working together to determine the best ways to support these students.

**This guide highlights best practices while offering strategies for building upon and aligning them with each school's culture.**

Many are unfamiliar with the needs of transgender students, and attempts to meet those needs can be fraught with emotion for all involved. Educators may have concerns about their own capacity to support their transgender students, or hesitate to act because of personal feelings or fear of negative reactions from the larger community. Similarly, families and caregivers are sometimes uncertain about what support their child needs in school or question the school's commitment to the well-being of their child. This dynamic can create an adversarial relationship among the very individuals working to support the student. Finally, transgender students themselves may struggle with a variety of issues in seeking to be authentically seen, including the fear of social rejection and mistreatment or abuse from peers. As a result, many of these students hope to escape notice and to simply survive rather than flourish.

# What's Inside

Rather than a static set of recommendations and formulas, this guide responds to the dynamics that affect a transgender student's experiences in school. The guide is geared toward the needs of all students, kindergarten through twelfth grade, and incorporates distinctions and recommendations based on the specific ages and stages of students' development.

**Statements, recommendations and resources are based on data, research and best practices that have been tested in the field, as well as narratives of real experiences from students, parents, caregivers and educators.**

[Chapter One](#) provides information about basic concepts of gender. It is critical that those supporting a transgender or gender-expansive child understand the complexity of gender.

[Chapter Two](#) speaks to the importance of this issue and the harm society suffers when any students are marginalized at school.

[Chapter Three](#) sets out general guidelines for meeting the needs of transgender students, including intentionality and an awareness of the trade-offs inherent in any decisions about a student's transition.

[Chapter Four](#) considers specific issues affecting transgender youth, including the use of chosen names and pronouns, student confidentiality and student records, restroom and locker room access, sports and other sex-separated activities and harassment or bullying.

Beyond these common concerns, there are some complex issues that may significantly affect the process of supporting a student's transition. [Chapter Five](#) includes approaches for working with unsupportive parents or parents who disagree about the appropriate response to their child's expressed gender identity. It also addresses how special education can be used to help transgender students.

[Chapter Six](#) provides an overview of the legal landscape that administrators, educators, parents and students should be aware of as they work together to create a safe and supportive school environment for all students.

The appendices to this guide include a wide array of practical resources and additional information related to topics introduced throughout this guide.



# Guiding Principles

Even though the needs of transgender students vary tremendously based on a range of factors, a number of guiding principles informed this document. These principles include that:

- Every student has the right to learn in a safe and accepting school environment. Supporting transgender students gives them the equal opportunity that all students need.
- All adults must act as protective agents committed to the safety and well-being of the youth they serve, including those who are transgender or gender-expansive, and should recognize that working as a team is in the best interest of individual students seeking support.
- There are often gaps in trust — grounded in past or current experiences between students, families and educational institutions. This document will also incorporate language, resources and suggestions for navigating these trust gaps and supporting the student's safety and well-being, including strategies for working in adversarial contexts.
- The expression of transgender identity, or any other form of gender-expansive behavior, is a healthy, appropriate and typical aspect of human development. A gender-expansive student should never be asked, encouraged or required to affirm a gender identity or to express their gender in a manner that is not consistent with their self-identification or expression. Any such attempts or requests are unethical and will likely cause significant emotional harm. It is irrelevant whether a person's objection to a student's identity or expression is based on sincerely held religious beliefs or the belief that the student lacks capacity or ability to assert their gender identity or expression (e.g., due to age, developmental disability or intellectual disability).
- Ongoing learning is a key element of this process. Educators and administrators need to engage in regular professional development and training to build a school climate that avoids gender stereotyping and affirms the gender of all children. Parents and caregivers must similarly continue to expand their understanding of the shifting concerns facing children as they get older. Professionals must also build their knowledge about the concerns facing educators and families alike.



**Instead of “putting out fires” by treating the needs of each transgender student as an issue to resolve, schools should engage in “fire prevention” by fostering a school environment that celebrates gender diversity.**

## **A Note on Gender in Schools**

For many educators and administrators, this work begins with a transgender or gender-expansive child enrolling at their school, or a current student starting to express their gender identity in a new way. While this guide is designed around the unique needs of transgender students, it is critical to recognize that transgender students are not the only youth affected by gender at school.<sup>1</sup> Stereotypes about gender are reinforced in many ways in the school environment, which prevents all youth from reaching their full potential. For example, we may limit the toys or activities students can enjoy based on our preconceived notions of appropriate behavior and roles for girls and boys.

Creating a more welcoming environment for students' gender diversity is a more effective and lasting strategy than trying to “solve” the concerns associated with an individual transgender student. Accordingly, many schools are working to develop more gender-inclusive environments for all students, knowing that they are also creating more affirming spaces for transgender students in the process. Such work represents a systematic approach to improving a school's overall climate and will ultimately increase all students' sense of safety, engagement and inclusion.

### **Endnotes**

<sup>1</sup> See GLSEN & Harris Interactive (2012). Playgrounds and Prejudice: Elementary Schools Climate in the United States, A Survey of Students and Teachers. New York: GLSEN (providing statistical data quantifying the effect of bullying on students who do not conform to gender stereotypes).



# Chapter One

## Some Gender Basics

### Gender & Sex

One of the most prevalent misconceptions about gender is that it is based solely on a physical understanding of sex, and that everyone fits into one of two opposite categories, male or female. This misconception in turn, leads many to incorrectly assume that the body one is born with determines an individual's gender. Though related to one another, both gender and sex are much more complex. Gender is comprised of a person's physical and genetic traits, their own sense of gender identity and their gender expression. Given the numerous combinations that these factors can create, gender is better understood as a spectrum.

While many people fall into strongly masculine or feminine categories, others fall somewhere in the middle and are more androgynous. Ultimately, each person is in the best position to define their own place on the gender spectrum.

### Gender Identity vs. Sexual Orientation

Despite the tendency to conflate sexual orientation and gender identity, the two are very different. Sexual orientation describes a person's sexual or romantic attraction, while gender identity refers to someone's own personal sense of being male, female, both or neither. Everyone has both a gender identity and a sexual orientation.

**“Because I am transgender, every moment I’m not who I should be is like having 10 pounds added to my shoulders.”**

— Participant  
HRC Foundation 2012 Youth Survey



# DEFINITIONS

## Gender:

Complex relationship between physical traits and one's internal sense of self as male, female, both or neither (gender identity), as well as one's outward presentation and behaviors (gender expression).

## Sex:

In the United States, individuals are assigned "female" or "male" sex at birth, based on physical attributes and characteristics. This assumed physical dichotomy of sex is itself belied by a variety of naturally occurring conditions. Sex in some contexts, such as the law, is also used as an umbrella term that encompasses gender and gender identity. For the purposes of the discussion in this guide, however, "sex" is being used to convey those physical attributes and characteristics that are used to assign someone as "male" or "female" at birth.

## Gender Binary:

A social system that constructs gender according to two discrete and opposite categories — male or female.

## Cisgender:

A term for people whose gender identity aligns with the sex they were assigned at birth.

## Gender-expansive:

Refers to a wider, more flexible range of gender identities or expressions than those typically associated with the binary gender system.

## Transgender:

Describes a person whose gender identity is different from what is generally considered typical for their sex assigned at birth.

**Note:** This term is an adjective. Using this term as a verb (i.e., transgendered) or noun (i.e., transgenders) is offensive and should be avoided.

## Gender Nonconforming:

Describes a person whose behaviors or gender expression falls outside what is generally considered typical for their assigned sex at birth.

## Gender Spectrum:

An understanding of gender as encompassing a wide range of identities and expressions.



# DEFINITIONS

## Gender Expression:

How a person expresses their gender through outward presentation and behavior. This includes, for example, a person's name, clothing, hair style, body language and mannerisms.

## Gender Identity:

A personal, deeply-felt sense of being male, female, both or neither. Everyone has a gender identity.

## Gender Dysphoria:

An intense and persistent discomfort with the primary and secondary sex characteristics of one's assigned birth sex. Affirming and supporting a person's gender identity can help to significantly decrease their dysphoria. Conversely, rejecting or requiring a person to conceal their gender identity will exacerbate their level of dysphoria.

## Sexual Orientation:

Term that describes a person's romantic or sexual attraction to people of a specific gender or genders. "Lesbian," "gay," "bisexual" and "straight" are examples of sexual orientations. Our sexual orientation and our gender identity are separate, distinct parts of our overall identities.

## Transition:

The process through which transgender people begin to live as the gender with which they identify, rather than the one typically associated with their sex assigned at birth. ***Social transition*** may include things such as changing names, pronouns, hairstyle and clothing. ***Medical transition*** may include medical components like hormone therapy and gender affirming surgeries. Not all transgender individuals seek medical care as part of their transition or have access to such care. The decision about which steps to take as part of one's transition is a deeply personal and private choice. You should never ask someone if they have had any medical procedures, and you should respect the privacy of a student's transition process.

## Transphobia:

Irrational fear or hatred of, or violence, harassment or discrimination perpetrated against transgender people.



# How Gender Identity Develops

**“There’s a gender in your brain and a gender in your body.  
For 99 percent of people, those things are in alignment.  
For transgender people, they’re mismatched.  
That’s all it is.”**

— Chaz Bono

Children typically begin expressing their gender identity between the ages of two and four years old.<sup>2</sup> Around this age, transgender children often express their cross-gender identification to their family members and caregivers through statements like “I have a girl brain and boy body,” or vice versa, and behavior like dressing in clothing and engaging in activities consistent with their gender identity. Even at that young age, transgender children are often insistent and persistent about their gender, differentiating their behavior from a “phase” or imaginative play.

With the love and support of families, caregivers and other adults, transgender children and youth can thrive. Supporting them means allowing them to live in a manner consistent with their gender identity, which helps them develop self-esteem and grow into happy, healthy members of society.

However, some transgender children receive the message from their families, caregivers and society that there is something wrong with who they are, and begin to repress their cross-gender identification out of fear and shame. Not having their gender identity respected and affirmed in their daily lives will likely cause them significant psychological distress. That distress is often exacerbated when a transgender student’s gender identity is not affirmed at school, which can be a very gendered space (e.g., girls’ and boys’ toys/games, girls’ and boys’ lines).

The consequences of not affirming a child’s gender identity can be severe, and it can interfere with their ability to develop and maintain healthy interpersonal relationships. In the school context, that distress will also hinder a transgender student’s focus in class and ability to learn. The longer a transgender youth is not affirmed, the more significant and long-lasting the negative consequences can become, including loss of interest in school, heightened risk for alcohol and drug use, poor mental health and suicide.



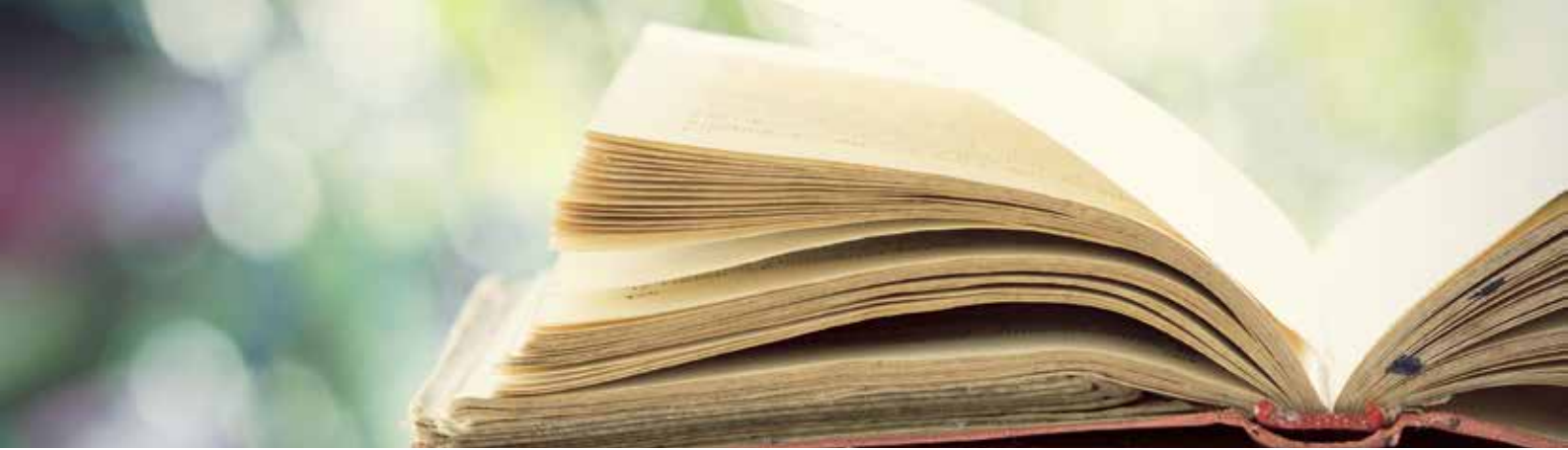
**Like all young people, transgender youth need support of the adults (i.e., caregivers and educators) in their lives in order develop a strong sense of self and thrive.**

With the goal of preventing or alleviating the distress that transgender youth often experience, typically referred to as Gender Dysphoria,<sup>3</sup> healthcare providers recommend that the child “socially transition” and live consistently with their gender identity. That includes dressing, interacting with peers and using names and pronouns in a manner consistent with their identified gender. For most transgender youth, social transition provides tremendous and immediate relief, allowing them to flourish socially, emotionally and academically.

### Endnotes

<sup>2</sup> American Psychiatric Association (2013). *Diagnostic and Statistical of Mental Disorders* (5th ed.). Arlington, VA: American Psychiatric Publishing.

<sup>3</sup> Gender Dysphoria is a serious medical condition codified in the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* (DSM) and the World Health Organization’s *International Classification of Diseases*. People diagnosed with Gender Dysphoria have an intense and persistent discomfort with the primary and secondary sex characteristics of their assigned birth sex. Gender Dysphoria is not a mental illness, but rather refers to the severe and unrelenting emotional pain resulting from this incongruity. Gender Dysphoria was previously referred to as “Gender Identity Disorder.” The American Psychiatric Association changed the name and diagnostic criteria for this condition to reflect that Gender Dysphoria “is more descriptive than the previous DSM-IV term gender identity disorder and focuses on dysphoria as the clinical problem, not identity per se.” *DSM-5, supra*, p.451.



## **Chapter Two**

# **Why This Matters**

As visibility and awareness of transgender people increases more parents, counselors and healthcare providers are learning about the importance of supporting transgender youth. Educators and school administrators are also working to affirm these students, recognizing that every child deserves an opportunity to thrive in school. Gender-based harassment and violence can be widespread in schools and affect all students, not just those who are transgender or gender-expansive. All educators — whether or not they have a transgender student in their school — can benefit from instituting better interventions when bias and bullying arise, and fostering gender-inclusive learning environments to preclude the need for such interventions altogether.

## **Meeting Students' Needs**

Students have all kinds of needs — whether they are gifted and talented, speak a first language other than English or are transgender — and schools have a duty to provide for these needs. Dispelling harmful stereotypes and prejudices of all kinds creates spaces where every student has the opportunity to learn and thrive.

When students are harassed or bullied based on their gender, or others' perceptions of it, their learning often takes a backseat to worrying about which restroom they can use safely or whether they will face a bully on their bus ride home. As a result, students who face harassment are less likely to succeed academically.<sup>4</sup> Bias-based harassment also increases the risk for problems like school absences,<sup>5</sup> substance use and emotional distress.<sup>6</sup>

**School is the place where our children should be exploring ideas and discovering new skills. No child should be prevented from pursuing their passions simply based on others' perceptions of their gender.**

The effects of a negative school environment are long-lasting and compounding. For example, a school climate survey recently released by the Gay, Lesbian and Straight Education Network (GLSEN) found that students who experienced higher levels of victimization based on gender expression were twice as likely to report that they did not plan to pursue post-secondary education.<sup>7</sup> Further, when targeted at school, gender-expansive youth perceived to be lesbian, gay, bisexual, transgender or questioning (LGBTQ) face long-term effects on their mental health and life satisfaction as young adults. In other words, mistreatment at school is not only difficult as it is occurring, but also has lasting negative effects.<sup>8</sup>

While many transgender youth are transitioning at young ages, many others are not. They're sitting quietly in classrooms feeling isolated and suffering harassment and bullying from peers for their gender expression. Creating an inclusive environment that is free of gender bias and welcoming of gender-expansive youth can make a positive difference in countless children's lives.

## **Creating a Safe and Supportive Environment Benefits All Students**

Gender-based bullying affects all children, not only those who identify themselves as LGBTQ or who have nonconforming gender identities or expressions. Creating school environments that respect and affirm gender diversity will empower all students rather than limit them. GLSEN's study on the impact of Gay-Straight Alliances, for example, suggests that such organizations create school environments where all students are less likely to hear homophobic slurs.<sup>9</sup> Gender-inclusive messages encourage greater acceptance of diversity and discourage children from expressing judgments about people based on factors like race, class, sexuality, gender, family structure, ethnicity and religion.

Beyond supporting these youth as individuals, we cannot afford to have any of our students cut off from interests, talents or intellectual pursuits that may ultimately contribute to our society. School is the place where our children should be exploring ideas and discovering new skills.

No child should be prevented from pursuing their passions simply based on others' perceptions of their gender. By sending a message that certain pursuits are off-limits simply because of a person's gender, we lose access to an incredible source of human potential.

## Endnotes

<sup>4</sup> Kosciw, J. G., Greytak, E. A., Palmer, N. A., & Boesen, M. J. (2014). *The 2013 National School Climate Survey: The Experiences of Lesbian, Gay, and Transgender Youth in Our Nation's Schools*. New York: GLSEN.

<sup>5</sup> Kosciw, et al., *supra*, pp. 12-13.

<sup>6</sup> Toomey, R. B., Ryan, C., Diaz, R. M., Card, N. A., & Russell, S. T. (2010). "Gender-Nonconforming Lesbian, Gay, Bisexual, and Transgender Youth: School Victimization and Young Adult Psychosocial Adjustment." *Developmental Psychology*, 46(6), pp. 1580-89.

<sup>7</sup> Kosciw, et al., *supra*, p. 47.

<sup>8</sup> Toomey, et al., *supra*, p. 1585.

<sup>9</sup> Kosciw, et al., *supra*, at p. 66.





## Chapter Three

# Key Considerations

Every student who transitions at school is entitled to a safe and supportive environment in which to follow their unique path to being their authentic selves.

**“In preparing for battle, I have often found that plans are useless, but planning is indispensable.”**

— Dwight D. Eisenhower

## The Right Plan

Factors such as the student’s age, personality and emotional state, the level of family support, the school’s organizational design and even the time of year all can affect how the student’s transition unfolds. It is important to avoid seeking some universally “correct way,” and instead to focus on identifying which steps will create the necessary conditions to make this particular student’s experience as positive as possible. Creating a tailored Gender Transition Plan (see [Appendix D](#)) is the best way to ensure that the process is thoughtfully constructed and accounts for these various factors.

# Urgency & Timing

A student's desire to undergo a gender transition at school is borne out of a deep need to be their authentic self. The urgency and timing of the gender transition must be carefully balanced. Ideally, the student is not currently experiencing an unmanageably high level of distress at school, which will allow the student, school and family (if appropriate) to work together as a team to establish the most positive scenario in which the transition can take place. This process could include training for staff, students and parents and a carefully laid out plan for the student's authentic identity to be shared with the school community.

These steps need not take an inordinate amount of time. In fact, schools must be vigilant about not using this planning process to unnecessarily delay the student's gender transition, which can compromise the student's well-being. Simply setting a date for the transition is sometimes sufficient to reduce a student's distress to a more manageable level. But when that is not enough, expediency should be a primary factor in the transition plan.

In instances where the process must go more quickly, school officials should prepare for staff members to be caught off guard and to field questions and concerns from other students and parents. This situation will entail, at least initially, that the school respond to any issues or concerns reactively. Schools that have proactively addressed gender diversity and inclusion as part of their overall school climate will be in a better position to respond to these more urgent situations.

In some cases a child's gender-expansive behavior or desire to transition can initially surface at school. If school staff believe that a gender identity issue is presenting itself or creating difficulty for the child at school, sensitively approaching parents about the situation may be appropriate. By gently exploring the degree to which parents and caregivers have observed the student's gender-expansive behavior at home, educators can become an important bridge to helping family members understand and support the child. If met with resistance, school staff should be ready with resources that may help family members better understand what the child is experiencing.

Any decision to raise the topic with parents must be made very carefully and in consultation with the student. In some instances, a school may choose not to bring the subject up if there is a concern that parents or caregivers may react negatively. For a further discussion on these issues, see [Chapter Five](#).



**A student's age and maturity — or that of their peers — should never be a basis for denying a transgender student an opportunity to transition in a safe and supportive environment.**

## Age & Grade Level

While it is important to include a student's age and grade level as factors to consider in the planning process, it should never be used to justify delaying or denying a student's gender transition. This factor becomes particularly relevant if the student's transition is taking place publicly. Should the student wish to discuss their transition with their peers or the school decides to incorporate lessons about gender into the curriculum, approaches for managing these actions should be developmentally appropriate.

Regardless of the age and grade level of the students, there are many activities and lessons that can effectively scaffold a student's gender transition. Educators, administrators, parents and the transgender student should work together to identify age-appropriate materials for those lessons. While some may assume that elementary students are too young to discuss these issues, experience from schools across the country say otherwise. In fact, in most cases younger students are much more flexible in their thinking and capacity for understanding a peer's assertion of their authentic gender.

The bottom line is this: using appropriate materials with students at any grade level will support a student's gender transition while at the same time creating greater awareness and space for every child's gender identity and expression.

## Privacy & Disclosure

Far more than the age of the student, the degree to which others are aware of the student's gender transition will dictate what is necessary to make the transition go smoothly. If the student is transitioning in a school or community where they have been known as their assigned sex for a long time, options for privacy may be limited. In other situations, the student's move to a new school setting (i.e., starting middle school, transferring to a different school in the district) affords the opportunity to transition with more privacy. Regardless of the circumstances, the school should support the student's need for privacy to the best of its ability.

**Schools are uniquely positioned to serve as a buffer to protect students and their families.**

One of the most common questions that arises when students transition in schools is whether others in the school community have a right to know about the student's gender transition. The simple answer is "no." A student's transgender status, legal name or sex assigned at birth is confidential medical information and protected personally identifiable information, and disclosure of that information may violate the school's obligations under the Family Educational Rights and Privacy Act (FERPA) or constitutional privacy protections. Given the level of discrimination transgender people experience, sharing that information could also expose a student to harassment and abuse from peers, educators and school staff. Absent an explicit legal obligation or express permission from the student and family, such information should not be shared with anyone, including other parents and school personnel, and the school and district should implement safeguards to prevent such disclosures.

**"I am not out to classmates, teachers, or at school because I have tried with a few, only to be ridiculed and pretty much marked as an outcast. Now that I've switched schools I have no intentions of having anyone know [that I am transgender]."**

– Participant  
HRC Foundation 2012 Youth Survey

Some students and families want to be more open with the school and community about the transition process, which could include, for example, sending a letter home to parents or setting aside time during a class period for the student to discuss their plan for a gender transition. Others may prefer to share this private information with a select group of people to ensure that the student has a support network at school. Regardless of how private a student or family ask the school to keep this information, that decision does not prevent the student from discussing their gender identity openly and deciding when, with whom, and how much to share.

Privacy and confidentiality are critically important for transgender students who do not have supportive families. In those situations, even inadvertent disclosures could put the student in a potentially dangerous situation at home, so it is important to have a plan in place to help avoid any mistakes or slip-ups. For a further discussion of supporting a transgender student with unsupportive parents, please refer to [Chapter Five](#).

*See [Appendix D](#) for forms that can provide a framework for the transition planning process in school.*

# Public Transitions

With a public transition, it is important to remember that the student is undergoing an incredibly personal experience; few youth want to be the center of attention, particularly for such a private matter. By working proactively, parents and caregivers, educators and school officials can help protect the student's right to feel safe from others' comments, questions or rumors and allow the student to preserve their dignity and privacy.

The school should be prepared for genuinely innocent confusion or uncertainty that may come up from members of the school community and set clear boundaries about what is appropriate to say to the student or their family. The school, student and family team must strike a delicate balance of providing education about gender diversity in general while still honoring the student's right to and need for privacy. Again, in schools that have proactively worked to be more gender inclusive, a student's transition will occur in a larger context of understanding and acceptance.

Schools must also be able to respond to negative reactions to a student's public gender transition. The larger community can subject these students and their families to ignorant intrusions and even outright hostility. But schools are uniquely positioned to serve as a buffer to protect students and their families.

Without speaking about the specific student, educators, administrators and other school staff can use these talking points to respond to questions or negative reactions from the school community:

- *"I know this is new territory for many of us. Sometimes change is really challenging. Perhaps I can share some information with you about gender identity and transgender people?"*
- *"I can assure you that the safety, well-being and education of all students remain our highest priorities."*
- *"Of course I can't talk about any individual student, just as I would never talk about your child."*
- *"Schools have always worked to support the needs of individual students in a variety of ways. Like we have always done, we are committed to supporting all of our students."*
- *"Imagine if this was another type of student need that other people weren't comfortable with, how would you respond?"*





**The uniqueness of every transgender student's gender transition underscores the importance of establishing a collaborative, intentional and ongoing process for supporting a transgender student throughout their transition.**

It is important to keep in mind that many negative reactions boil down to a lack of knowledge or familiarity with the idea of transgender people, particularly transgender youth. While a public transition might make others (including you) feel uncomfortable, that discomfort does not outweigh the student's need to be safe and supported.

Some parents who oppose the school's decision to support and affirm transgender students may involve local media to pressure the school and district to reverse course. The school or district can choose not to respond to media inquiries. If the school or district decides to respond, however, school officials can also use the talking points above or in [Appendix C](#) to respond to a media story.

Schools or districts should not discourage transgender students or their families from a public transition simply because it requires additional contingency planning. Public transition may be a better option in cases where the student has a strong support network of peers and teachers, a desire to be open about their transgender status or wants to participate in specific extracurricular activities. Regardless of whether a student's transition is public or private, the school or district must be prepared for a variety of contingencies that could occur.

## Private Transitions

When a student transitions privately, very few adults may be aware of the situation. While some school personnel may want (or believe they have a right) to know the student's transgender status, the goal for many students and their families is to simply be another kid on campus and not "that transgender student." In fact, the opportunity to have a school experience that is not dominated by this single aspect of the child's life can be very affirming for a transgender student.

If an administrator or educator believes it is important for a particular person to know the student's transgender status, they should raise that concern during the planning process.

**Ultimately, it must be the student's  
(and when possible, the family's) decision  
about whether, when and to whom they  
will reveal this personal information.**

Once that decision is made, administrators and educators should offer to assist the student or family in making any disclosures. For example, the family may want to make the disclosure themselves, but have the school administrator facilitate the meeting (i.e., invite the school staff person to the meeting or host the meeting in the administrator's office).

Even in circumstances where a student's transgender status appears to be completely private, with no conceivable way for others to find out, the school, family and student must anticipate that privacy may somehow be inadvertently compromised in a number of ways, including through social media or from a peer whom the transgender student knew prior to their transition. A transgender student might also choose to expand the circle of their friends who are aware of their transgender status, so it is important to plan as if every transition will have a public component. These realities underscore the importance of establishing a collaborative, intentional and ongoing process for supporting a transgender student throughout their transition.



## Chapter Four

# Key Elements & Practical Tips

Schools must continue to support students beyond their transition to ensure that the school environment remains a safe and supportive place to learn. Ultimately, the school environment must be set up so that transgender girls are treated like all other girls and transgender boys like all other boys. For many people, particularly adults, that notion challenges societal assumptions about the immutability of gender, so implementing these supports can seem daunting. But experience has shown that supporting these students is not only possible, but creates a safer and more inclusive environment for all students. This section will discuss the most common and foundational supports transgender students need in school and provide practical steps to implement them.

## Student Records & Student Information Systems

The school's student information system typically uses the student's name and gender as reflected on their birth certificate. As a result, when a student transitions at school, there are a great many ways in which a student's incorrect name or sex assigned at birth may inadvertently appear on documents generated by those systems.

Processes like enrollment, taking attendance, assigning grades and communicating with parents and caregivers can all easily compromise the student's privacy and undermine an otherwise supportive school environment. For example, a substitute teacher simply calling out names from the attendance sheet, which typically lists each student's legal name, can inadvertently disclose the student's transgender identity to their peers. Other typical stumbling points include after-school programs, school photos, outside professionals providing a service on campus, yearbooks, ID cards, posted lists, library cards, lunch cards, distribution of texts or other school supplies and standardized tests. Even in the most supportive of school settings, simple bureaucratic oversights can cause real trauma for a transgender student.



**A school's recordkeeping and reporting requirements do not exempt it from its obligations to safeguard student privacy and create a safe and supportive environment. Those obligations co-exist and schools must find a way to harmonize them.**

Although a schools' recordkeeping and reporting requirements are often seen as a barrier to preventing those oversights, many school districts have found solutions that allow them comply with those requirements while meeting their obligations to safeguard a transgender student's privacy and right to learn in a safe and supportive school environment. The following are some examples of those solutions. This is by no means an exhaustive list and the viability of these solutions in any school depends on a variety of factors, including each state's legal requirements for recordkeeping and student information systems. Examples of solutions include:

- Maintain a copy of the student's birth certificate or other identity document that reflects the student's name and sex as assigned at birth under lock and key in the principal's office, while the student information system has the name and gender marker that correspond to the student's gender identity.
- Allow the student to re-enroll in the school using a passport with the correct name and gender marker, or change the name and gender marker in the student information system to be consistent with the passport. If a student is a U.S. citizen and their family can afford the passport application fees, obtaining a passport that reflects the student's gender identity is usually easier than changing that information on their birth certificate.
- Use the student's chosen name and gender in the student information system, but switch it to the student's legal name and gender just before uploading the information to the state department of education's database. Schools that choose this approach pull that student's testing booklet before it is distributed and correct the name and gender marker on the label to ensure that the student's privacy and identity are respected.
- Create a uniform and public procedure at the district level that connects all electronic student databases and allows a student or their parent to fill out one form indicating the name and pronoun the student wishes to use. Some school districts have established such procedures to streamline the process and reduce the common bureaucratic barriers.
- Work with the student information system provider to develop a field or screen that would allow the district to maintain the student's legal and chosen name, but that would use the chosen name to populate attendance sheets, report cards, and other school-related documents.

It is important to note that transgender youth can experience many obstacles to correcting their identity documents. From the high cost of obtaining a court-ordered name change to states requiring transition-related surgery before correcting the gender marker on a birth certificate, barriers prevent students — particularly those in earlier grades — from obtaining identity documents that reflect their true selves. Consequently, school and district personnel must develop policies and protocols for inputting the correct information into the student information system regardless of the student’s legal name or gender marker.

## Names & Pronouns

**“When someone with the authority of a teacher describes the world and you are not in it, there is a moment of psychic disequilibrium, as if you looked into a mirror and saw nothing.”**

— Adrienne Rich

A person’s name and pronouns are an important part of that individual’s identity. In many ways, they define how someone is perceived and affect how they interact with others. In our everyday lives, we consistently make an effort to use a person’s chosen name and pronoun without even asking whether that is the person’s legal name or gender, let alone requiring proof. It is important to extend those same social courtesies to a transgender student.

Consistently using a transgender student’s chosen name and pronouns signals that the speaker is respecting and affirming the transgender student’s gender identity. When the speaker is an educator or administrator, using the student’s chosen name and pronoun also models and sets expectations for the school community. Although seemingly minor, these simple actions can have a profound effect on the student’s experience. Conversely, intentionally using a transgender student’s prior name and associated pronouns will make that student feel unsafe and unwelcome, and will interfere with their ability to learn.

While this guide focuses primarily on transgender youth who are transitioning from male to female or female to male, it is important to note that a growing number of gender-expansive youth are identifying themselves outside the gender binary, and many use gender-neutral pronouns. While it may be more difficult to adapt to gender-neutral pronouns, it is still important to do so in support of the student.

See [Appendix B](#) for more information and examples of gender neutral pronouns.

# Dress Codes

Transgender students have the right to dress in a manner consistent with their gender identity or gender expression as long as the student's attire complies with the school- or district-wide dress code. If the school or district has a specific dress code for boys and girls, a transgender student must be allowed to wear the clothing that corresponds to their gender identity, regardless of their assigned sex at birth, the gender designated on their birth certificate or other legal documents.



# Sex-Separated Facilities, Activities & Programs

**“I’ve had people try to throw me out of bathrooms or locker rooms and even had school authorities try to write me up for using a female restroom.”**

– Participant  
HRC Foundation 2012 Youth Survey

Another crucial element in supporting a transitioning student is giving them access to sex-separated facilities, activities or programs based on the student's gender identity. Restrooms, locker rooms, health and physical education classes, competitive athletics, overnight field trips, homecoming court and prom are just some of the explicitly gendered spaces that tend to be the most controversial because they require us to re-examine our beliefs about who belongs in those spaces. This can be challenging for everyone involved. The following discussion seeks to bring people beyond those initial visceral reactions, provide tools to help guide others through that same process and lead to the creation of a school culture that values gender diversity and respect for all students.



# Restrooms & Locker Rooms



Every day, students in California, Colorado, Connecticut, Maine, Massachusetts and Washington — and at scores of individual schools across the nation — attend schools that respect and affirm transgender students by providing them access to the restrooms and locker rooms that match their gender identity. The experiences of these schools demonstrate that implementing such a policy is not only possible, but that it does not create the problems that some fear it will.

In early 2015, Media Matters for America contacted officials at the largest school districts in 12 states that have laws protecting transgender students, and not a single one reported “any incidences of harassment or inappropriate behavior” as a result of “allowing transgender students to access facilities they’re comfortable with.”<sup>10</sup> This is not surprising given that schools have permitted all students to access restrooms and locker rooms based on gender identity for many years; it is, in fact, the norm throughout society to allow people to access those facilities without being asked to prove their gender. Enforcing any other type of policy would be unmanageable and invasive.

Providing transgender students with access to the restrooms and locker rooms that match their gender identity is yet another way that schools adjust to meet students’ individual needs. Typically the student, with or without their parents, will approach an administrator to request that the school give them access to the appropriate restroom and locker room. Generally, there is no reason to doubt the sincerity of a student who asserts a transgender identity, and schools should accept the student’s identity without imposing additional requirements. Manipulative or insincere requests are likely to be easily discernible. If a school administrator has credible doubts about a student’s sincerity, however, they should document the concerns and request some documentation that the student has asserted a transgender identity in other settings. Again, this scenario is very unlikely to occur and school officials should avoid assuming the role of gatekeeper.



**Being to prepared to effectively address the concerns raised in response to transgender students using sex-separated facilities that match their gender identity is an important part of maintaining a safe and supportive school environment through a student's gender transition.**

Although problems related to restroom and locker room use are unlikely to arise, parents, educators and school officials may raise concerns about some of the following “What ifs”:

**What if a student who identifies as male claims to be female just so he can enter the girl's facilities?**

Restrooms and locker rooms can be a source of discomfort for everyone, not just transgender students, and it is incumbent on school officials to ensure that all students are safe in the school's facilities. In schools that provide transgender students access to the facilities that accord with their gender identity, this has not been an issue. If male students do enter female facilities without permission (e.g., on a dare from a classmate), such behavioral issues are unrelated to and likely existed long before schools gave transgender students access to the facilities that matched their gender identity. More importantly, providing transgender students with access to restrooms and locker rooms based on gender identity does not hinder the school's ability to address and prevent inappropriate student behavior.

**What if other students have privacy concerns about using a restroom with a transgender student?**

While this concern may seem understandable, it is often based on the false idea that a transgender boy is not a “real” boy, a transgender girl is not a “real” girl or that a transgender student wants access to those facilities for an improper purpose. Schools should attempt to address these and any other misconceptions that may be causing the student's discomfort. In those conversations, it is important to remind students that behaving in a way that makes others uncomfortable is unacceptable and a violation of the school's commitment to ensuring the safety of all students; but it must also be clear that a transgender student's mere presence does not constitute inappropriate behavior. Any student who feels uncomfortable sharing facilities with a transgender student should be allowed to use another more private facility like the bathroom in the nurse's office, but a transgender student should never be forced to use alternative facilities to make other students comfortable.

## **What if the restroom and locker room that correspond to the transgender student's gender identity would not be safe for the transgender student?**

If a student's safety is a legitimate concern, administrators should not hesitate to discuss the topic, understanding that the objective is to respect the student's gender identity and safety, not to convince the transgender student to rescind the request to use the facilities that match their gender identity. Potential solutions include permission to use the restroom during class time, increased teacher presence around restrooms between classes or a "buddy system." For locker room access, options include placing the student's locker near the coach's office, setting up a privacy curtain or area in the locker room for any student to use or setting up a schedule so that the student can change before or after the other students. Again, a transgender student should never be forced or pressured into using alternate facilities just to make students or school personnel more comfortable. Such concerns are likely indicative of a broader issue with the school culture that may be making other students feel unsafe as well. Thus, in addition to addressing this concern with the transgender student, administrators should also identify ways to improve the school culture so that all students can feel safe in restrooms and locker rooms.

## **Being uncomfortable is not the same as being unsafe and school officials have a responsibility to ensure the safety of all students.**

These key concepts — that respect for the transgender student should be the starting point, that being uncomfortable is not the same as being unsafe and that school officials have a responsibility to ensure the safety of all students — can be applied to any other "what ifs" that may arise when providing a transgender student access to the appropriate restroom and locker rooms.

Even with a strong and supportive school culture, some transgender students may still feel uncomfortable using restrooms or locker rooms and may seek an alternative that affirms their identity while also ensuring they are safe and comfortable. The best option would most likely be a single-stall facility, preferably one that is close to the student's classes. It is important to discuss all possible options so that the student can make an informed choice. However, transgender students should never be forced to use a separate single-stall facility.

Students are constantly learning, growing, exploring boundaries and testing expectations. Inevitably, some students will make poor choices, and the school's role is to ensure that they learn from these mistakes. It is also the school's role to establish, articulate and enforce clear expectations about how students treat one another, including the boundaries of appropriate behavior in restrooms and locker rooms.

# Overnight Field Trips

Overnight field trips are not only educational endeavors, but also important opportunities for social engagement. Making sure that a transgender student has access to both components of field trips requires some planning for issues like room assignments, chaperones and showers.

Once again, the concerns that typically arise in these instances are issues the school needs to consider for all of its students. Schools have an obligation to set clear expectations about respecting one another's privacy and boundaries. Unlike the time they spend with one another in the hallways or classrooms, students share much closer quarters on field trips. Explicitly naming expectations about what it means to be in a communal environment is critically important and will improve all students' experiences.

A transgender student's comfort level with sleeping arrangements will largely dictate the manner in which related issues are addressed. If students are to be separated based on gender, then the transgender student should be allowed to room with peers that match their gender identity. As with any other students, the school should try to pair the transgender student with peers with whom the student feels comfortable. In some cases, a transgender student may want a room with fewer roommates or another alternative suggested by the student or their family. The school should honor these requests whenever possible and make adjustments to prevent the student from being marginalized because of those alternative arrangements. Regardless of whether those roommates know about the student's gender identity, the school has an obligation to maintain the student's privacy and cannot disclose or require disclosure of the student's transgender status to the other students or their parents.



If showering facilities are communal, the school should find out whether the venue has any single stall or more private shower facilities that students can use. Recognizing that a number of students would likely prefer more privacy while showering, the school should consider creating a schedule to allow those students to use the shower facilities one at a time.

A large part of the learning experience on these field trips is social — late night conversations with roommates, long hours on the bus and being with one another for an extended period of time. There is also a possibility that during those unscheduled times students will make poor choices like playing practical jokes on other students or engaging in hazing behaviors; but these behaviors are not created by the presence of a transgender student and the school should be prepared to address such incidents in any event.

# Competitive Sports Teams

Participating in sports teaches students many great skills and life lessons that will serve them well in the future. In order to ensure that transgender students are able to play sports, fifteen states — including California, Florida, Minnesota, South Dakota, and Washington — and the District of Columbia have adopted eligibility rules that explicitly permit transgender students to participate in school sports consistent with their gender identity. A growing number of other states athletic associations are considering similar policies.

**Focusing on the perceived differences between males and females too often obscures the fact that there is great variation even among cisgender males and among cisgender females.**

Even in states whose athletic associations do not have a written policy or rule on this topic, schools and districts should allow transgender students to compete on athletic teams based on gender identity. Unfortunately, schools often erroneously believe that a transgender student, particularly a transgender girl, will have a competitive advantage over the other players and therefore should not be allowed to compete on the team that matches their gender identity. Concerns regarding competitive advantage are unfounded and often grounded in sex stereotypes about the differences and abilities of males versus females.<sup>11</sup>

Focusing on the perceived differences between males and females too often obscures the fact that there is great variation among cisgender males and among cisgender females. Moreover, the very small numbers of transgender student-athletes who have benefitted from transgender-inclusive eligibility rules have integrated well within the size and skill level of their teammates, such that there has not been any concern with competitive advantage. Thus, while a transgender girl may have been assigned male at birth, she still falls within the wide range of athletic abilities of her female peers.

Similarly, the participation of transgender student-athletes does not compromise their safety or that of other student-athletes. The safety rules of each sport are designed to protect players of all sizes and skill levels and adequately neutralize any concerns regarding the safety of transgender and cisgender student-athletes.

Some schools and athletic associations may require a transgender student to receive a particular type of medical treatment, sometimes including genital surgery, to participate on sports teams that align with their gender. Increasingly, transgender youth are transitioning before puberty and, as part of their transition, taking medication that prevents their body from going through the wrong puberty, which means that — with the exception of their reproductive organs — transgender students are just like their cisgender peers, including their hormone levels. Although delaying puberty is becoming more common, there are still many transgender youth who are unable to access any transition-related care due to cost, lack of insurance coverage and unavailability of competent providers, especially in rural areas.





**Transgender students frequently cite the lack of locker room access as a key factor in their inability to fully participate in physical education courses, which can create a barrier to meeting graduation requirements.**

Also, pursuing medical treatment is a very personal decision that should be made between the patient and their healthcare providers, without influence from the school. Thus, requiring medical treatment to participate in sports is inappropriate.

## **Health & Physical Education Classes**

For a variety of reasons, some schools maintain sex-separated health and physical education classes. Part of integrating a transgender student into the school environment is to place them in the classes that match their gender identity. Particularly in cases where a transgender student wants to transition privately, enrolling them in the wrong health or physical education classes would immediately disclose their transgender status to their peers, which could increase the likelihood that they will be harassed and bullied. Transgender students frequently cite the lack of locker room access as a key factor in their inability to fully participate in physical education courses, which can create a barrier to meeting graduation requirements.

**“I have been harassed and beaten at school. This whole high school thing would be much easier if I were cisgender and straight.”**

– Participant  
HRC Foundation 2012 Youth Survey

## **Homecoming, Prom & Other School Traditions**

School traditions are important to many students, and transgender students are no exception. Schools should allow transgender students to participate in all school traditions, including sex-separated traditions, in the gender category that matches their gender identity. For transgender students who want to be seen by peers as their authentic selves, participating in traditions like running for homecoming or prom king or queen can be very affirming. Educators need only look to the growing number of schools where students have elected their transgender classmates to fill those roles for proof of the positive impact on the whole school community. Allowing transgender students to participate in these traditions not only provides them validation from the school, but also from their peers.



# Discrimination, Harassment & Bullying

It is the responsibility of each school and district to ensure that transgender and gender-expansive students have a safe school environment, which includes ensuring that any incident of discrimination, harassment or violence is thoroughly investigated, appropriate corrective action is taken and students and staff have access to appropriate resources. Complaints alleging discrimination or harassment based on a person's actual or perceived transgender status or gender expression should be handled in the same manner as any other discrimination or harassment complaints.

While all school districts should have nondiscrimination and harassment policies that cover gender identity, policies alone are not enough. Districts must also address bullying and harassment with research-based interventions. Research has shown that punitive policies requiring actions that remove students from their educational environments — such as “zero tolerance” policies that rely on suspension and expulsion — are detrimental to overall school climate.<sup>12</sup> Instead of changing behavior, suspension and expulsion reinforce negative behavior and often harm the students these policies are meant to protect, because they are used disproportionately against LGBTQ students, students of color and students with disabilities.<sup>13</sup> What this means in practice is that the LGBTQ student who fights back against bullying is more likely to be punished than the student who is the aggressor. Restorative justice programs and positive behavior interventions and supports are two examples of alternative discipline approaches that improve school climate and address the root cause of bullying and harassment. The most effective way to reduce bullying is to create a school-wide culture of inclusion and respect for difference.

## Endnotes

<sup>10</sup> Rachel Percelay, “17 School Districts Debunk Right-Wing Lies About Protections For Transgender Students,” 3 June 2015. Media Matters for America.

<sup>11</sup> Travers, A. (2008). The Sport Nexus and Gender Injustice. *Studies in Social Justice* 2(1), pp. 79-101; Griffin, P. & Carroll, H. (2010). *On the Team: Equal Opportunity for Transgender Student Athletes*. New York, NY: Women's Sports Foundation & National Center for Lesbian Rights.

<sup>12</sup> APA Zero Tolerance Task Force (2008). “Are Zero Tolerance Policies Effective in the Schools?: An Evidentiary Review and Recommendations,” *American Psychologist* 63(9), 852-62, available at <http://www.apa.org/pubs/info/reports/zero-tolerance.pdf>.

<sup>13</sup> Himmelstein, K. & Brückner, H. (2011). “Criminal-Justice and School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study,” *Pediatrics* 127(1), 49-57, available at <http://www.pediatrics.org>.



## Chapter Five

# Complex Issues

This section offers guidance on some of the more complex circumstances that may arise around students transitioning in schools.

## Unsupportive Parents or Caregivers

Unfortunately, transgender youth experience high levels of family rejection. Lack of family support can have a detrimental effect on their short- and long-term mental health and well-being. Research on family rejection of lesbian, gay and bisexual youth has shown that “high levels of parental pressure to try to change an adolescent’s gender expression to enforce gender conformity is related to high levels of depression, a nearly four times greater likelihood of attempted suicide and illegal drug use, and being more than twice as likely to put oneself at high risk for HIV.”<sup>14</sup> These findings are also applicable to transgender youth who also experience high rates of family rejection for the same reasons families often reject lesbian, gay and bisexual youth — namely their inability to conform to stereotypes associated with their sex assigned at birth.

**“I am only out to people at school, because if I tell my family I won’t be accepted.”**

– Participant  
HRC Foundation 2012 Youth Survey

Schools can play a critical role in alleviating the psychological distress caused by family rejection. The school environment may be the only place a transgender student feels safe enough to be themselves. Having a safe place to learn is just as important, if not more so, for transgender students who do not have supportive parents as it is for those who do.

In these situations, the transgender student will often seek out an administrator or educator for support. Whenever a transgender student initiates this process, the educator or administrator should ask whether the student's family is accepting in order to avoid inadvertently putting the student at risk of greater harm by discussing with the student's family. Based on that information, the school and student should determine how to proceed through the collaborative process of figuring out how the school can support the student and balance the student's need to be affirmed at school with the reality that the student does not have that support at home.

This process should address the following basic topics and situations:

- The modifications or accommodations the student is seeking (e.g., use of different name, pronouns and sex-separated facilities).
- How to refer to the student when communicating with the student's parents or caregivers, both in writing and verbally.
- How to refer to the student when communicating with the student's siblings.
- What information to share with the student's teachers and other adults on campus.
- How to address questions from peers (if student's transgender status is not private).
- Services the school can provide to assist the student in coping with the lack of support at home.

Addressing the student's needs at school provides a great short-term solution; but where possible, the goal should be to support the student's family in accepting their child's gender identity and seek opportunities to foster a better relationship between the student and their family. A parent's initial negative reaction to indications that their child might be transgender is likely based on inaccurate or incomplete information about gender identity or out of fear for what this will mean for their child's future. Such reactions often come from a place of love and protection, and are not intended to harm their child — rejection can be a misguided attempt at protection. Learning that transgender youth experience these behaviors as rejection, and that these behaviors can have serious consequences for their children, often helps families change their behaviors.

Schools can assist the process of family acceptance in a myriad of ways, including arranging a safe space for the student to disclose their gender identity to their parents, providing counseling services for the whole family or connecting them to local resources or other parents of transgender or gender-expansive youth. As part of this effort, it is important to educate the student's family members about the serious consequences of refusing to affirm their child's gender identity. Sharing observations from school personnel that highlight the effects rejection has had on the student may also help encourage parents to begin moving toward acceptance.

# Parents Who Disagree about Affirming Their Child's Gender Identity

The psychological distress caused by family rejection is compounded when parents disagree about affirming their child's gender identity, particularly if this conflict has come up in the context of a divorce or custody battle. As in cases with two unsupportive parents, this scenario does not mean that the school cannot make any efforts to help the student, but it does require balancing the student's short- and long-term needs.

A parent seeking a change in custody must at least demonstrate that their request is in the best interests of the child.<sup>15</sup> This standard is flexible and allows family court judges to craft custody arrangements that meet the needs of each child. Unfortunately, the dynamics sometimes created by custody disputes can obscure how to best achieve that goal. Moreover, the court's unfamiliarity with the needs of transgender youth can make this process even more difficult. By educating courts about transgender youth and the current standards of care, parents have been increasingly able to demonstrate to judges that supporting and affirming a child's gender identity is in the child's best interest.<sup>16</sup>

**School personnel can play a constructive role in these situations by helping to defuse the conflict and, if those efforts fail, to act as a voice for the student's needs.**

The emotional pain of the parents' breakup and a lack of trust between them often leads the non-affirming parent to believe the affirming parent is either not telling the truth about their child's needs, or using this issue to drive a wedge between them and their child. Even a parent who is not affirming of their child's gender identity is likely acting out of love for their child and wants what is best for them. Thus, it is best to allow neutral professionals like educators to assess and identify the child's needs and recommend a course of action to address them.<sup>17</sup>

The first step in the process of defusing these situations is to meet with the parents, either individually or together, and explain the effect this conflict is having on their child based on the observations of school personnel. For the non-affirming parent, this conversation is also an opportunity for them to discuss the reasons why they do not accept their child's gender identity. Any school personnel attending that meeting should listen to those reasons without judgment, calmly respond to the questions or concerns the parent may have and educate them on the harm caused by family rejection.

If the school has observed a significant change in the student's performance, attitude or behavior based on having transitioned — or having been prevented from doing so — this is important information that the school can provide to the parents. Lastly, school personnel should provide clear, preferably written, recommendations to the parents outlining how the school would like to meet their child's needs and help them succeed. This process will help foster a collaborative working relationship between the school and the non-affirming parent, and building that parent's trust may also make up for the lack of trust between the parents.

Educators and school administrators can also provide the family with referrals to local resources like knowledgeable mental health or medical providers, support groups and local nonprofits. Ideally, those local resources will complement any services or supports being provided directly by the school.

**School officials interact with the student on a daily basis and focus on supporting the student's growth and development, which gives school personnel unique insight into the student's needs.**

Learning about and understanding the needs of transgender youth takes time, so this process may require several meetings. The school should follow up with the student regularly to check in, offer further assistance and support, and if appropriate, inform them about the status of discussions with their parents. By finding solutions that facilitate a family reaching consensus, the school is helping to create a safe and supportive environment where transgender students can flourish academically and socially.

If the parents are unable to resolve the dispute amicably, it is possible that an educator or school administrator may be called to testify in court.

School officials interact with the student on a daily basis and focus on supporting the student's growth and development, which gives school personnel unique insight into the student's needs without the biases parents can or are perceived to have. Sharing the school's experiences with the student before and after the student began identifying as transgender can help highlight to the judge the importance of affirming the student's gender identity. Describing the academic, social or emotional changes that school personnel observed will strengthen the testimony and give the judge a fuller understanding of the child's needs and what would be in that child's best interests.

**A parent's negative reaction to a child's gender often comes from a place of love and protection, and is not intended to harm the child — rejection can be a misguided attempt at protection.**



**Special education laws are not a replacement for strong, explicit school policies that affirm transgender students, but provide the added services and supports some transgender students may need to learn and thrive.**

## **Developing an IEP or 504 Plan for a Transgender Student**

Special education laws create a mechanism for accommodating the needs of students who are experiencing difficulty in school. That difficulty does not have to be solely academic; it can include social and emotional well-being and development. Given the psychological distress that some transgender youth experience, these laws provide a potential tool for families and schools to address a transgender student's unique needs and create an environment where the student can succeed. It is important to note that while transgender students may be eligible for special education because of their gender dysphoria, many transgender students will qualify because of the anxiety, depression and other forms of psychological distress caused by not having their gender identities affirmed in all aspects of their lives.

The Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504) are the two main special education laws. IDEA governs the creation and implementation of Individualized Education Plans (IEPs), and Section 504 establishes the rules for Section 504 Plans. Although these laws serve similar purposes, the level of supports, services and accommodations a school must provide to meet its legal obligations under IDEA tend to be higher, which translates into more legal protections for students than under Section 504. A student also must be experiencing more significant difficulties in school to qualify for an IEP.

Parents and schools often shy away from invoking special education laws because of misconceptions like the belief that a student with an IEP must be placed in separate, specialized classes. In fact, special education laws require that a student be placed in general education classes unless there is a compelling reason to place that student in a different educational setting. These laws are designed to counteract the effects of social, emotional and academic difficulties that are hindering a student's progress. By providing supports, services and accommodations, special education laws expand transgender students' future opportunities and help them get back on the path to success.



Through a special education plan, schools can provide basic accommodations like use of the student's chosen name and access to the appropriate restrooms. The IEP or Section 504 Plan can also account for other needs like stress breaks throughout the school day to help reduce anxiety. Even when the school is fully supportive of a transgender student, having an IEP or Section 504 Plan in place will help ensure that the student receives a consistent level of support throughout any changes in school or district administration, even if the student moves to another school or district.

One potential drawback to creating an IEP or Section 504 Plan is that it creates another school record that could inadvertently disclose a student's transgender status, so as with any other educational records, parents and school officials must make sure it remains private. Another issue to consider is that some students feel stigmatized by the association with special education and by having a legally defined disability. Again, it is important to reiterate that although transgender students may be eligible under special education laws because of their gender dysphoria, they may also be eligible because of the anxiety, depression and other issues that may be caused by not having their gender identity affirmed. Whether the potential feeling of stigma outweighs the benefits of having the IEP or Section 504 Plan is a decision that the student, educators, parents and caregivers should consider as a team, with the parents and student making the final decision.

See [Appendix E](#) for more information on the special education assessment and eligibility process.

## Endnotes

<sup>14</sup> Ryan, C. (2015). "Generating a Revolution in Prevention, Wellness, and Care for LGBT Children and Youth," *Temple Political & Civil Rights Law Review*, 23(3), pp. 331-44. See also, Ryan, C. et al. (2009). "Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults," *Pediatrics*, 123(1), pp. 349-50.

<sup>15</sup> Depending on the circumstances and the particular state's laws, the parent seeking to change the arrangement may have a higher burden such as demonstrating that refusing to change the current custody arrangement will result in detriment to the child.

<sup>16</sup> Nevertheless, it is always important to consult with an attorney experienced in these types of cases. Parents in this situation are encouraged to reach out to the National Center for Lesbian Rights, American Civil Liberties Union, or other LGBT legal advocacy group, in addition to a local family law attorney.

<sup>17</sup> Any parents in this situation are strongly advised to reach out to the National Center for Lesbian Rights, American Civil Liberties Union, or other LGBT legal advocacy group for information and assistance in navigating these difficult legal issues.



## Chapter Six

# The Legal Landscape

As noted throughout this publication, there are many reasons for all of a school's stakeholders to collaborate and create a more gender-inclusive school environment. However, this publication would be incomplete without a discussion of the various federal and state laws that protect students in schools, including transgender students. Each of the different laws mentioned in this subsection provide transgender students with a layer of protection. Because of variations in state laws, students from some states may have more layers of protection than others. But, regardless of which protections exist in a given school district, all students need to be able to attend school in a learning environment that is safe, supportive and free from discrimination.

**Schools will find it increasingly difficult to defend discrimination against transgender students**

## Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972 (Title IX) is a federal law that prohibits discrimination based on sex in any educational program or activity receiving federal financial assistance.<sup>18</sup> Courts have recognized that Title IX's prohibition on sex discrimination encompasses protections against discrimination and harassment on the basis of failure to conform to sex stereotypes and gender identity.<sup>19</sup> Consistent with that interpretation,<sup>20</sup> the U.S. Department of Justice (DOJ) filed a Statement of Interest in *G.G. v. Gloucester County School Board*,<sup>21</sup> a lawsuit filed on behalf of a transgender student seeking to enforce his right to use the boys' facilities at school.

In the filing, the Department of Justice concluded that, “prohibiting a student from accessing the restrooms that match his gender identity is prohibited sex discrimination under Title IX.”<sup>22</sup> The U.S. Department of Education’s Office for Civil Rights (OCR) has also enforced Title IX to require school districts to treat transgender students in accordance with their gender identity, even in the context of sex-separated spaces such as restrooms, locker rooms and overnight field trips.<sup>23</sup>

Most recently, in July 2015, DOJ and OCR approved an equity and nondiscrimination policy for transgender students developed by the Arcadia Unified School District, which was created in response to a complaint filed by a transgender student in the district.<sup>24</sup> That policy affirms that transgender students must be treated in accordance with their gender identity, even with regards to sex-separated facilities and activities. It also includes privacy protections and clear guidance that “[t]he responsibility for determining an individual’s gender identity rests with the individual,” among other important protections. In a nutshell, Title IX requires all federally funded schools and programs to respect and affirm a transgender student’s gender identity in every aspect of the school.

## **Family Educational Rights & Privacy Act**

The Family Educational Rights and Privacy Act (FERPA) is another federal law that provides protections to transgender students. FERPA prohibits schools from releasing “personally identifiable information,” such as the student’s name, without the permission of the parent or student, if the student is over 18 years old.<sup>25</sup> The definition of “personally identifiable information” also applies to any information that would allow a person in the school community to identify the student.<sup>26</sup> Although FERPA does give school personnel discretion to discuss student information among themselves where there is a “legitimate educational purpose,”<sup>27</sup> sharing a student’s transgender identity will rarely meet that requirement.

## **State Anti-Discrimination Laws**

Transgender students are also protected from discrimination in school by state anti-discrimination laws. Fourteen states and the District of Columbia explicitly prohibit discrimination based on gender identity in schools.<sup>28</sup> However, even states that do not have explicit protection against gender identity discrimination may prohibit discrimination on the basis of sex, which — like Title IX — could also cover transgender students.

Transgender students have also been able to obtain protection through state anti-discrimination laws that prohibit discrimination on the basis of disability.<sup>29</sup> Courts have interpreted state anti-discrimination laws to require schools to respect and affirm students' gender identity in all aspects of the educational experience. The cases involved access to appropriate facilities as well as other issues that affect transgender students, including harassment and dress code enforcement.

## Federal & State Constitutional Protections

The final layers of protection are rooted in the United States Constitution's rights to free speech, privacy and equal protection, which are particularly important for transgender students. For example, a school cannot restrict a transgender student's appearance beyond the dress code unless the student's appearance causes a "substantial disruption" at school, which is a very high burden to meet.<sup>30</sup> Similarly, schools must evenhandedly apply school rules to transgender and cisgender students and cannot use sex stereotypes to justify treating transgender and cisgender students differently. Thus, schools cannot legally require a transgender girl to comply with the boys' dress code,<sup>31</sup> nor can a school ignore complaints of harassment reported by transgender students while investigating the complaints of other students or discipline a transgender student more harshly than a cisgender student for breaking the same school rule.<sup>32</sup>

Notably, many state constitutions have articles or sections that mirror federal constitutional protections. In certain cases, the courts in those states have interpreted those provisions to offer more protection than granted under the United States Constitution.<sup>33</sup>

Regardless of how many legal protections a particular student may have, courts look at best practices and the reasonableness of the school's conduct to determine whether a student's rights have been violated. As evidenced by the best practices outlined in this publication and data detailing the harm caused by refusing to affirm and respect a transgender student's gender identity, schools will find it increasingly difficult to defend discrimination against transgender students. Instead, schools should collaborate with students, parents and other stakeholders to create a safe and supportive school environment for all students. That approach is not only likely to be cost-efficient, but more importantly, is consistent with the mission of schools to foster social, emotional and academic growth and well-being.

## Endnotes

<sup>18</sup> 20 U.S.C. § 1681 *et seq.*

<sup>19</sup> *Pratt v. Indian River Cent. Sch. Dist.*, 803 F. Supp. 2d 135 (N.D.N.Y. 2011); *Riccio v. New Haven Bd. of Educ.*, 467 F. Supp. 2d 219 (D. Conn. 2006); *Theno v. Tonganoxie Unified Sch. Dist. No. 464*, 377 F. Supp. 2d 952 (D. Kan. 2005); see also *Kastl v. Maricopa Cnty. Cmty. Coll. Dist.*, 325 Fed. App'x 492 (9th Cir. 2009) (recognizing transgender community college student could assert Title IX claim based on gender identity). Those cases follow a significant body of case law interpreting sex discrimination in the employment context to include discrimination on the basis of gender identity. See, e.g., *Lusardi v. McHugh*, Appeal No. 0120133395 (U.S. Equal Emp't Opportunity Comm'n, Apr. 1, 2015); *Macy v. Holder*, Appeal No. 0120120821 (U.S. Equal Emp't Opportunity Comm'n, Apr. 20, 2012); *Glenn v. Brumby*, 663 F.3d 1312, 1314-1321 (11th Cir. 2011) (holding that government employer violated U.S. Constitution by terminating transgender employee whose wearing of women's clothes and use of women's restroom the employer deemed "unnatural"); *Smith v. City of Salem*, 378 F.3d 566, 575 (6th Cir. 2004) (in Title VII employment discrimination case, "Sex stereotyping based on a person's gender non-conforming behavior is impermissible discrimination, irrespective of the cause of that behavior; a label, such as 'transsexual,' is not fatal to a sex discrimination claim where the victim has suffered discrimination because of his or her gender non-conformity."); *Schroer v. Billington*, 577 F. Supp. 2d 293 (D.D.C. 2008) (discrimination against prospective employee based on transgender status violated Title VII's prohibition on discrimination based on "sex"). Due to the similarities between federal anti-discrimination laws that cover employees and students in school, courts interpret those laws in a consistent manner. *Doe v. Univ. of Illinois*, 138 F.3d 653, 665 (7th Cir. 1998), *vacated on other grounds*, 526 U.S. 1142 (1999); see also, e.g., *Wolfe v. Fayetteville, Ark. Sch. Dist.*, 648 F.3d 860, 865-66 (8th Cir. 2011).

<sup>20</sup> U.S. Department of Education Office for Civil Rights (OCR), "Questions and Answers on Title IX and Sexual Violence" 5 (April 2014), available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>. See also OCR, "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties: Title IX" (Jan. 2001), <https://www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf>; "Dear Colleague" Letter of Russlynn Ali, Asst Sec'y for Civil Rights (Oct. 26, 2010), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

<sup>21</sup> Case No. 4:15-CV-00054-RGD-TEM (E.D. Va. June 30, 2015).

<sup>22</sup> *Id.* at 3.

<sup>23</sup> See *Student v. Downey Unified School District*, Resolution Agreement, OCR Case Number 09-12-1095 (Oct. 14, 2014), <http://www.ed.gov/news/press-releases/us-department-educations-office-civil-rights-announces-resolution-civil-rights-investigation-californias-downey-unified-school-district>; *Student v. Arcadia Unified School District*, Resolution Agreement, OCR Case Number 09-12-1020 (July 24, 2013), [http://www.nclrights.org/wp-content/uploads/2013/09/Arcadia\\_Resolution\\_agreement\\_07.24.2013.pdf](http://www.nclrights.org/wp-content/uploads/2013/09/Arcadia_Resolution_agreement_07.24.2013.pdf).

<sup>24</sup> Arcadia Unified School District, "Transgender Students – Ensuring Equity and Nondiscrimination" (Apr. 16, 2015), available at <http://www.nclrights.org/wp-content/uploads/2015/07/Transgender-Policy-Bulletin-Approved-w-corrections-April-2015.pdf> (last visited July 14, 2015).

<sup>25</sup> 34 C.F.R. § 99.30.

<sup>26</sup> 34 C.F.R. § 99.3.

<sup>27</sup> 34 C.F.R. § 99.31(a).

<sup>28</sup> California, CAL. EDUC. CODE § 220; Colorado, COLO. REV. STAT. ANN. § 24-34-601; Connecticut, CONN. GEN. STAT. ANN. § 10-15c; Delaware, DEL. CODE ANN. tit. 6, § 4503; Illinois, 775 ILL. COMP. STAT. ANN. § 5/5-102; Iowa, IOWA CODE § 216.9; Maine, ME. REV. STAT. ANN. tit. 5, § 4592; Massachusetts, MASS. GEN. LAWS c.76, § 5; Minnesota, MINN. STAT. ANN. § 363A.13; Nevada, NEV. REV. STAT. § 651.070; New Jersey, N.J. STAT. ANN. 10:5-4; Oregon, ORE. REV. STAT. ANN. § 659.850; Vermont, VT. STAT. ANN. tit. 9, § 4502; Washington, WASH. REV. CODE ANN. § 28A.642.010; and the District of Columbia, D.C. CODE ANN. § 2-1402.41. See also *Doe v. Reg'l Sch. Unit 26*, 86 A.3d 600 (Me. 2014) (holding that Maine's anti-discrimination law prohibits schools from requiring a transgender student from using a single-sex restroom as opposed to the restroom consistent with the student's gender identity).

<sup>29</sup> *Doe v. Yunits*, 15 Mass. L. Rptr. 278, at \*4-6 (Mass. Super. Ct. Feb. 26, 2001); see also *Doe v. Bell*, 754 N.Y.S.2d 846 (N.Y. Sup. Ct. 2003) (holding a foster home's refusal to affirm a transgender resident's gender identity constituted discrimination on the basis of disability).

<sup>30</sup> *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 509 (1969) (finding students protesting the Vietnam War by wearing black armbands did not meet that standard); *Boyd Cnty. Gay Straight Alliance v. Bd. of Educ. of Boyd Cnty.*, 258 F. Supp. 2d 667 (E.D. Ky. 2003) (holding a student boycott protesting the formation of a GSA was not a substantial disruption and could not justify restricting First Amendment rights of students wanting to participate in the GSA); *Chambers v. Babbitt*, 145 F. Supp. 2d 1068 (D. Minn. 2001) (ruling an increase in physical fights caused by heightened tensions in the school were not a substantial disruption because the fights were unrelated to the student's speech).

<sup>31</sup> *Doe v. Yunits*, 15 Mass. L. Rptr. 278, at \*4-6.

<sup>32</sup> *Flores v. Morgan Hill Unified Sch. Dist.*, 324 F.3d 1130 (9th Cir. 2003) (finding school district violated gay students' rights by treating discrimination against them differently from discrimination against straight students); *Nabozny v. Podlesny*, 92 F.3d 446, 453-58 (7th Cir. 1996) (finding school district violated a gay student's rights by failing to investigate his complaints of sexual harassment despite otherwise conducting investigations into complaints of sexual harassment by straight, cisgender students).

<sup>33</sup> See, e.g., *State v. Veale*, 972 A.2d 1009, 1014 (N.H. 2009); *N.M. Right to Choose/NARAL v. Johnson*, 975 P.2d 841, 851 (N.M. 1998); *People v. Ellis*, 57 Ill.2d 127, 132-33 (Ill. 1974). This is particularly true in the context of the right to privacy. See, e.g., *State v. Ellis*, 351 Mont. 95, 101 (Montana 2009); *State v. J.P.*, 907 So.2d 1101, 1112 (Fla. 2004); *Anchorage Police Dep't Employees Ass'n v. Municipality of Anchorage*, 24 P.3d 547, 550 (Alaska 2001).





## Conclusion

# Creating an Affirming School for All

**Just as a transgender youth's transition is a journey, so too is the process of supporting that transition and creating an affirming school environment for them.**

The amount of information in this guide may seem daunting, but looking at the process of supporting transgender students holistically, everything boils down to the basic principle that students can and should be supported and able to attend schools where their authentic gender is recognized and honored.

This publication is the result of hard work by educators, parents and advocates who have worked through processes like this before with little or no guidance. The approaches we have suggested have repeatedly proven effective. Planning is essential, but that doesn't mean the process of supporting a transgender student will be without its challenges, anticipated or otherwise. While educators are on the front lines of this effort, the ultimate success of the student's experience rests on the ability of all the stakeholders to work together. Just as a transgender youth's transition is a journey, so too is the process of supporting that transition and creating an affirming school environment for them. And the process is ongoing, as new situations can present themselves even years after a student has socially transitioned.

Whether you're a teacher, counselor, administrator, parent or anyone else wanting to learn how to support transgender students more effectively, keep in mind that this process is doable. Working as a team, you can overcome any obstacle that arises, and in the end, you will have made a meaningful difference in not only the student's life, but in the lives of their family, other students, educators and those in your community.

# APPENDICES



## Appendix A

# Puberty & Medical Transition

At the onset of puberty, gender dysphoria can become incapacitating for transgender youth as their body begins to develop secondary sex characteristics that are inconsistent with their gender identity. These inconsistencies are also visible to peers. Transgender youth often take special precautions to hide their developing bodies with the hope of presenting to the outside world a body that is consistent with their gender identity. For example, a youth who identifies as male may use clothing and materials to flatten the contours of his chest. Those materials can be tight, constricting and uncomfortable; however, the dysphoria caused by not taking those additional precautions far outweighs the drawbacks.

It is around this time that transgender youth may begin to explore the possibility of a medical transition with their families and healthcare providers. Depending on the youth's particular circumstances, they may begin taking medications that delay the physical changes associated with puberty. Those medications act as a pause button and give the youth an opportunity to explore their gender identity without the distress of developing the permanent, unwanted physical characteristics of their assigned sex at birth. During this time, the youth will work with their family and healthcare providers to develop a treatment plan, which may eventually include taking cross-sex hormones to induce a puberty that is consistent with their gender identity.

Many barriers exist to accessing these types of medical care and aspects of social transition (i.e., legal name change); in certain instances, transgender youth may choose not to take particular steps as part of their medical transition. Thus, it is critical to affirm the student's expressed gender identity, regardless of what the student may or may not have done as part of their transition.



## Appendix B

### Gender & Pronouns

Many transgender students will adopt the gender pronouns associated with their gender identity, but a growing number are using gender-neutral pronouns. Below is a chart with a few examples of commonly used pronouns:

Type	Pronouns	Example
Feminine	She, her, hers	This is my friend Sam. <b>She</b> came to my house today. I borrowed a book from <b>her</b> . This book is <b>hers</b> .
Masculine	He, him, his	This is my friend Sam. <b>He</b> came to my house today. I borrowed a book from <b>him</b> . This book is <b>his</b> .
Gender Neutral	They, them, their	This is my friend Sam. <b>They</b> came to my house today. I borrowed a book from <b>them</b> . This book is <b>theirs</b> .
Gender Neutral	Ze, hir, hirs (pronounced zee, hear, hears)	This is my friend Sam. <b>Ze</b> came to my house today. I borrowed a book from <b>hir</b> . This book is <b>hirs</b> .



## Appendix C

# Talking Points

The following talking points were developed by Gender Spectrum to aid educators in addressing the common questions and concerns that arise as schools work to develop more gender-inclusive environments for all students.



## **Responding to Concerns: Supporting Transgender Students**

*Why is the school making such a big deal about this? How many of these kids are there anyway?*

- Of course I can't talk about any individual students, just as I would never talk about your child. Personal information about our students, including their gender identity is private. But is there something we can do to help you or your child better understand gender-related issues?
- Many people don't realize that gender-based discrimination is illegal under Title IX, and that gender is a protected class in many states and cities (just like race, religion or disability). Unfortunately, these protections are necessary because transgender and other gender-expansive students frequently face a great deal of discrimination from other students, staff and community members.
- Organizations such as the PTA, the NEA, the California School Board Association and many other associations for administrators, counselors, and other educational professionals have written clear guidelines about the need to make sure that transgender and other gender-expansive students are safe at school.
- I know this is new territory for many of us. Sometimes change is really challenging. Perhaps I can share some information with you about this issue?

*Who is protecting my child?*

- What are the specific behaviors of another person that are making your child feel unsafe?
- I can assure you that the safety of all of the students at this school remains my highest priority. If your child is feeling unsafe, we need to know about it. Can you tell me about specific situations or occurrences that have taken place in which your child's safety was at risk?
- Our expectation for all of our students is that they respect the privacy and physical boundaries of other students. If the behaviors of one student are making another student feel unsafe, that is an issue we take very seriously. Is something or someone behaving in a way that makes your child feel unsafe?
- How can we help your child to feel more comfortable? If for any reason your student needs additional support, such as a private space to change or use the restroom, we will work with you and your child to provide these.

*So who decides if a student is transgender? What is to prevent a boy from coming to school one day and simply declaring that he is a girl and changing in the girl's locker room?*

- Schools have always worked to support the needs of individual students in a variety of ways. For any student who requires support related to gender, the school works very deliberately to provide the necessary services. This does not take place without a great deal of care and planning.
- Schools all over the country are supporting transgender students in these ways and this issue simply does not come up.
- A transgender student is very different from a young person who is claiming to be a different gender for some improper purpose. Transgender students are not trying to get away with something or make this up; why would they? Conversely, any student pretending to be transgender would be easily identified in the planning processes we have established.
- Our policy of treating transgender students consistent with their gender identity does not permit a student of the opposite sex to enter into the wrong facilities.



## Responding to Concerns: Teaching about Gender

### *Why should my child learn about gender at school?*

- School is a place where children are taught to respect one another and to learn to work together regardless of their differences. Learning about gender diversity is part of that work. Creating a more tolerant, inclusive, and accepting school environment teaches all children to recognize and resist stereotypes. We teach children to stand up for others, to resist bullying, and to work together.
- We also know that many children whose gender is seen as different than what is expected of them can face very difficult circumstances. Too often teasing, bullying, and violence are common experiences for a gender-expansive child. A growing number of school districts and states (14 as of 2014) specifically prohibit bullying and harassment of students based on gender expression or identity. Furthermore, various federal, state and municipal laws protect students from discrimination because of their gender. Proactive education and training to help students understand gender diversity more fully helps school districts meet those legal obligations while working to create a safer, more supportive learning environment for all students.

### *Isn't my child too young to be learning about gender?*

- Children are already learning about it. Messages about gender are everywhere, and children receive very clear messages about the “rules” for boys and girls, as well as the consequences for violating them. By learning about the diversity of gender, children have an opportunity to explore a greater range of interests, ideas, and activities. For all children, the pressure of “doing gender correctly,” is greatly reduced, creating more space for them to discover new talents and interests.
- Whether in or out of school, children will encounter other children exhibiting wide ranges of gender expression. This is normal and, with a little reflection, we can all recognize it as something we encountered during our own childhoods. Tomboys or shy, sensitive boys are commonly recognized examples of children who buck societal expectations of gender expression. These children, and all children, deserve a safe, supportive learning environment in which they can thrive and empower themselves.

### *If you are talking about gender, aren't you discussing reproduction and sexuality?*

- The simple answer is “no.” When we discuss gender, we talk about what people like to wear, the activities they engage in, and how they feel about themselves. This is not sexuality. Sexuality involves physical intimacy and attraction. Gender is about self-identity. Gender identity is a person’s internal sense of where they fit on the gender spectrum. This includes all kids, “typically” gendered or not.
- If responding to questions that arise about physical sex, the discussion uses phrases such as “private parts,” and even if anatomical terms come up, nothing specific to human reproduction or sexuality is taught. For the most part, children are simply not raising these questions. While as adults, we struggle to separate the ideas of gender and sexuality (primarily because many were taught that they are one and the same), children have an ability to grasp the complexity of gender diversity because sexuality does not factor in to complicate their understanding.

*Ideas about gender diversity go against the values we are instilling in my child at home. Are you trying to teach my child to reject these values?*

- Absolutely not. Our children encounter people with different beliefs when they join any community. While one aim for learning about diversity is to become more accepting of those around us, not everyone is going to be best friends. That does not mean that they can't get along and learn together. The purpose of learning about gender diversity is to demonstrate that children are unique and that there is no single way to be a boy or a girl. If a child does not agree with or understand another student's gender identity or expression, they do not have to change how they feel inside about it. However, they also do not get to make fun of, harass, or harm other students whose gender identity they don't understand or support. Gender diversity education is about teaching students to live and work with others. It comes down to the simple agreement that all children must be treated with kindness and respect.

*Won't my child get confused if we speak about more than two gender options?*

- Experience show that, with enough information, children of any age are able to understand that there are more than the two gender categories currently recognized by our society. When it is explained to them in a simple, age appropriate manner, gender diversity is an easy concept for children to grasp.
- When you discuss gender with your child, you may hear them exploring where they fit on the gender spectrum and why. This shows that they understand that everyone may have some variation of gender expression that fits outside of stereotypical norms. Their use of language or their personal placements along this spectrum may surprise you. We encourage all parents to approach these discussions with an air of openness and inquiry.

*Don't gender-expansive kids have lots of problems? Is gender nonconformity a product of abuse, emotional problems, neglect, divorce, or detached, or over-involved parents?*

- No. While it is true that some transgender and gender-expansive people do experience a tremendous amount of societal abuse and parental rejection, this is not the cause of their gender identity or expression. As a result, when not supported, children whose gender expression or identity is considered atypical often suffer from loneliness, lower self-esteem, and other negative feelings. Statistics reveal the devastating impact these youth face when placed into a non-supportive or hostile setting.
- A gender-expansive child's emotional distress is a response to the mistreatment they have likely faced from those around them. It is not at all uncommon to see a gender-expansive or transgender child's distress greatly reduce or disappear when they're provided with a more positive environment.

*Won't allowing children to express non-traditional genders cause them to be teased or harassed?*

- While there is a great deal of data suggesting that gender-expansive youth do face teasing, there is a growing body of knowledge that points to the impact gender-expansive education can have on reducing that treatment. If children are being treated badly because of who they are, the answer is not to try and prevent them from being themselves. Rather, we should instead ask what needs to be done to address the teasing. Providing educational programming and training that expands students' understanding about stereotypes and limitations of self-expression can go a long way to preventing teasing.

*Won't discussing gender encourage my child to be transgender?*

- Being transgender is not something that a person chooses. Studies show that although parents cannot make their child gay or transgender, they can deeply influence how their children feel about themselves. Parental pressure to enforce gender conformity can damage a child's self-esteem and is a high predictor of negative health outcomes and risk-taking behaviors for youth. Transgender youth currently have an extremely high attempted suicide rate: some estimate it being as high as 50 percent. Discussing gender will have the effect of removing much of the pressure students face to fit into narrowly defined expectations that few if any can actually meet.

*If transgender people are so "normal", why are some families so private about it?*

- A family with a transgender child will decide together how much they wish to share with others. Many transgender children prefer to live their lives as the gender that reflects their internal gender identity without using the word "transgender." For example, the child would identify themselves as a girl or boy as opposed to a transgender girl or boy.
- Some children and families are open and share this with everyone in their lives. Others choose to maintain a sense of complete privacy, while still others find a blend of these two approaches. In most families, this decision will be determined jointly by the child and guardian(s), often in collaboration with a medical, mental health, or other professionals experienced in this area.
- If a family honors their child's wish for privacy, this can have the appearance of secrecy. In reality, it may be an effort to avoid potential stigmatization or to simply keep a very personal topic private.

*How can I correct or modify the impression I have already given my child about gender?*

- It is powerful to let children know when we don't know the answer to something, and to let them know that adults as well as children are always learning. Having conversations with your children that reflect your growing understanding is wonderful. It does not undermine your parenting. If you were to discover that you had unknowingly taught your child another form of misinformation about other people, you would correct the impression you had mistakenly given them. With gender it is no different. Gender diversity is something that both society and science are constantly exploring and understanding more deeply.

*I don't really feel like I know how to answer my child's questions.*

- Once again, explain that you are learning about this too. It is important, however, to monitor and understand your own feelings before you initiate this kind of conversation. Children can pick up on your feelings towards a subject. So, if you are still feeling uncomfortable about the concept of gender diversity, then consider taking additional time to increase your understanding. Read, talk to others, and further educate yourself. When you have a greater understanding and increased awareness, then you will likely feel more confident to talk with your children.
- Answer children's questions simply, and let them take the lead in how deep the conversation goes. Most children are satisfied with this approach. They will guide the conversation from there and rarely ask the complex questions that occur to adults. You may be surprised at how simply children navigate this terrain. Some parents have found responses such as, "Hmmm, I am just learning about that myself. Let me tell you what I know, and then if you would like to learn more, maybe we could do that together," to be helpful in opening up pathways for further discussion.



## Appendix D

# Gender Support Plan & Gender Transition Plan

On the following pages you will find printable forms you can use to plan the process of supporting transgender students. The Student Gender Support Plan is a broad tool can be used to systematically address various aspects of a transgender or gender-expansive student's experiences at school. It is designed to ensure that the school, student and parents (when appropriate) are all on the same page and have shared expectations about how the specific, gender-based needs of the student will be met. The Student Gender Transition Plan focuses specifically on the process a student will use to undergo a gender transition at school. It seeks to identify the various steps that will be taken as the student explicitly declares a shift in the manner in which they wish others to understand and recognize their gender.

**– Confidential –  
Gender Support Plan**

The purpose of this document is to create shared understandings about the ways in which the student's authentic gender will be accounted for and supported at school. School staff, caregivers and the student should work together to complete this document. Ideally, each will spend time completing the various sections to the best of their ability and then come together to review sections and confirm shared agreements about using the plan. Please note that there is a separate document to plan for a student's formal gender transition at school.

School/District \_\_\_\_\_ Today's Date \_\_\_\_\_  
 Student's Preferred Name \_\_\_\_\_ Legal Name \_\_\_\_\_  
 Student's Gender \_\_\_\_\_ Assigned Sex at Birth \_\_\_\_\_ Student Grade Level \_\_\_\_\_  
 Date of Birth \_\_\_\_\_ Sibling(s)/Grade(s) \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 Parent(s)/Guardian(s)/Caregiver(s) /relation to student  
 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 Meeting participants: \_\_\_\_\_  
 \_\_\_\_\_

**PARENT/GUARDIAN INVOLVEMENT**

Are guardian(s) of this student aware and supportive of their child's gender transition? \_\_\_\_Yes \_\_\_\_No

If not, what considerations must be accounted for in implementing this plan? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**CONFIDENTIALITY, PRIVACY AND DISCLOSURE**

How public or private will information about this student's gender be (check all that apply)?

\_\_\_\_ District staff will be aware (Superintendent, Student Support Services, District Psychologist, etc.)

Specify the adult staff members: \_\_\_\_\_

\_\_\_\_ Site level leadership/administration will know (Principal, head of school, counselor, etc.)

Specify the adult staff members: \_\_\_\_\_

\_\_\_\_ Teachers and/or other school staff will know

Specify the adult staff members: \_\_\_\_\_

\_\_\_\_ Student will not be openly "out," but some students are aware of the student's gender

Specify the students: \_\_\_\_\_

\_\_\_\_ Student is open with others (adults and peers) about gender

\_\_\_\_ Other – describe: \_\_\_\_\_  
 \_\_\_\_\_

If the student has asserted a degree of privacy, what are expectations of the institution if that privacy is compromised? How will a teacher/staff member respond to questions about the student's gender from:

Other students? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Staff members? \_\_\_\_\_

Parents/community? \_\_\_\_\_

### STUDENT SAFETY

Who will be the student's "go to adult" on campus? \_\_\_\_\_

If this person is not available, what should student do? \_\_\_\_\_

What, if any, will be the process for periodically checking in with the student and/or family? \_\_\_\_\_

What are expectations in the event the student is feeling unsafe and how will student signal need for help:

During class \_\_\_\_\_

On the yard \_\_\_\_\_

In the halls \_\_\_\_\_

Other \_\_\_\_\_

Other Safety concerns/Questions: \_\_\_\_\_

### NAMES, PRONOUNS AND STUDENT RECORDS

Name/gender marker entered into the Student Information System \_\_\_\_\_

Name to be used when referring to the student \_\_\_\_\_ Pronouns \_\_\_\_\_

Can the student's preferred name and gender marker be reflected in the SIS? \_\_\_\_\_ If so, how? \_\_\_\_\_

If not, what adjustments can be made to protect this student's privacy? \_\_\_\_\_

Who will be the point person for ensuring these adjustments are made and communicated as needed? \_\_\_\_\_

How will instances be handled in which the incorrect name or pronoun are used? \_\_\_\_\_

How will the student's privacy be accounted for and maintained in the following situations or contexts:

During registration \_\_\_\_\_

Completing enrollment \_\_\_\_\_

With substitute teachers \_\_\_\_\_

Standardized tests \_\_\_\_\_

School photos \_\_\_\_\_

IEPs/Other Services \_\_\_\_\_

Student cumulative file \_\_\_\_\_

After-school programs \_\_\_\_\_

Lunch lines \_\_\_\_\_



Taking attendance\_\_\_\_\_

Teacher grade book(s)\_\_\_\_\_

Official school-home communication\_\_\_\_\_

Unofficial school-home communication (PTA/other)\_\_\_\_\_

Outside district personnel or providers\_\_\_\_\_

Summons to office\_\_\_\_\_

Yearbook\_\_\_\_\_

Student ID/library cards\_\_\_\_\_

Posted lists\_\_\_\_\_

Distribution of texts or other school supplies\_\_\_\_\_

Assignment of IT accounts\_\_\_\_\_

PA announcements\_\_\_\_\_

If the student's guardians are not aware and supportive of the child's gender status, how will school-home communications be handled?

\_\_\_\_\_

\_\_\_\_\_

What are some other ways the school needs to anticipate information about this student's preferred name and gender marker potentially being compromised? How will these be handled?

\_\_\_\_\_

\_\_\_\_\_

#### USE OF FACILITIES

Student will use the following restroom(s) on campus\_\_\_\_\_

Student will change clothes in the following place(s)\_\_\_\_\_

If student has questions/concerns about facilities, who will be the contact person?\_\_\_\_\_

What are the expectations regarding the use of facilities for any class trips?\_\_\_\_\_

\_\_\_\_\_

What are the expectations regarding rooming for any overnight trips?\_\_\_\_\_

\_\_\_\_\_

Are there any questions or concerns about the student's access to facilities?\_\_\_\_\_

\_\_\_\_\_

#### EXTRA CURRICULAR ACTIVITIES

Does the student participate in an after-school program?\_\_\_\_\_

What steps will be necessary for supporting the student there?\_\_\_\_\_

\_\_\_\_\_

In what extra-curricular programs or activities will the student be participating (sports, theater, clubs, etc)?

\_\_\_\_\_

What steps will be necessary for supporting the student there?\_\_\_\_\_

\_\_\_\_\_

Questions/Notes: \_\_\_\_\_

\_\_\_\_\_

**OTHER CONSIDERATIONS**

Are there any specific social dynamics with other students, families or staff members that need to be discussed or accounted for? \_\_\_\_\_

Does the student have any sibling(s) at school? \_\_\_\_\_ Factors to be considered regarding sibling's needs? \_\_\_\_\_

Does the school have a dress code? \_\_\_\_\_ How will this be handled? \_\_\_\_\_

Are there lessons, units, content or other activities coming up this year to consider (growth and development, social justice units, name projects, dance instruction, Pride events, school dances etc.)? \_\_\_\_\_

What training(s) will the school engage in to build capacity for working with gender-expansive students? \_\_\_\_\_

Are there any other questions, concerns or issues to discuss? \_\_\_\_\_

**SUPPORT PLAN REVIEW AND REVISION**

How will this plan be monitored over time? \_\_\_\_\_

What will be the process should the student, family, or school wish to revisit any aspects of the plan (or seek additions to the plan)? \_\_\_\_\_

What are specific follow-ups or action items emerging from this meeting and who is responsible for them?

Action Item	Who?	When?

Date/Time of next meeting or check-in \_\_\_\_\_ Location \_\_\_\_\_

**– Confidential –**  
**Gender Transition Plan**

This document supports the necessary planning for a student's formal transition of gender from its commonly assumed status to something else. Its purpose is to create the most favorable conditions for a successful experience, and to identify the specific actions that will be taken by the student, school, family, or other support providers.

School/District _____	Today's Date _____
Student's Preferred Name _____	Legal Name _____
Student's Gender _____	Assigned Sex at Birth _____ Student Grade Level _____
Date of Birth _____	Sibling(s)/Grade(s) _____ / _____ / _____
Parent(s)/Guardian(s)/Caregiver(s) /relation to student	
_____ / _____	_____ / _____
_____ / _____	_____ / _____

What is the nature of the student's transition (male-to-female, female-to-male, a shift in gender expression, etc.)

How urgent is the student's need to transition? Is the child currently experiencing distress regarding their gender?

**PARENT/GUARDIAN INVOLVEMENT**

Are guardian(s) of this student aware and supportive of their child's gender transition? \_\_\_\_Yes \_\_\_\_No

If not, what considerations must be accounted for in implementing this plan? \_\_\_\_\_

**INITIAL PLANNING MEETING**

When will the initial planning meeting take place? \_\_\_\_\_ Where will it occur? \_\_\_\_\_

Who will be the members of the team supporting the student's transition?

- ☐ Student \_\_\_\_\_
- ☐ Parent(s) \_\_\_\_\_
- ☐ School Staff \_\_\_\_\_
- ☐ Other \_\_\_\_\_

**STUDENT TRANSITION DETAILS**

What is the specific information that will be conveyed to other students (be specific)? \_\_\_\_\_

What requests will be made? \_\_\_\_\_

With whom and when will this information be shared?

- ☐ With peers in the transitioning student's class only Date: \_\_\_\_\_
- ☐ With peers in the student's grade level Date: \_\_\_\_\_
- ☐ With some/all students at school (specify) \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ Other (specify) \_\_\_\_\_

Who will lead the lessons/activities framing the student's announcement? \_\_\_\_\_

What will the lesson/activities be? \_\_\_\_\_

Will the student be present for the lesson/sharing of info about the transition? \_\_\_\_\_

If yes, what if any role does the student want to play in the process? \_\_\_\_\_

Once the information is shared, what parameters/expectations will be set regarding approaching the student?

Other notes, considerations or questions \_\_\_\_\_

#### KEY DECISIONS PRIOR TO STUDENT'S TRANSITION

##### **Communications with Other Families**

Will any sort of information be shared with other families about the student's transition? \_\_\_\_\_

With whom: \_\_\_\_\_ Families in child's grade \_\_\_\_\_ Whole School \_\_\_\_\_ Other (specify) \_\_\_\_\_

Who will be responsible for creating this? \_\_\_\_\_ When will it be sent? \_\_\_\_\_

How will it be distributed? \_\_\_\_\_

What specific information will be shared\*? \_\_\_\_\_

Questions/Notes: \_\_\_\_\_

\* see sample letters

##### **Training for School Staff**

Will there be specific training about this student's transition with school staff? \_\_\_\_\_ When? \_\_\_\_\_

Who will be conducting the training? \_\_\_\_\_ What will be the content of the training?

Questions/Notes: \_\_\_\_\_

**Parent Information Night About Gender Diversity**

Will there be specific training for school community members? \_\_\_\_\_ When? \_\_\_\_\_

Who'll conduct it? \_\_\_\_\_ Will it reference the student's transition? \_\_\_\_\_

What will be the content of the training? \_\_\_\_\_

Questions/Notes: \_\_\_\_\_

**Class Meeting with Parents**

Will there be any meeting with the families of the transitioning student's peers? \_\_\_\_\_ When? \_\_\_\_\_

Who will lead the meeting? \_\_\_\_\_ Who will be attending the meeting? \_\_\_\_\_

What will be the purpose for this meeting? \_\_\_\_\_

**Identifying and Enlisting Parent Allies**

Are there any parents/adults in the community you would like to enlist in support of the child's transition? \_\_\_\_\_

If so, who? \_\_\_\_\_

When will you speak with them? \_\_\_\_\_ What will be your request? \_\_\_\_\_

Questions/Notes: \_\_\_\_\_

**Identifying and Enlisting Peer Allies**

Are there other students you would like to enlist in support of the child's transition? \_\_\_\_\_

If so, who? \_\_\_\_\_

When will they be spoken with? \_\_\_\_\_ What requests will be made? \_\_\_\_\_

Questions/Notes: \_\_\_\_\_

**Siblings**

Does the student have any siblings at the school? \_\_\_\_\_ What needs to be considered for them?

Training in their classroom(s)? \_\_\_\_\_ Emotional Support? \_\_\_\_\_

Questions/Notes: \_\_\_\_\_

**TIMELINE**

Which of the following will take place in relation to this student's gender transition, and when will it occur and who will be responsible for making it happen?

<u>Activity</u>	<u>Date</u>	<u>Lead</u>
<input type="checkbox"/> Initial Planning Meeting	_____	_____
<input type="checkbox"/> Lessons/Activities with Other Students	_____	_____
<input type="checkbox"/> Communications with Other Families	_____	_____
<input type="checkbox"/> Training for School Staff	_____	_____
<input type="checkbox"/> Parent Information Night About Gender Diversity	_____	_____
<input type="checkbox"/> Class Meeting with Parents	_____	_____
<input type="checkbox"/> Identifying and Enlisting Parent Allies	_____	_____
<input type="checkbox"/> Identifying and Enlisting Peer Allies	_____	_____

What are the specific follow-ups or action items emerging from this meeting and who is responsible for them?

Action Item	Who?	When?





## Appendix E

# Assessing Transgender Students for Special Education

Determining whether a student qualifies for an IEP or Section 504 Plan typically involves an assessment. To ensure the assessment provides accurate results, the assessment must be conducted in a manner that affirms the student's gender identity. Beyond referring to the student by their chosen name and pronouns, the assessor should become familiar with the literature on transgender youth. Having experience working with transgender youth can also help lead to a more accurate assessment of a transgender student's needs. Lastly, the assessor must not recommend any supports, services or accommodations that are intended to change a student's gender identity or otherwise shame them for who they are.<sup>34</sup>

In some instances, the student may be able to provide sufficient documentation of their unique needs in school to establish eligibility for special education, in which case the parents can forego the assessment process and start the process of creating the IEP or Section 504 Plan. Those documents can include letters from the student's treating healthcare providers or records from education-related services the student is already receiving. This approach can be particularly beneficial if the student is experiencing significant levels of distress and the need is urgent.

After the assessments are complete, the school will gather a team that includes the student's parents and educators to determine whether the student is eligible, and if so, what supports, services and accommodations the student needs. Eligibility under IDEA is guided by specific categories, each of which is defined in the law. The eligibility criteria for a Section 504 Plan are less stringent than IDEA and cannot consider the positive effects of "mitigating measures," which include reasonable accommodations. Thus, a transgender student whose school has implemented all the accommodations and modifications that the student needs to ensure that their gender identity is affirmed and respected may still be eligible for a Section 504 Plan because without those changes the student would experience debilitating psychological distress (e.g., anxiety, depression, school phobia) that would impair the student's ability to learn.

The IEP or Section 504 Plan created by the team must be tailored to the transgender student's unique needs, which may include any of the modifications and accommodations mentioned in this publication, as well as others. Incorporating those modifications and accommodations into the IEP or Section 504 Plan also ensures that the transgender student is in the "least restrictive environment," a legal obligation that requires schools to educate students in general education to the greatest extent possible. Without the psychological distress associated with not having their gender identity affirmed, transgender students are just as capable as their peers to participate in and benefit from general education.

These same principles apply to transgender students who already have an IEP or Section 504 Plan. Regardless of the student's other educational needs, respecting and affirming a transgender student's gender identity is critical to their ability to learn and develop in school. Not including the modifications and accommodations needed to respect and affirm the student's gender identity guarantees that the educational program created by the IEP or Section 504 team will fail to meet the school's legal obligations to that student.

## Endnotes

<sup>34</sup> Programs or treatments intended to change someone's sexual orientation or gender identity, commonly referred to as "conversion therapy" or "reparative therapy," have been universally discredited by leading medical and psychological associations. See, e.g., American School Counselor Association, *The Professional School Counselor and LGBTQ Youth* (2014) ("Professional school counselors do not support efforts by licensed mental health professionals to change a student's sexual orientation or gender as these practices have been proven ineffective and harmful."); American Psychoanalytic Association, *Position Statement on Attempts to Change Sexual Orientation, Gender Identity, or Gender Expression* (2012) ("Psychoanalytic technique does not encompass purposeful attempts to "convert," "repair," change or shift an individual's sexual orientation, gender identity or gender expression. Such directed efforts are against fundamental principles of psychoanalytic treatment and often result in substantial psychological pain by reinforcing damaging internalized attitudes."); *Lesbian, Gay, Bisexual, and Transgender Health Disparities: Executive Summary of a Policy Position Paper* from the American College of Physicians (2015) ("The College opposes the use of 'conversion,' 'reorientation,' or 'reparative' therapy for the treatment of LGBT persons. . . . Available research does not support the use of reparative therapy as an effective method in the treatment of LGBT persons. Evidence shows that the practice may actually cause emotional or physical harm to LGBT individuals, particularly adolescents or young persons."). As a result, a growing number of states have banned the practice of conversion therapy on minors. See CAL. BUS. & PROF. CODE § 865 (2013); N.J. STAT. ANN. §§ 45:1-54 & 45:1-55 (2013); D.C. CODE §§ 7-123.01 & 7-123.14a (2015).



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(212) 549-2627  
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Gender Spectrum  
1271 Washington Ave. #834  
San Leandro, CA 94577  
(510) 788-4412  
[www.genderspectrum.org](http://www.genderspectrum.org)

Human Rights Campaign Foundation  
1640 Rhode Island Ave. NW  
Washington, DC 20036  
(202) 347-5323  
[www.hrc.org](http://www.hrc.org)

National Center for Lesbian Rights  
870 Market St., Suite 370  
San Francisco, CA 94102  
(415) 392-6257  
[www.nclrights.org](http://www.nclrights.org)

National Education Association  
1201 16th St., NW  
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[www.nea.org](http://www.nea.org)