

NONDISCRIMINATION ON THE BASIS OF TRANSGENDER AND GENDER NONCONFORMING STATUS

GUIDING PRINCIPLE

The Northampton Public Schools are committed to providing an educational environment that is safe and free from discrimination for all students, regardless of sex, sexual orientation, gender identity, or gender expression and to guaranteeing that every student shall have equal access to the District's educational programs and activities.

GOALS

This policy is not intended to anticipate every possible situation that may occur with respect to students who are transgender or gender nonconforming. Consequently, the needs of each student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of the students who are transgender or gender nonconforming while maximizing the students' social integration and minimizing stigmatization of the students. Similarly, for employees who are transgender or gender nonconforming, the goal is to ensure a safe and supportive work environment.

DEFINITIONS

Understanding the terminology associated with gender identity is important to providing a safe and supportive school environment for students whose rights are protected under the law. The following terms are not intended to label students but are defined to assist in understanding the guidance presented. Although these are commonly used terms, students may prefer other terms to describe their gender identity, appearance, or behavior.

- **Cisgender**: the term to describe a person whose gender identity corresponds to their assigned sex at birth.
- **Gender Expression**: the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
- **Gender Identity**: as defined in part at G.L. c. 4, § 7, is a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth.
- **Gender Marker**: the designation on school and other records that indicates a person's gender.
- **Gender Nonconforming**: a term used to describe people whose gender expression differs from stereotypic expectations. The terms gender variant or gender atypical are also used.

- Gender Transition: refers to the process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth.
- Genderqueer: a term used by some people who experience their gender identity and/or gender expression as falling outside the categories of man and woman. They may define their gender as falling somewhere in between man and woman, or they may define it as wholly different from these terms.
- Intersex: a term used for people who are born with a reproductive or sexual anatomy and/or chromosome pattern that does not seem to fit typical definitions of male or female.
- Preferred Name: the name with which a student identifies and prefers others to use.
- Sexual Orientation: describes an individual's enduring physical, romantic and/or emotional attraction to another person based on the gender of the other person.
- Transgender: an umbrella term used to describe a person whose gender identity or gender expression is different from that traditionally associated with the assigned sex at birth.

PRIVACY AND CONFIDENTIALITY

The Northampton Public Schools will take reasonable steps to protect students' privacy related to their gender, transgender or gender nonconforming status, including their birth name or sex assigned at birth to the extent permissible by law.

Information about a student's assigned birth sex, name change for gender identity purposes, gender transition, medical or mental health treatment related to gender identity, or any other information of a similar nature, regardless of its form, is part of the individual's student record, is confidential, and must be kept private and secure, except in limited circumstances. One circumstance is when authorized school personnel require the information to provide administrative, teaching, counseling, or other services to the student in the performance of their official duties. Authorized school personnel could include individuals such as the principal, school nurse, classroom teachers, or guidance or adjustment counselor.

Transgender and gender nonconforming students may decide to discuss and express their gender identity openly and may decide when, with whom, and how much to share private information. A student who is 14 years of age or older, or who has entered the ninth grade, may consent to disclosure of information from his or her student record. If a student is under 14 and is not yet in the ninth grade, the student's parent (alone) has the authority to decide on disclosures and other student record matters.

STUDENT TRANSITIONS

The Northampton Public Schools accept a student's assertion of their gender identity when there is consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.

The responsibility for determining a student's gender identity rests with the student and/or with the parent/guardian in the case of young students not yet able to advocate for themselves. As such, any student or parent/guardian may inform a school staff member of the student's desire to be consistently recognized at school using their stated gender identity.

Students may choose to involve their parents/guardians in their transition process, but parental participation is not required. Cases where students have not disclosed their transgender status to their parents/guardians will be assessed on an individual basis. The School District may be required to disclose to a minor's parents the student's transition, gender identity or gender non-conforming status in some instances, such as a request for student records that contain such information. The paramount consideration in such situations shall be the health and safety of the student, while also ensuring that the student's gender identity is affirmed in a manner that maintains privacy and confidentiality.

School personnel will make every effort to engage the student and the parent/guardian, as appropriate, to develop a plan that addresses and supports the individual needs of the student with respect to their transition.

NAMES AND PRONOUNS

Every student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity. Northampton Public Schools will respect student wishes to be referred to by a name and pronoun based on an affirmed change in gender identity, regardless of the student's assigned sex at birth. A court-ordered name or gender change is not required, and the student need not change their official records. Under Title IX, a school must treat students consistent with their gender identity even if their education records or identification documents indicate a different sex.

STUDENT RECORDS

The Northampton Public Schools will respond to requests to amend information related to a student's transgender status consistent with its general practices for amending other students' records. Upon request by the student and/or by the parent/guardian, the school will amend a student's education records to reflect the student's preferred name, pronoun and gender marker. When possible, the chosen name will be included in the District's student information system. Please note that the name in the database is part of an official educational record and is therefore covered by FERPA, meaning that if parents/guardians request access to see their student's records, they will have access to the student's preferred name.

The Northampton Public Schools will also respond to requests from transgender students who transition after having completed high school, to amend school records or a diploma or transcript that include the student's birth name and gender. When requested, and when satisfied with the gender identity information provided, the school will amend the student's record, including reissuing a high school diploma or transcript, to reflect the student's current name and gender.

The District shall maintain a permanent student record that includes a student's legal name and legal gender, but such records shall be kept confidential.

Student Health Records

School nurses and other licensed health professionals need accurate and reliable information to ensure that the student receives appropriate care to enable them to coordinate care with other health care providers. A school nurse should use the transgender student's preferred name and identified gender except when necessary to ensure the health and safety of the student.

ACCESS TO GENDER-SEGREGATED ACTIVITIES AND AREAS

Title IX's implementing regulations permit a school to provide sex-segregated restrooms, locker rooms, shower facilities, housing, and athletic teams, as well as single-sex classes under certain circumstances. When a school provides sex-segregated activities and facilities, transgender students must be allowed to participate in such activities and access such facilities consistent with their gender identity.

Restrooms, Locker Rooms, and Changing Facilities

All students are entitled to have access to facilities that are sanitary, safe, and adequate, so they can comfortably and fully engage in their school program and activities. Students in the Northampton Public Schools shall have access to restrooms, locker rooms, and changing facilities that correspond to their gender identity.

In any gender-segregated facility, any student who is uncomfortable using a shared facility shall be provided with a safe and non-stigmatizing alternative. To the extent possible, given existing school facilities, schools will designate single stall and/or all gender restrooms that are accessible to students regardless of gender. However, under no circumstances will a student be required to use gender neutral facilities because they are transgender or gender nonconforming.

Physical Education Classes and Intramural and Interscholastic Athletics

All students shall be permitted to participate in physical education classes, intramural sports, and interscholastic athletics in a manner consistent with their gender identity. The Massachusetts Interscholastic Athletic Association (MIAA) will rely on the gender determination made by the student's district; it will not make separate gender identity determinations.

Housing and Overnight Accommodations

No students will be denied the right to participate in an overnight school trip because of their transgender status. The Northampton Public Schools allow students to access overnight accommodations during school trips that are consistent with their gender identities. Any student who has a need or desire for increased privacy shall be provided with a reasonable accommodation. Transgender students shall not be required to stay in single-occupancy accommodations or to disclose personal information when not required of other students.

Dress Codes

Transgender and gender nonconforming students have the right to dress in a manner consistent with their gender identity or expression within the constraints of the dress codes adopted for all students at their schools.

Other Gender-Based Activities, Rules, Policies, and Practices

Whenever students are separated by gender in classes, classroom activities, extra-curricular activities or are subject to otherwise lawful gender-specific rules, policies, or practices, students in the Northampton Public Schools shall be permitted to participate in such activities or conform to such rules, policies, or practices in a manner consistent with their gender identity.

SAFE AND NONDISCRIMINATORY ENVIRONMENT

Complaints alleging discrimination or harassment based on a person's actual or perceived transgender identity or gender nonconformity are to be handled in the same manner as other discrimination or harassment complaints.

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SOURCE: Developed by and for the Northampton Public School District

LEGAL REFS: AN ACT RELATIVE TO GENDER IDENTITY, St.2011, c.199

Access to Equal Educational Opportunity regulations, 603 CMR 26.00

Chapter 92 of the Acts of 2010: AN ACT RELATIVE TO BULLYING
IN SCHOOLS

M.G.L. 71:37H STUDENT CONDUCT

Title II, ADA of 1992

Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended by the Equal
Employment Opportunity Act of 1972

Executive Order 11246, as amended by E.O. 11375 Equal Pay Act, as amended by the Education Amendments of 1972 Title IX, Education Amendments of 1972 Rehabilitation Act of 1973
Education For All Handicapped Children Act of 1975
M.G.L. 71B:1 et seq. (Chapter 766 of the Acts of 1972)
M.G.L. 76:5; Amended 1993 M.G.L.76:16 (Chapter 622 of the Acts of 1971)
Board of Education Chapter 622, Regulations Pertaining to Access to Equal Educational Opportunity, adopted 6/24/75, as amended 10/24/78
Board of Education 603 CMR 2600
Board of Education Chapter 766 Regulations, adopted 10/74, as amended through 3/28/78 RELATING TO DISCRIMINATION

Title VII, Section 703, Civil Rights Act of 1964, as amended Federal Regulation 74676 issued by EEO Commission Education Amendments of 1972, 20 U.S.C. 1681 et. seq. (Title IX)
Board of Education 603 CMR 26:00 RELATING TO SEX DISCRIMINATION AND SEXUAL HARASSMENT

CROSS REFS: ACA- ACE, Subcategories for Nondiscrimination
 ACAC, Bullying & Harassment
 GBA, Equal Opportunity Employment
 JB, Equal Educational Opportunities

OTHER REFS:

- Massachusetts Department of Elementary and Secondary Education, *Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment Nondiscrimination on the Basis of Gender Identity* (2014), <http://www.doe.mass.edu/ssce/GenderIdentity.pdf>
- Massachusetts Interscholastic Athletic Association: *MIAA Gender Identity Policy Clarification* (2014), http://www.miaa.net/gen/miaa_generated_bin/documents/basic_module/GenderIdentityIcon.pdf
- U.S. Department of Education, Office for Civil Rights and U.S. Department of Justice, Civil Rights Division, *Dear Colleague Letter on Transgender Students* (May 13, 2016), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>
- U.S. Department of Education, Office of Elementary and Secondary Education and Office of Safe and Healthy Students, *Examples of Policies and Emerging Practices for Supporting Transgender Students* (May 2016), <http://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf>
- U.S. Department of Education, Office for Civil Rights, *Title IX Resource Guide* (2015), <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>