

Regulation Code: 1710/4021/7230-R Gender Support Guidelines

"If we lack respect for one group, then there is a tendency for that attitude to spread. It becomes infectious and no one becomes safe from the ravages of prejudice."

Walter Annenberg

Introduction

It is the policy of Orange County Schools to maintain a safe and supportive school environment for all students and staff, free from harassment, intimidation, and/or bullying and free from discrimination due to actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability, or weight.

OCS staff play an essential role in creating a supportive school culture and advocating for the well being of all students. It is important for school staff, students and parents to be aware that transgender, non-binary, and gender non-conforming students may be at a higher risk for peer ostracism, victimization, and bullying because of bias and/or the possibility of misunderstanding and lack of knowledge about their lives. Schools must be proactive in creating a school culture that respects and values all students and fosters understanding of gender identity and expression within the school community.

These guidelines are intended to help schools promote the educational and social integration of transgender, non-binary and gender non-conforming students and staff and ensure a safe learning environment free from discrimination and harassment. Each principal is responsible for ensuring that all staff are made aware of these guidelines and for making staff aware of appropriate training and professional development opportunities.

Every student, staff member and school is unique and these guidelines do not anticipate every situation that may occur. The needs of each student must be assessed on a case-by-case basis. School administrators should discuss the needs and concerns of transgender, non-binary, and gender nonconforming students with them and their families and draw on the experiences and expertise of their colleagues as well as external resources where appropriate.

Definitions and Terminology

Assigned Sex at Birth: Refers to the sex designation recorded on an infant's birth certificate should such a record be provided at birth.

Cisgender: An adjective describing a person whose gender identity corresponds to their assigned sex at birth. For example, an individual who was assigned the sex designation of female at birth and whose gender identity is female.

Gender Expression: The way a person expresses gender to others in ways that are socially defined as either masculine or feminine, such as through behavior, clothing, hairstyles, name, pronouns, activities, voice or mannerisms. (Note: Gender expression can vary depending on one's culture as well as changes in social norms and expectations, such as shifts in clothing and hairstyles.)

Gender Identity: A person's gender-related identity, regardless of whether that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Everyone has a gender identity. Gender Identity is a person's inner sense of being a man or a woman, some combination of both, or neither.

Gender Non-conforming: An adjective used to describe an individual whose gender expression

does not conform to the social expectations or norms or stereotypical expectations for a person of that sex assigned at birth. Gender non-conforming individuals may identify as male, female, some combination of both, or neither.

Gender Transition: Refers to the process in which transgender individuals begin asserting the labels, presentation and pronouns that express their gender identity instead of the sex they were assigned at birth. During gender transition, individuals may begin to live and identify as the sex consistent with their gender identity and may dress differently, adopt a new name, and use pronouns consistent with their gender identity. Transgender individuals may undergo gender transition at any stage of their lives, and gender transition can happen swiftly or over a long period of time.

Intersex: A term used for individuals born with variations in sex characteristics – reproductive or sexual anatomy or chromosome pattern- that do not fit the typical binary notions of male or female bodies.

Non-binary and/or Genderqueer: Terms 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. The term is not a synonym for transgender and should only be used if someone self-identifies as non-binary and/or genderqueer.

Personal Gender Pronouns: the pronoun or set of pronouns that an individual would like others to use when talking to or about that individual.

Sexual Orientation: A person's sexual orientation is the individual's enduring pattern of physical, romantic, emotional, aesthetic or other attraction to people; sexual orientation can be towards persons of the any sex or gender, the same sex or gender, or to more than one gender. Sexual orientation is not the same as gender identity.

Transgender: Describes a person whose gender identity or gender expression is not the same as their assigned sex at birth.

Transgender, non-binary and gender non-conforming individuals use various words to describe their lives and experiences. Some examples they may use to refer to themselves include, but are not limited to, trans, transgender, assigned female at birth (AFAB), assigned male at birth (AMAB), genderqueer, non-binary, gender fluid, gender expansive, two-spirit, trans boy/man, and trans girl/woman. The terminology and language used to describe transgender individuals may differ based on varied factors such as geographic location, race, ethnicity, age, country of origin, etc. and may change over time.

The individual student/staff member is the best person to determine their own identity. School staff should be sensitive to, and use, the terminology that supports and respects the wishes of the individual student/staff member.

Addressing Discrimination/Harassment

It is the policy of the Orange County Board of Education to maintain a safe and supportive learning and educational environment and workplace that is free from harassment, intimidation, and/or bullying and free from discrimination related to actual or perceived race, color, national origin, sex, disability, age, sexual orientation, or gender identity.

Discrimination means any act or failure to act that unreasonably and unfavorably differentiates treatment of others based solely on their membership in a socially distinct group or category, such as race, color, national origin, sex, disability, age, or gender identity or by association with a person who has or is perceived to have one or more of these characteristics. Discrimination may be intentional or

unintentional.

Harassment, including sexual or gender-based harassment, is not limited to specific situations or relationships. It may occur between fellow students or co-workers, between supervisors and subordinates, between employees and students, or between non-employees, including visitors and volunteers, and employees or students. Harassment may occur between members of different genders or the same gender. OCS Policy 1710.

Complaints alleging discrimination or harassment based on a person's biological or gender identity must be handled in accordance with procedures outlined in OCS Policy 1720.

Student Privacy

In accordance with the Family Education Rights Privacy Act (FERPA) and OCS Policy 4700, only those school or other Board employees with a legitimate educational interest are permitted to access a student's records. Absent parental consent, or the student's consent if they are 18 years of age or older, information contained in, learned from or to be recorded in a student's records, including information regarding a student's transgender status, may only be disclosed in the following very limited circumstances: 1) in a health or safety emergency; 2) to employees with a legitimate educational interest in the information; or 3) in various other circumstances explicitly permitted by OCS Policy 4700 and FERPA.

Moreover, transgender, non-binary and gender non-conforming students have the ability, as do all students and staff, to discuss and express their gender identity openly and decide when, with whom, and how much of their private information to share with others. Schools should work closely with the student and parent(s)/guardian(s) in devising an appropriate plan regarding the confidentiality of the student's transgender status. (See Supporting Transgender or Transitioning Students section below.) Note that using a student's name and the corresponding pronoun that is requested and consistently asserted at school as set forth below does not constitute a violation of a student's privacy, board policy, or these guidelines.

In some cases, transgender students may not want their parents to know about their transgender status. These situations must be addressed on a case-by-case basis and will require schools to balance the goal of supporting the student with the requirement that parents be kept informed about their children. The paramount consideration in such situations is the health and safety of the student.

Supporting Transgender or Transitioning Students

Schools have a unique and powerful opportunity to support transgender students, including those going through a gender transition, while providing education to the entire school community. Regardless of how students transition or express their gender identity, all students have the right to have their gender identity recognized and respected by their school community.

For most youth, and for all young children, the experience of gender transition is focused solely on "social transition," whereby they begin to live as the gender consistent with their gender identity. Transgender youth who are in the process of social gender transition often choose a new first name and the gender pronoun that expresses their gender identity. They may or may not begin to dress and style their hair in ways that better reflect their gender identity, and, as all young people do, seek social affirmation of their gender identity from peers and other important figures in their lives. Transition can also include changing identity documents such as the person's social security record, passport, driver's license, etc. Not all transitions are binary, meaning male-to-female or female-to-male.

It is not unusual for a child's desire to transition to first surface at school. In some cases, a parent will approach a school or district administrator about their child's transition. The administrator and school

social worker, should meet with the parents and student to discuss the school's role in supporting the student's transition, make resources available to parents who have questions or concerns, work with the family to prepare for a formal gender transition at school and put in place measures for supporting the child and creating a sensitive supportive environment at school. This meeting should include, but not be limited to, discussion of the timing of the transition, planning responses to questions from school staff and students, student health needs while at school, and changing the student's information in school records.

In other cases, the student is the person who informs the school about their transition. School officials must be mindful that transgender, non-binary and gender non-conforming youth often experience significant family challenges. Some transgender students have not talked to their parents about their gender identity and/or do not want their parents to know about their transgender status based on safety concerns or concerns about a lack of acceptance. The school principal or their designee should speak with the student first to ascertain concerns the student may have, what support may be needed to keep the student safe at school, and how to involve the student's parents, if at all. As noted above, these situations must be addressed on a case-by-case basis. The school principal or their designee should confer with the Director of Student Services about how to proceed. Staff should be mindful that parents of minor children have rights under the Family Education Rights and Privacy Act to inspect records maintained by the school that are related to their children. (See Board Policy 4700).

Schools should be especially vigilant for any bullying or harassment issues that may arise. Pursuant to Board policy, schools must work to prevent bullying and harassment, and respond promptly when allegations of bullying and harassment arise in accordance with OCS Policies 1710 and 1720.

Supporting Transgender or Transitioning Staff Members

It is the Board's policy that transgender and transitioning employees are treated with dignity, respect, and sensitivity in the workplace.

Information contained in personnel records about an employee's transgender status (such as the sex they were assigned at birth) is confidential and should not be disclosed except with the employee's consent or to supervisory or HR staff with a legitimate job-related reason to access such records.

Employees who intend to transition on the job should meet with their supervisor and an HR representative to create a plan for their workplace transition. The employee is welcome to involve a chosen support person in any such meeting or discussion. Workplace transition planning should include topics such as the date the transition will formally occur at work; what updates will be made to workplace records and electronic accounts; how and when coworkers will be informed; and, if the employee works with students, what information will be shared with students and their parents. It is ultimately the employee's decision when to formally transition at work and what information to disclose to coworkers prior to a formal transition.

Names and Pronouns

Every student and staff member is entitled to be addressed by the name and pronoun that aligns to their gender identity that is consistently asserted at school. The student or staff member is responsible for identifying their own name and pronouns in alignment with their personal gender identity.

Students are not required to obtain parental consent or a court ordered name and/or gender change as a prerequisite to being addressed by the name and pronoun they select that corresponds to their gender identity. Teachers and other school staff, including substitutes and volunteers, should be made aware of and honor a student's request to be referred to by the name and pronouns that align with their gender identity. It is important to note that students who are non-binary or gender non-conforming may

prefer gender neutral pronouns such as they, ze, or other pronouns. These other pronouns are used when the gender is unknown or not assumed and replace he/she.

While inadvertent slips and honest mistakes may occur from time-to-time, the intentional and persistent refusal to respect a student's or staff member's gender identity or chosen name and pronoun is prohibited and may constitute discrimination, harassment or bullying under Policy 1710.

Staff Records

Employees are entitled to have their preferred name appear on all unofficial records (for example: staff ID, email address). Official records, such as payroll and benefits, may require documentation of a legal name and gender change. Staff requests should be submitted to the Chief Human Resource Officer or their designee.

Student Records

Each school is required to maintain a permanent pupil record of each student (e.g. transcript, report cards, attendance records), in the student's legal name and gender. In records which are not permanent pupil personnel records (e.g. guidance logs, anecdotal records, yearbooks, graduation programs, etc.), schools must use the name and gender that is preferred and consistently asserted by the student at school. Student email accounts may be changed to reflect the student's consistently asserted name. To request a new email address as part of a gender support plan, principals or social workers should submit a request to the technology department.

To the extent the capability is available in the official electronic student records database, students' preferred names and gender shall be recorded, in addition to their legal name, to conveniently inform teachers and other staff of the name and pronoun to use when addressing students. To the extent the student records database does not have this capability, the administration will work to develop systems to produce class rosters that reflect students' preferred names and pronouns.

Procedures to Change a Student's Permanent Pupil Record

A student's permanent pupil record can be changed to reflect a change in legal name or gender only upon receipt of documentation that such legal name and/or gender have been changed pursuant to applicable law.

Required Documents

- The documentation required for a **legal change of name** is a court order or birth certificate demonstrating the student's new name.
- For a **legal change of gender**, the student must provide a birth certificate to school officials indicating the student's legal gender; a court order directing legal recognition of change of gender; or a valid (not limited-validity) passport indicating the student's legal gender.

The following procedures should be followed if a school receives a request to change a student's record to reflect a change in legal name and/or gender.

- For **students who are currently enrolled** in an Orange County public school, the school in which the student is enrolled should make the legal name and/or gender change in PowerSchool upon receipt of the required documentation (see above).

Student records for graduated Orange County School students are archived in read-only format and cannot be amended. For these students, documentation of name changes may be presented to Student Services and scanned into our stored student records. When requests for graduation

verification are made, the prior record can be accessed and a letter of verification will be issued in the student's new legal name. Any transcript requests will have the former student name and gender on the transcript.

In all cases, the former name and/or gender will be maintained in archived data, in order to ensure that records accurately reflect circumstances in effect at the time each record was made, to enable records to be cross-referenced, and to maintain the confidentiality of the student's transgender status to the extent possible.

Medical Records

With respect to student medical records, school nurses and other licensed professionals need accurate and reliable information to confirm a student's identity in order for the student to receive appropriate care and to enable them to coordinate care with other health care providers or licensed professionals, as well as to file health insurance claims with other organizations, such as Medicaid. In accordance with applicable law and regulations, nurses are required to maintain patient records that contain all pertinent information which identifies a patient and that accurately document clinical information relating to their patients, and to keep such records confidential.

In the case of a transgender student, a school nurse should use the student's chosen name, and should use the student's legal name only when necessary for the student to receive appropriate care and to enable the school nurse to coordinate care for the student with other health care providers or licensed professionals, as well as to file health insurance claims.

Sports and Physical Education

Sports and physical education programs, including physical education classes and school teams, are educational opportunities. Participation in these activities plays an integral role in developing a child's fitness and health, self-esteem and general well-being. Transgender students are to be provided the same opportunities to participate in physical education as are all other students.

Students may participate in interscholastic athletics according to rules established by the North Carolina High School Athletics Association.

Participation in competitive athletic activities and contact sports not regulated by the NCHSAA will be resolved on a case-by-case basis as part of the Gender Support Plan process and consistent with this Policy.

Restroom and Locker Room Accessibility

Transgender, non-binary and gender non-conforming students and staff must be provided access to safe facilities (restrooms, locker rooms or changing rooms). A transgender student or staff member must be permitted to use the restroom that aligns with their gender identity consistently asserted at school. Access to locker rooms and changing rooms will be resolved on a case-by-case basis as part of individual students' Gender Support plans. Transgender students and staff members shall not be required to use a restroom, locker room or changing room that conflicts with their consistently asserted gender identity and shall not be prevented from participating in physical education or sports activities on the basis of locker room availability. Schools should work with students and their families to facilitate restroom and locker room use that meets the student's safety and privacy needs and the spirit of these procedures.

Schools must provide reasonable alternative arrangements for any student who expresses a need or desire for increased privacy. Reasonable alternative arrangements may include a single occupancy restroom, use of a private area, or a separate changing schedule. Any alternative arrangement should

be provided in a non-stigmatizing way and in a manner that protects a student's ability to keep their transgender status confidential.

Gender Segregation in Other Areas

Gender-based policies, rules, and practices can have the effect of marginalizing, stigmatizing, stereotyping and excluding students, regardless of whether they are transgender, non-binary, or gender non-conforming. Students must be permitted to participate in all school activities (e.g., overnight field trips) in accordance with their gender identity consistently asserted at school. Requests for accommodations to address privacy concerns will be addressed on a case-by-case basis in a Gender Support plan developed with the student and parent(s) or guardians.

Gender Based Activities and Practices

Schools and departments shall evaluate all gender-based activities and practices and maintain only those that have a clear and sound pedagogical purpose and do not rely upon sex-based stereotypes. Students shall be permitted to participate in any such activities or conform to established practices consistent with their gender identity. Examples of such gender-based activities and practices include but are not limited to:

1. Dress Codes
2. Single Gender Classes (e.g. physical education classes)
3. Classroom Structure and Activities
4. School Ceremonies
5. School Pictures
6. Extracurricular Activities
7. Overnight Field Trips

Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case-by-case basis considering the factors set forth above.

Dress Codes

Schools may enforce dress codes that are adopted pursuant to OCS Policy 4316: Student Dress Code and consistent with this Administrative Regulation. Schools, clubs, classes and groups with uniforms or costuming must carefully examine their dress codes to ensure that the code does not stereotype or require students to wear different articles of clothing based on gender, gender expression or gender identity (e.g., only allowing girls to wear skirts).

Notification

This policy is designed to promote the equitable treatment, education and social integration of all students and staff members, regardless of their gender identity, gender expression and/or sexual orientation. Developed collaboratively with community groups and other school districts, this policy is based on current data, nationwide best practices, and the need demonstrated by our students.

Each principal shall identify at least one faculty/staff member to serve as a support person and liaison for LGBTQ+ students, and ensure that students and families are made aware of this person and provided with age-appropriate opportunities to safely gather through clubs and/or other group

activities at school.

A. Professional Development

1. The district will provide periodic training to all school-based administrators, Student Support Services, which includes counselors, nurses and social workers, and appropriate district-level administrators regarding implementation of the rules set forth in this regulation.
2. The Human Resources department and each school principal will ensure all school staff are aware of the rules set forth in this policy and that appropriate training is provided to school staff, including substitutes and volunteers. Training topics should include how to implement this policy and work with students and staff undergoing gender transition in a way that is consistent with the Board's policy. In addition, any plans developed to address particular needs of individual transgender, non-binary or gender non-conforming students shall be consistent with this policy.

Legal References: *Bostock v. Clay County*, 590 U.S. ____ (2020); *Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020); Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972.

Adopted: December 14, 2020

Orange County Board of Education
