



Memorandum

To: School Administrators

From: Kevin F. Gilbert, Ed.D.
Director of Diversity, Equity, and Inclusion

Date: October 8, 2018

Re: Guidelines for Supporting Transgender and Gender Nonconforming Students

The Howard County Public School System (HCPSS) is committed to providing an educational and work environment that is free from discrimination, fosters equitable opportunities, and values diversity and commonality. In accordance with Policy 1010 Anti-Discrimination, HCPSS prohibits discrimination and any behaviors that interfere with a safe and supportive environment for all students, based on race, national origin, marital status, sex, sexual orientation, gender identity, gender expression, religion, disability, or any other protected status in accordance with applicable law.

All HCPSS students should feel comfortable expressing their gender identity. The needs of each transgender or gender nonconforming 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 transgender or gender nonconforming student while supporting the student's social integration and avoiding stigmatization of the student. HCPSS strives to maintain the privacy of all students and families and to further the successful educational development and well-being of all students. As with all aspects of a student's school experience, HCPSS believes that students do best when supported by family and community. HCPSS recognizes that issues surrounding gender identity can be difficult to navigate for students and parents. Staff in the HCPSS Department of Program Innovation and Student Well-Being are available to discuss all situations related to transgender or gender nonconforming students.

The attached guidelines have been developed by a HCPSS workgroup, starting in 2017, representing multiple offices. The workgroup sought input from a variety of stakeholders including HCPSS students. These guidelines are intended to support staff's understanding of important terms and concepts, describe the process for masking name and/or gender, and suggest ways to address issues of student gender identity in a manner that fosters inclusiveness.

Guidelines for Providing Safe Spaces for Transgender and Gender Nonconforming Students

The guidelines cover conduct that takes place in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles, and at bus stops. The guidelines also pertain to use of electronic technology and electronic communication that occurs in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles and at bus stops, and on school computers, networks, forums, and mailing lists. The guidelines are for principals with the expectation that principals will educate their assistant principals, teachers, school counselors, school psychologists, other staff, and volunteers. **If at anytime assistance is needed to support the needs of transgender and/or gender nonconforming students please contact the Office of School Counseling.**

DEFINITIONS¹

The definitions provided here are not intended to label students but rather to assist in understanding transgender and gender nonconforming students. Students might or might not use these terms to describe themselves.

- Gender - The attitudes, feelings, and behaviors that a given culture associates with a person's biological sex.
- Gender Identity – One's internal, personal sense of one's own gender.
- Gender Expression – The external manifestation of one's gender identity, usually expressed through behavior, clothing, haircut, voice or body characteristics.
- Transgender – An umbrella term that describes people whose gender identity and/or gender expression differs from the sex they were assigned at birth.
- Cisgender - A person whose biological sex assigned at birth corresponds to their gender identity.
- Gender Nonconforming- A term for people whose gender expression differs from stereotypical expectations, such as “feminine” boys, “masculine” girls, and those who are perceived as androgynous. This includes people who identify outside traditional gender categories or identify as both genders. Other terms that can have similar meanings include gender diverse or gender expansive.
- Transition - A process in which a person changes their gender expression to more accurately reflect their gender identity. In order to feel comfortable and to express their gender identity to

¹ Definitions were adapted from the following sources:
Maryland State Department of Education
Massachusetts Department of Education and Secondary Education
Montgomery County Public Schools
National Collegiate Athletic Association
New York City Department of Education
Teaching Tolerance

others, a variety of steps may be taken: using a different name or legally changing their name; choosing clothes and hairstyles that reflect their gender identity; and generally living, and presenting themselves to others, consistently with their gender identity. Some, but not all, transgender people take hormones or undergo surgical procedures to change their bodies to better reflect their gender identity.

UNDERSTANDING GENDER IDENTITY

Transgender people are those whose sex assigned at birth does not match their internalized sense of their gender and gender nonconforming youth are those whose gender-related identity does not meet the stereotypically expected norms associated with their sex assigned at birth. A transgender boy, for example, is one who was assigned the sex of female at birth but has a clear and persistent identity as male. A transgender girl is one who was assigned the sex of male at birth but has a clear and persistent identity as female. Gender nonconforming people range in the ways in which they identify as male, female, some combination of both, or neither.

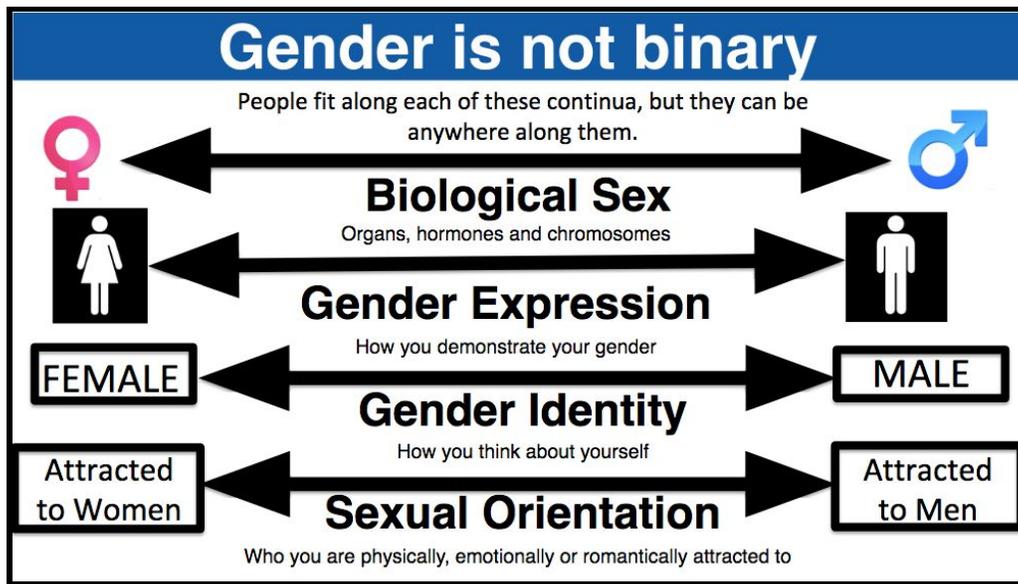
One's gender identity is an innate, largely inflexible characteristic of each individual's personality that is generally established by age four, although the age at which individuals come to understand and express their gender identity may vary based on each person's social and familial social development. As a result, the individual best situated to determine a person's gender identity is that person.

A school should 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. If a student's gender-related identity, appearance, or behavior meets this standard, the only circumstance in which a school may question a student's asserted gender identity is where school personnel have a credible basis for believing that the student's gender-related identity is being asserted for some improper purpose.

In most situations, determining a student's gender identity is simple. A student who says she is a girl and wishes to be regarded as such throughout the school day and throughout every, or almost every, other area of her life, should be respected and addressed as a girl. So too with a student who says he is a boy and wishes to be regarded as such throughout the school day and throughout every, or almost every, other area of his life. Such a student should be respected and addressed as a boy.

Transgender and gender nonconforming individuals may experience discrimination and some experience violence. Some environments may feel safe and inclusive and others less so, challenging a person's ability to live consistently with one gender identity in all aspects of life. For example, it is possible that a biologically male student with a female gender identity who lives as a girl does not express her female gender identity all the time. Such a person might agree to present as a boy when visiting relatives until the person's parents can explain the person's transgender identity to them. The fact that the person did not exclusively assert her female identity did not alter the fact that she has a female gender identity.

The Figure below may serve to clarify the distinct, yet related constructs around gender.



PRIVACY

All persons, including students, have a right to privacy, and this includes the right to keep one's transgender status private at school. Information about a student's transgender status, legal name, or gender assigned at birth also may constitute confidential information. Disclosing this information to other students, staff or other third parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA). HCPSS shall ensure that all information relating to transgender and gender nonconforming students shall be kept confidential in accordance with HCPSS Policy 3050 Records Management and with applicable state and federal privacy laws. School staff shall not disclose information that may reveal a student's transgender status to others, unless required to provide an essential service or function or unless the student has authorized such disclosure.

Transgender and gender nonconforming students have the right to discuss and express their gender identity and expression openly and to decide when, with whom, and how much to share private information. The fact that a student chooses to disclose his or her transgender status to staff or other students does not authorize school staff to disclose information about the student to others. The student should guide and inform staff which name and pronouns should be used and with whom.

In agreement with MSDE guidance, the school should provide a means to protect the student's previous identity once a legal name change has occurred and store the prior records where they are not easily accessible to staff who have no need to see them.

OFFICIAL RECORDS

HCPSS is required to maintain a mandatory permanent pupil record ("official record") that includes a student's legal name and legal gender. However, HCPSS is not required to use a student's legal name and gender on non-official school records or documents. HCPSS shall use the name and gender preferred by the student on such records or documents. HCPSS will change a student's official record to reflect a change in legal name or legal gender upon receipt of documentation that such change has been made pursuant to a court order or through amendment of state or federally-issued identification.

In situations where school staff or administrators are required by law to use or to report a student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

Diplomas are not considered an official document requiring the use of a legal name. For students who have a masked name (see section below), a student may request orally or in writing, to have the masked name to be printed on the diploma. Students and families should be notified that the transcript will maintain the legal name and having a different name on the diploma may pose a challenge due to the discrepant identification documents for post-graduation education or job applications. If a student legally changes his or her name after graduation, the student may request a reissuance of the transcript or diploma. A nominal fee may be required for the reissuance.

If a student is legally changing their name or gender, the family can bring in any one of the documents used for evidence of birth (MSDE Records Manual, 2016). According to MSDE (per MSDE memo; 10-6-2017), a (1) a court order, (2) amended birth certificate, or (3) a statement signed, under penalty of perjury, by a healthcare practitioner who treated or evaluated the student for gender identity issues, requesting name and/or gender change be made on the "official school record" and explaining the health-related reasons for the request, are supports sufficient to demonstrate a legal change in name or gender for school records.

NAMES/PRONOUNS

A student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity. An official name or gender change is not required and the student need not change his or her official records. If a teacher has been informed of a student who is transitioning or has transitioned, the teacher should ask the student how that student should be addressed. If teachers gather student preference and interest information at the start of the year, they should be encouraged to add preference regarding name and pronoun use.

Asking about a person's pronoun makes spaces more inclusive of transgender, gender nonconforming, and gender nonbinary people. Including pronouns is a first step toward respecting people's gender identity, working against cisnormativity, and creating a more welcoming space for people of all genders. People who identify as gender nonconforming or gender nonbinary may use pronouns such as they, them, he, her, hers, zee, etc. or the person's name.

TRANSITIONS²

Many, though not all, transgender people undergo the experience of gender transition. "Gender transition" describes the experience by which a person goes from living and identifying as one gender to living and identifying as another. For most youth, and for all young children, the experience of gender transition involves no medical intervention. Rather, most transgender youth will undergo gender transition through a process commonly referred to as "social transition," whereby they begin to live and identify as the gender consistent with their gender-related identity. Some transgender people who are close to reaching puberty, or after commencing puberty, may complement social transition with medical intervention that may include hormone suppressants, cross-gender hormone therapy, and, for a small number of young people, a range of gender-confirming surgeries.

² A note regarding staff transitioning: Please contact the Office of Equity Assurance or the Division of School Management and Instructional Leadership for assistance.

The decision about whether and how to undergo gender transition is personal and depends on the unique circumstances of each individual. There is no medical or mental health diagnosis or treatment requirement that any student must meet in order to have his or her gender identity recognized and respected by a school.

Students frequently come forward to discuss transition with a staff member. In this case, staff should listen first and help connect the student with a school counselor to provide the necessary supports. The student, parents and counselor will collaborate to ensure the safety and well-being of the student. Counselors and staff will work with the student and family throughout the process of transition to support and discuss the issues that arise for that student. School counselors and staff should be available to answer questions, problem solve and anticipate potential challenges with the student and family. For example, if the student is not yet interested in masking their name but wants to go by another name, consider how to inform and include teachers, particularly considering how to proceed in supporting substitute teachers.

Often the parent or guardian of younger students may inform the school of an impending transition. In this circumstance, appropriate steps to support the student can then be developed with the family.

Sometimes, especially for older middle or high school students, the student may inform school staff directly regarding their desire to transition. Parents may already be aware and supportive of the student's gender identity, expression or transition status and can be partners in the transition process.

In some cases, however, notifying parents carries risks for the student, such as being rejected by the family. If this is the case, considering the student's age and the concerns presented, the school and student should consult with the Department of Program Innovation and Student Well-being and collaborate to determine how the school can support the student and balance the student's need to be affirmed at school with the concern that the student does not have that support at home.^{3,4} Staff members working with the student should develop a plan to support the student and work towards inclusion of the family, while considering the safety concerns. By finding solutions that facilitate inclusion of the family, the school is helping to create a safe and supportive environment where transgender and gender nonbinary students can feel safe and find academic success.

"If school officials have information about the student that is affecting the student at school and is important, they should tell the parents unless there is reason to believe that involving the parents would likely subject the student to physical and emotional harm."⁵ In accordance with HCPSS Policy 9050 Student Records, "when there is a risk to a student or others, information shared in confidence by students to HCPSS Board members or school system officials will be disclosed to principals; to those persons who, by their training or licensure, are able to provide immediate appropriate assistance; or to parents, except as outlined in Policy 1030 Child Abuse and Neglect."⁶

³ Schools in Transition: A Guide to Supporting Transgender Students in K-12 Schools. Orr, A., and Baum, J, et al. 2015.

⁴ Providing Safe Spaces for Transgender and Gender Non-Conforming Youth: Guidelines for Gender Identity Non-Discrimination (MSDE, October, 2015)

⁵ Student Privacy v. Parent Rights... Orman and Walsh, 2017

⁶ See Policy 9050 Student Records Implementation Procedures Section VII.H.1

MASKING

As of Fall, 2017, HCPSS has a process by which a student can request to mask a legal name and/or gender assigned at birth. This is different than a student legally changing either field or using a preferred name, but will allow the presenting name and/or gender to show on class rosters, report cards, IEPs, 504 plans, athletic rosters, Teacher and Parent Vue pages, Food Service information, diplomas, etc. These are not the documents considered to be Official School Records (per MSDE memo; 10-6-2017). The legal name and gender will remain, but will be hidden to most users. Legal name and gender will continue to be used only on documents required to show legal name and gender (e.g., State Reporting, Assessments, CTE Reports to MSDE, transcripts and Health reports). If the student is transitioning to another school or level, the administration should work with the student to determine a plan to inform the new school and relevant staff. This is important because if the student chooses to legally change a name while in school, a staff member must collaborate with the Office of Student Information Systems to facilitate the change from a masked name to a legal name.

It is best that the parent and student are in agreement with this change because the changed name or gender will show on documents parents and other students will see (e.g., report cards, ParentVue, Information Systems that use single sign-on). The change can be made by student request, but the student and staff should consider how the parent will become aware of the request. If you have any questions about masking please contact the Department of Program Innovation and Student Well-being.

Process:

1. Student (and preferably) parent meet with school staff. Student requests name and/or gender to be masked.
2. Staff should notify school principal of the request.
3. Principal will send an email with Student ID number and the request for the changed information (first name, middle name and/or gender) to the Coordinator of the School Counseling.
4. Change will be implemented quickly. If the student's presenting name has a different letter than their birth name, the student will receive a new AD login within 24 hours of the change being made in Synergy.

Note: This is a different process and field than 'preferred name' in the Student Information System. That field can be used for any student any time, but does not change the name on class rosters or report cards (e.g., Robert prefers to be called Bobby).

GENDER-SEGREGATED ACTIVITIES

Schools should reduce or eliminate the practice of segregating students by gender (e.g., recess, grouping strategy, physical education). In situations where students may be segregated by gender for instructional purposes, such as for Health instruction in Puberty Education, students should be given the opportunity to choose their group.

RESTROOM ACCESSIBILITY

Each student should have access to a restroom in accordance with the student's gender identity, considering the options in the school. Depending on where the student is in their social transition, the restroom preference might need to be revisited throughout the year. Transgender students should be given options and choice, including use of the restroom for the gender with which they identify and/or

a safe and adequate alternative, such as a single “unisex” restroom. Administrators can work with students, staff and facilities to designate a restroom as gender neutral.

LOCKER ROOM ACCESSIBILITY

Each student should have access to a locker room in accordance with the student’s gender identity. All students’ needs for privacy and modesty are important and accommodations can be offered to all students, as needed. These accommodations will be based on available facilities and will vary by school. If such a facility cannot be reasonably provided, such as where there is no private space in a locker room, the transgender student or other students may be offered another room. However, any alternative arrangement should be provided in a way that protects the student’s privacy and ensures an equal opportunity to participate in school programs and activities.

CHORUS ENSEMBLES

Music and performing groups should reduce or eliminate the practice of segregating students by gender. In situations where students may be segregated by gender for rehearsal and performance purposes, teachers should refer to sections or voice types/qualities instead (e.g., musicians or singers). Staff should avoid using gendered language and should use distinctions for voiced choirs set by HCPSS: Chorus, Concert Chorus, Vocal Ensemble, or Chamber Choir. For example, if a school has voiced choirs, bass clef singers can be assigned to concert chorus and treble clef singers can be assigned to the vocal ensemble. Encourage mixing the choirs standing/seated formation during performances.

Concert attire should not be assigned by gender or section. Neutral options might include polo shirts or providing students with choices like dresses or tuxedos. Additionally, in performance settings, welcome the audience as ‘honored guests’ instead of ‘ladies and gentlemen.’

PHYSICAL EDUCATION CLASSES/INTRAMURAL ATHLETICS

Transgender and gender nonconforming students may participate in intramural athletic activities in accordance with the student’s gender identity.

INTERSCHOLASTIC ATHLETICS

As outlined by the Maryland Public Secondary School Athletic Association (MPSSAA),

- A. Transgender students can participate on the interscholastic athletics team of the student’s birth gender.
- B. Transgender students can participate on interscholastic athletics teams of the gender that the student has transitioned to. This may be supported by medical documentation (hormonal therapy, sexual reassignment surgery, counseling, etc.) confirming transition of gender.
- C. Transgender students may compete on the interscholastic team of the gender the student identifies with, as recognized by the local school system and established in official school system records. This may differ from the student’s gender listed in school system records.

DRESS CODES

Transgender and gender nonconforming students have the right to dress in a manner consistent with their gender identity or gender expression. All students are allowed to express themselves in the

clothing of their choice as long as it complies with the HCPSS Dress Code.

OVERNIGHT FIELD TRIPS

Student access to facilities may be achieved by allowing students the opportunity to room with others according to their gender identity.

1. Make arrangements in consultation with the student.
2. In consultation with student, request the permission to disclose to the student(s) being roomed with. Be sensitive to the need to maintain the student's privacy and not disclose or require disclosure of the student's transgender status.
3. Staff should inquire whether the other student/family are aware, and determine the best ways/what information to communicate to the other student/family.
4. If accommodations involving all students can't be achieved, the student may be given the option of having a single room however, it may increase the cost for the student and should be discussed.

CLUBS

Clubs that exist to connect and support the interest of LGBTQ+⁷ and gender nonconforming students provide benefits to students⁸. Clubs with a transgender and gender nonconforming focus should run like any other club with clearly defined outcomes. No permission slips for participation are required unless permission slips are required for participation in all other clubs. Additionally, these clubs should be included in club information dissemination efforts in the same manner as all school sponsored clubs. If any counseling needs are discovered or requested by a club participant, it should be referred to the school's counseling office.

Note, that the Equal Access Act (1984), 20 U.S.C. §7905 requires public secondary schools to provide equal access to school premises for extracurricular clubs. It also ensures that non-curricular student groups are afforded the same access to public secondary school facilities as other similarly situated student groups.

REPORTING DISCRIMINATION /HARASSMENT

It is the intent of the HCPSS to provide a safe school environment to all students, including transgender and gender nonconforming students. Any incident of discrimination, harassment, or violence must be given immediate attention, including investigating the incident, taking appropriate corrective action communicating with the student, parents or others who need to know, and providing students and staff with appropriate resources. Complaints alleging discrimination or harassment based on a person's actual or perceived transgender status or gender nonconformity are to be handled in the same manner as other discrimination or harassment complaints, as defined in Policy 1010, Policy 1020, and Policy 1060.

ADDITIONAL SUPPORT AND CONTACT INFORMATION

Consultation and consideration with the Office of School Counseling and the Division of School Management and Instructional Leadership of each individual case is encouraged. Consultation with other offices, including the Office of Diversity, Equity and Inclusion, the Office of Equity Assurance and the Office of Grants, Policy and Strategy, may also be considered.

⁷ LGBTQ+ is a term to denote lesbian, gay, bisexual, transgender, queer and related populations.

⁸ See <https://www.glsen.org/blog/new-research-affirms-glsens-findings-benefits-gay-straight-alliances>

RELATED HCPSS POLICIES

Policy 1010: Anti-Discrimination

Policy 1020: Sexual Discrimination, Sexual Harassment, and Sexual Misconduct

Policy 1040: Safe and Supportive Schools

Policy 1060: Bullying, Cyberbullying, Harassment, or Intimidation

Policy 9050: Student Records

Policy 9080: Interscholastic Athletic Programs

SOURCES

Providing Safe Spaces for Transgender and Gender Non-Conforming Youth: Guidelines for Gender Identity Non-Discrimination (MSDE, October, 2015) <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/ProvidingSafeSpacesTransgendergenderNonConformingYouth012016.pdf>

GLSEN Model District Policy on Transgender and Gender Nonconforming Students
<http://www.transequality.org/sites/default/files/GLSEN%20Trans%20Model%20Policy%202016.pdf>

Guidance for Massachusetts Public Schools: Creating a Safe and Supportive School Environment
<http://www.doe.mass.edu/sfs/lgbtq/GenderIdentity.html>

Maryland Code Annotated, State Government, Section 20-901 (Prohibits a unit, officer, or employee of the State from discriminating against individuals on the basis of sexual orientation, but also provides that the law does not prohibit the provision of separate facilities for males and females)

Title IX US Department of Civil Rights (Indicates that sex stereotyping is actionable under Title IX if it is sufficiently serious to deny or limit a student's ability to participate in or benefit from the program)

MPSSAA Guidance for Participation of Transgender Youth in Interscholastic Athletics, August, 2016.
https://www.mpssaa.org/assets/1/6/MPSSAA_Transgender_Guidance_revised_8.16.pdf

Montgomery County Public Schools Guidelines Regarding Student Gender Identity Matters. MCPS, August, 2017. <http://www.montgomeryschoolsmd.org/uploadedFiles/departments/student-services/gender-identity-matters.pdf>

MSDE Memo, Changing a Transgender Student's Name and Gender on "Official School Records," October 6, 2017.

NYC Department of Education, Transgender and Gender Nonconforming Guidelines. March 1, 2017.
<https://www.schools.nyc.gov/school-life/policies-for-all/transgender-and-gender-nonconforming-student-guidelines>

Teaching Tolerance, *Sex? Sexual Orientation? Gender Identity? Gender Expression?* Issue 50, Summer 2015. <https://www.tolerance.org/magazine/summer-2015/sex-sexual-orientation-gender-identity-gender-expression>