

# STUDENT GENDER AND ORIENTATION

Code **JBAB** Issued **2/22**

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The purpose of this policy is to foster a learning environment that is safe and free from discrimination, harassment, and bullying and to assist in the educational and social integration of transgender students in our schools. This policy is intended to be interpreted in light of applicable federal and state laws and regulations and in conjunction with board policies, procedures, and school rules.

This policy is not intended to anticipate every possible situation that may occur, since the needs of particular students and families differ depending on the student's age and other factors. In addition, the programs, facilities, and resources of each school differ. Administrators and staff are expected to consider the needs of students on a case-by-case basis and to utilize this policy and other available resources as appropriate.

## Definitions

The following definitions are not intended to provide rigid labels for students but to assist in discussing and addressing the needs of students. The terminology in this area is constantly evolving, and preferences for particular terminology vary widely. Administrators, staff, volunteers, students, and others who interact with students are expected to be sensitive to the ways in which particular transgender students may wish to be identified; however, for the sake of brevity, this policy refers to "transgender students."

*Sexual orientation.* An individual's physical and/or emotional attraction to the same and/or opposite gender. "Gay," "lesbian," "bisexual," and "straight" are all examples of sexual orientations.

*Gender identity.* A person's deeply held sense or psychological knowledge of his/her gender. One's gender identity can be the same or different than the gender assigned 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.

*Transgender.* An adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned sex at birth.

*Transition.* The process by which a person goes from living and identifying as one gender to living and identifying as another. For most elementary and secondary students, this involves no or minimal medical interventions. In most cases, transgender students under the age of 18 are in a process of social transition from one gender to another.

## Addressing the Needs of Transgender Students

For the purposes of this policy, a student will be considered transgender if, at school, he/she consistently asserts a gender identity or expression different from the gender assigned at birth. This involves more than a casual declaration of gender identity or expression, but it does not necessarily require a medical diagnosis.

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The following procedure will be used to address needs raised by transgender students and/or their parent/legal guardian:

- A transgender student and/or his/her parent/legal guardian should contact the building administrator or the student's guidance counselor. In the case of a student who has not yet enrolled in school, the appropriate building administrator should be contacted.
- A meeting should be scheduled to discuss the student's particular circumstances and needs. In addition to the student, a parent/legal guardian, and building administrator, other participants may include the guidance counselor or social worker, school nurse, teachers and/or other staff, and possibly outside providers who can assist in developing a plan for the student.
- A plan should be developed by the school, in consultation with the student, parent/legal guardian, and others as appropriate, to address the student's particular needs. If the student has an individualized education program (IEP) and/or a 504 Plan, the provisions of these plans should be taken into consideration in developing the plan for addressing transgender issues.
- The school may request documentation from medical providers or other service providers as necessary to assist staff in developing a plan appropriate for the student.
- If the parties cannot reach an agreement about the elements to be included in the plan, the building administrator and/or superintendent will be consulted as appropriate.

### Guidance on Specific Issues

#### *Privacy*

The student plan should address how to deal with disclosures that the student is transgender. In some cases, a student may want staff and students to know, and in other cases, the student may not want this information to be widely known. Staff should take care to follow the student's plan and not to inadvertently disclose information that is intended to be kept private or that is protected from disclosure (such as confidential medical information).

Staff should keep in mind that under the Family Educational Rights and Privacy Act (FERPA), student records may only be accessed and disclosed to staff with a legitimate educational interest in the information. Disclosures to others should only be made with appropriate authorization from the administration and/or parent/legal guardian.

#### *Official record*

Schools are required to maintain a permanent record for each student which includes legal name and gender. This information is also required for standardized tests and official school/district reports. This official information will only be changed upon receipt of documentation that a student's name or gender has been changed in accordance with any applicable laws. Any requests to change a student's legal name or gender in official records should be referred to the superintendent.

To the extent that the school is not required to use a student's legal name or gender on school/district records or other documents, the school/district should use the name and gender identified in the student's plan.

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### *Names/Pronouns*

A student who has been identified as transgender under this policy should be addressed by staff and other students by the name and pronoun corresponding to his/her gender identity that is consistently asserted at school.

### *Restrooms*

A student who has been identified as transgender under these guidelines should be permitted to use the restrooms assigned to the gender which the student consistently asserts at school. A transgender student who expresses a need for privacy will be provided with reasonable alternative facilities or accommodations, such as using a separate stall or a staff facility; however, a student will not be required to use a separate non-communal facility over his/her objection.

### *Locker rooms*

The use of locker rooms requires schools to consider a number of factors, including, but not limited to, the safety and comfort of students; the transgender student's preference; student privacy; the ages of students; and available facilities. As a general rule, transgender students will be permitted to use the locker room assigned to the gender which the student consistently asserts at school. A transgender student will not be required to use a locker room that conflicts with the gender identity consistently asserted at school. A transgender student who expresses a need for privacy will be provided with reasonable alternative facilities or accommodations, such as using a separate stall, a staff facility, or separate schedule.

### *Other gender-segregated facilities or activities*

As a general rule, in any other facilities or activities when students may be separated by gender, transgender students may participate in accordance with the gender identity consistently asserted at school. Interscholastic athletics fall under the purview of the South Carolina High School League (SCHSL). According to the SCHSL, students will not be permitted to participate on teams with the opposite sex, except that a girl may participate on a boys' team if no girls' team in that sport is offered. This is based on the biological gender of students.

### *Dress code*

Transgender students may dress in accordance with their consistently asserted gender identity, consistent with any applicable requirements in the dress code or school rules.

### *Safety and support for transgender and transitioning students*

Staff are expected to comply with any plan developed for a transgender student and to notify the building administrator or other designated support person for the student if there are concerns about the plan or about the student's safety or welfare.

Staff should be sensitive to the fact that transgender and transitioning students may be at higher risk for being bullied or harassed and should immediately notify the appropriate administrator if he/she becomes aware of a problem.

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## Staff Training and Informational Materials

The superintendent and/or building principal may institute in-service training and/or distribute educational materials about transgender issues to staff as he/she deems appropriate.

Teachers and other staff who have responsibilities for a transgender student with a plan will receive support in implementing the plan.

Adopted 2/08/22

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### Legal References:

- A. United States Code of Laws, as amended:
  - 1. Title IX of the Education Amendments of 1972, 20 U.S.C.A. Section 1681, *et seq.*
- B. Grimm v. Gloucester County School Board, 972 F.3d 586 (4th Cir. 2020).  
Cert. denied 2021 WL 2637992 (June 28, 2021)