

5756 TRANSGENDER AND GENDER NONCONFORMING STUDENTS

A. Purpose

The South Orange and Maplewood Board of Education is committed to providing a safe, supportive, and inclusive learning environment for all students, including, transgender, gender nonconforming, and/or gender expansive students (TGNEC), and to ensuring that every student has equal educational opportunities and equal access to the District's educational programs and activities.

This Policy establishes the Board's expectations for addressing the needs of TGNEC students in compliance with applicable anti-discrimination laws. This policy does not anticipate every situation that might occur with respect to TGNEC students. The school shall customize support to optimize each student's equal access to the Districts educational programs and activities and will do so by developing a Gender Diverse Student Support Plan for students who are undergoing gender transition or have already established a gender diverse identity. In all cases, the goal of all South Orange and Maplewood School District ("SOMSD") staff shall be to ensure the safety, comfort, privacy, and healthy development of all students, including transgender, gender nonconforming, and/or gender expansive students.

B. Definitions

These definitions are included here to assist the application of this policy, and to provide functional descriptors. When applying this policy to individual students' situations, TGNEC staff should bear in mind that students may or may not use these terms to describe themselves.

Gender: Socially determined characteristics, roles, behaviors, and attributes a society expects from and considers appropriate for males and females; these characteristics are often referred to as "feminine" and "masculine."

Gender Identity: A person's internal, deeply held sense of their own gender, regardless of the gender they were assigned at birth. All people have a gender identity, not just transgender people.

Gender Expression: A person's gender-related appearance and behavior "whether or not stereotypically associated with the person's assigned sex at birth" (N.J.S.A. 10:5-5(5)(rr)). It is the manner in which a person represents or expresses their gender to others, such as through their behavior, clothing, hairstyles, activities, voice or mannerisms.

LGBTQ: An acronym that stands for "lesbian, gay, bisexual, transgender, and questioning."

Sexual Orientation: A person's romantic or sexual attraction to people of the other and/or same gender. (N.J.S.A. 10:1 *et seq*) Common terms used to describe sexual orientation include, but are not limited to, heterosexual, lesbian, gay, and bisexual. Sexual orientation and gender identity are different. Transgender students may identify as gay, lesbian, bisexual, or heterosexual.

Gender Nonconforming: Displaying gender traits that are not consistent with stereotypical characteristics associated with one's birth-assigned sex and/or legal gender marker, or others' perceptions of that sex. This term can be used to describe people whose gender expression differs from stereotypical expectations about how boys and girls are "supposed to" look or act.

Transgender: A term for people whose gender identity is different from those typically associated with their assigned sex at birth.

Gender Expansive: A term that conveys a wider, more flexible range of gender identity and/or expression than typically associated with the binary gender system. For example, Students who identify as gender queer do not identify as male or female.

Transition or Gender Transition: The process and experience in which a person begins to live both privately and publicly as their affirmed gender. This can include legal, medical and/or a social transition.

### C. Determining Gender Identity

The responsibility for determining a student's gender identity rests with the student or, in the case of Grades Pre-K through Five students who are not yet able to advocate for themselves, with the parent or guardian.

SOMSD staff shall accept a student's asserted gender identity when it is a sincerely held part of the student's core identity. Staff and schools shall not question or disregard the students' assertion of their gender.

There is no threshold 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 the district or SOMSD staff. The Board recognizes that for many transgender students, the experience of gender transition involves no medical intervention and that many transgender youth experience gender transition through a process referred to as "social transition," whereby they begin to live and identify as the gender consistent with their gender identity.

Similarly, a student is not required to have obtained a court-ordered name or gender change in order to have his or her requested name and gender identity recognized and respected by the district, any school or SOMSD staff member.

### D. Gender Identity Support Planning

With student permission, a written support plan will be developed in collaboration with the student to address their needs. A transgender student and/or their family/guardian may initiate the planning process. Whenever a transgender student initiates the planning 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 needs to 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.

#### E. Prohibition of Discrimination

No person shall be subjected to discrimination on the basis of actual or perceived gender identity, gender expression, gender, or sexual orientation. (N.J.S.A. 10:1 *et seq.*, 20 U.S.C. § 1681 (Title IX)).

#### F. Privacy

SOMSD staff members should not disclose a student's transgender status to others, including, but not limited to, other students, parents, and/or other staff members, unless they are legally required to, or the student has authorized such disclosure. Generally, when contacting the parent or guardian of a transgender student, SOMSD staff members should use the student's legal name and the gender pronoun that corresponds to their assigned sex, unless the student, parent, or guardian has specified otherwise.

All students, including transgender students, have the right to openly discuss and express their gender identity or transgender status and to decide when, with whom, and how much to share that private information. In sharing this information, district employees should not use a student's self-disclosure as grounds for sharing information about the student's gender identity or transgender status without the student's express permission.

### G. Use of Names and Pronouns

SOMSD schools and staff shall honor and fully comply with requests of student or parent/legal guardian to have the student addressed by a name and pronoun different from those associated with the student's sex at birth. Proof of a court-ordered name or gender change is not required.

The Board recognizes that inadvertent slips or honest mistakes in the use of names or pronouns may occur. However, intentional or persistent refusals by staff or students to respect a student's gender identity by using the wrong name and gender pronoun is a violation of this policy, and may also be a violation of this Board's policies prohibiting discrimination (Policy 5750), and harassment, intimidation and bullying (Policy 5512).

### H. School Records

SOMSD is required to maintain an official, permanent pupil record with the legal name and gender appearing on the student's birth certificate.

When a student or parent/legal guardian presents the school with documentation of a court-ordered legal name and/or gender change, the district will modify its official records to reflect the student's new legal name and gender, prospectively from the date of the legal change.

Maintaining student's privacy with regard to gender identity, name, and pronouns is a matter of physical and emotional safety. Whether or not a student has a court-ordered or other type of official name or gender marker change, student privacy will be maintained and the student shall be treated in accordance with the expressed gender identity. Thus, irrespective of the student's permanent pupil file, at the request of the student, SOMSD schools and staff shall use a student's requested name, gender marker, and gender pronoun on the other school-related records and documents.

In order to protect the student's privacy, the school should maintain the official, permanent pupil record in a secure location, separate from the student's other records. If the official record is maintained electronically, similar security measures should be implemented to protect student privacy. An individualized procedure to maintain privacy will be included in the student's Gender Diverse Student Support Plan.

In the event that a student identifies as transgender, but is unable to obtain consent from a parent or legal guardian to change school student records, a school administrator, counselor or psychologist should meet with the student to discuss how the student would like to be addressed at school and implement a plan to ensure that the student's privacy is protected.

### I. Restroom Accessibility

Schools may maintain separate restroom facilities for male and female students. However, students shall have access to the restroom that corresponds to their gender identity (N.J.S.A. 10:5-12(11)(f)(1)). Where available, a single stall, "gender neutral" restroom (such as in the health office) may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such a "gender neutral" restroom shall be a matter of choice for a student and no student shall be compelled to use such a restroom.

As a proactive measure, school principals shall take reasonable measures to identify private gender-neutral restrooms on their campus, as well as to de-stigmatize the use of such private options. Principals shall also establish and communicate clear guidelines and expectations with regards to students' physical privacy and boundaries, either through student handbooks, posted expectations, staff training or meetings, or through orientation and other processes for familiarizing students and guardians to the school and its facilities.

### J. Locker Room Accessibility

Schools may maintain separate locker room facilities for male and female students. However, students shall have access to the locker room facility that corresponds to their gender identity.

If any student has a need or desire for increased privacy or safety, regardless of the underlying reason, they may be provided access to a reasonable alternative changing area or locker room such as:

- Use of a private area in the public area of the locker room facility (i.e., a nearby restroom stall with a door, an area separated by a curtain, or a P.E. instructor's office in the locker room).
- A separate changing schedule (either utilizing the locker room before or after other students).
- Use of a nearby private area (i.e., a nearby restroom or a health office restroom).

However, use of such an alternative changing space shall be a matter of choice for a student and no student shall be compelled to use such an alternative. SOMSD staff members should also work to de-stigmatize the use of such options, as well as to establish, communicate and model clear guidelines and expectations with regard to respecting privacy and boundaries in changing areas and other close quarters.

### K. Participation in Athletics and Physical Education Classes

Transgender students shall be permitted to participate in physical education classes, intramural sports, and competitive athletic activities in a manner consistent with their gender identity.

#### L. Gender Segregation in Other Areas

As a general rule, in any other circumstances where students are separated by gender in school activities (i.e., overnight field trips), students may be permitted to participate in accordance with their gender identify as it is consistently asserted at school. Activities that may involve a need for accommodations to address student privacy concerns will be resolved on a case-by-case basis.

#### M. Dress Codes

All students have the right to dress in accordance with their gender identity and gender expression. School dress code policies and guidelines are gender-neutral, and should not be interpreted or applied so as to restrict students' clothing choices on the basis of gender or traditional stereotypes about what males and females "should" wear.

#### N. Resources for Transgender or Transitioning Students

If a school staff member observes that a gender identity issue is creating challenges for a student at school or if a student indicates an intention to transition, the staff member shall alert the school counselor and encourage the student to meet with the school counselor if appropriate. School staff shall make every effort to support the student and encourage the support and respect of student peers and staff during school.

When a student indicates an intention to transition, the school counselor, as appropriate, shall offer assistance and provide the student, and/or their parents/guardians as appropriate, with information, resources and referral services regarding the issues associated with gender identity and expression and/or formal gender transition. The school counselor shall also provide information regarding gender transition planning at school. The counselor shall coordinate the measures planned and taken at school for supporting the student and creating a sensitive supportive environment at school. These measures may include:

A. Making resources available to parents/guardians who have additional questions or concerns;

B. Developing age-appropriate lessons for students about gender diversity and acceptance: and

C. Staff training surrounding vigilance to prevent possible harassment, intimidation and bullying issues that may arise for transgender or transitioning students.

Reports of harassment, intimidation and bullying shall be promptly investigated and resolved according to Board Policy 5512 Harassment, Intimidation and Bullying.

O. Harassment, Intimidation and Bullying Prohibited

The Board recognizes its duty to provide all students, including transgender students, with a safe and supportive learning environment that is free of discrimination, harassment, intimidation and bullying. All of this Board's policies, including Policy 5512 (Harassment, Intimidation and Bullying) and any policy or district or school rule prohibiting discrimination, apply to the treatment of transgender and gender nonconforming students.

Complaints alleging discrimination, harassment, intimidation or bullying based on a student's gender identity, gender expression, or gender nonconformity, are to be handled with the same seriousness as all other such complaints. Any complaint alleging discrimination or harassment based on a student's gender identity, gender expression, or gender nonconformity shall be given immediate attention; shall be fully and appropriately investigated in a timely manner; and shall be resolved through appropriate corrective action.

N.J.S.A. 10:5-1 et seq.  
Title IX, 20 U.S.C. Section 1681  
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