

SUPPORTING TRANSGENDER YOUTH IN SCHOOLS

TRANSGENDER AND GENDER NONCONFORMING STUDENTS' LEGAL RIGHTS:

G.L. c. 76, § 5, prohibits discrimination on the basis of gender identity against students who enroll in or attend the public schools. G.L. c. 76, §5 now reads as follows:

Every person shall have a right to attend the public schools of the town where he actually resides, subject to the following section. No school committee is required to enroll a person who does not actually reside in the town unless said enrollment is authorized by law or by the school committee. Any person who violates or assists in the violation of this provision may be required to remit full restitution to the town of the improperly-attended public schools. **No person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin or sexual orientation.**
(Emphasis added)

MA DOE GUIDANCE TO MEET SCHOOL'S OBLIGATIONS:

Law: Discrimination on the basis of gender identity is prohibited. Regulations, 603 CMR 1.00, require schools to establish policies and procedures, provide training, and implement and monitor practices to ensure that obstacles to equal access to school programs are removed for all students, including transgender and gender nonconforming students.

Gender Identity: The gender identity law defines "gender identity" to mean "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."

The responsibility for determining a student's gender identity rests with the student or, in the case of young students not yet able to advocate for themselves, with the parent.

Gender Transition: The term "gender transition" describes the experience by which a person goes from living and identifying as one gender to living and identifying as another. 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.

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 a school.

Name Changes: Transgender students often choose to change the name assigned to them at birth to a name that is associated with their gender identity. As with most other issues involved

with creating a safe and supportive environment for transgender students, the best course is to engage the student, and in the case of a younger student, the parent, with respect to name and pronoun use, and agree on a plan to initiate that name and pronoun use within the school.

Massachusetts' law recognizes common law name changes. An individual may adopt a name that is different from the name that appears on his or her birth certificate provided the change of name is done for an honest reason, with no fraudulent intent. Nothing more formal than usage is required. Hence, when requested, schools should accurately record the student's chosen name on all records, whether or not the student, parent, or guardian provides the school with a court order formalizing a name change.

The Department has a procedure in place to update name changes and gender markers in the Student Information Management System (SIMS) upon request. The document Assigning State Assigned Student Identifiers (SASIDs) to Massachusetts' Public School Students, which may be found at <http://www.doe.mass.edu/infoservices/data/sims/sasid/>, guides schools through changing names and gender markers on school records.

Privacy, Confidentiality, and Student Records: Under state 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 (see Massachusetts Student Records Regulations, 603 CMR 23.00), is confidential, and must be kept private and secure, except in limited circumstances.

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.

Gender Markers: For transgender students, a documented gender marker (for example, "male" or "female" on a permanent record) should reflect the student's gender identity, not the student's assigned sex. This means that if a transgender student whose gender identity is male has a school record that reflects an assigned birth sex as female, then upon request by the student or, in the case of young students not yet able to advocate for themselves, by the parent or guardian, the school should change the gender marker on the record to male.

Schools are advised to collect or maintain information about students' gender only when necessary.

Restrooms, Locker Rooms, and Changing Facilities: In all cases, the principal should be clear with the student (and parent) that the student may access the restroom, locker room, and changing facility that corresponds to the student's gender identity. While some transgender students will want that arrangement, others will not be comfortable with it. Transgender students who are uncomfortable using a sex-segregated restroom should be provided with a safe and

adequate alternative, such as a single “unisex” restroom.

Some students may feel uncomfortable with a transgender student using the same sex-segregated restroom, locker room, or changing facility. *This discomfort is not a reason to deny access to the transgender student (emphasis added)*. These issues should be resolved through dialogue with students and parents, and leadership in creating safe and supportive learning environments.

Physical Education Classes and Intramural and Interscholastic Athletic Activities: .

Where there are sex-segregated classes or athletic activities, including intramural and interscholastic athletics, all students must be allowed to participate in a manner consistent with their gender identity. With respect to interscholastic athletics, the Massachusetts Interscholastic Athletic Association will rely on the gender determination made by the student’s district; it will not make separate gender identity determinations.

Other Gender-Based Activities, Rules, Policies, and Practices: Gender-based policies, rules, and practices can have the effect of marginalizing, stigmatizing, and excluding students, whether they are gender nonconforming or not. In some circumstances, these policies, rules, and practices may violate federal and state law. For these reasons, schools should consider alternatives to them.

Whenever students are separated by gender in school activities or are subject to an otherwise lawful gender-specific rule, policy, or practice, students must be permitted to participate in such activities or conform to such rule, policy, or practice consistent with their gender identity.

Education and Training: As with other efforts to promote a positive school culture, it is important that student leaders and school personnel, particularly school administrators, become familiar with the gender identity law, regulations, guidance, and related resources, and that they communicate and model respect for the gender identity of all students.

Communication with School Community and Families: Superintendents and principals need to review existing policies, handbooks, and other written materials to ensure that they are updated to reflect the inclusion of *gender identity* in the student antidiscrimination law.

Full text: <http://www.doe.mass.edu/ssce/GenderIdentity.pdf>

RECOMMENDATIONS FOR TEACHERS AND ADMINISTRATORS:

Ask or survey all students for preferred names and pronouns on the first day of class so all students are referred to correctly, and transgender and gender nonconforming students are not singled out or forced to identify themselves as “other.”

Understand that not all transgender and gender nonconforming youth use the same names and pronouns in all spaces and that this can be for safety reasons (example: some students use one name at school and one at home). Don't assume anything--make sure you check with students about their preferences. Do not “out” a student.

Eliminate activities that divide students by gender (different color robes for male and female graduates, boy/girl seating, gendered dress codes, boy/girl gym and health classes).

Bring in a consultant, have an assembly, make PD time, and/or find an organization who presents at schools to educate faculty, staff, students and families about gender identity.

Update your handbook to reflect the changes in law since 2011 that give rights to transgender and gender nonconforming students. Make these changes public so all community members, including parents and students, are aware.

Represent transgender and gender nonconforming people positively in your curriculum. Do this in a sustained way to make sure that these identity groups are not tokenized.

Make sure school and classroom libraries have books for and about transgender and gender nonconforming students.

One option: https://www.goodreads.com/list/show/11446.Booklist_for_Trans_Youth

Make sure that there are employment opportunities for transgender and gender nonconforming people. Advertise positions at conferences and with LGBTQ organizations. Once hired, make sure transgender and gender nonconforming staff are safe and supported.

Don't push students to “prove” their identity through documentation or specific actions. Legally, self-identification is all students need. If they say they're trans, they are, and are entitled to protection under law.

In a case of noncompliance, contact GLAD (Gay & Lesbian Advocates & Defenders). They are willing to write letters to reinforce a student's legal rights or a school's legal responsibilities.

TRANSGENDER AND GENDER NONCONFORMING RESOURCES

Educate yourself! It is not the responsibility of transgender and gender nonconforming people to be the voice on these topics. Many will want to educate you and that's great, but being a responsible ally means proactively seeking out information. There are many reliable sources online that can provide good information about gender identity.

GLAAD's Compilation of Transgender Resources: hotlines, organizations, programs, and general information

<http://www.glaad.org/transgender/resources>

Queer Youth Advice for Educators: a guide that has information and advice from 30 LGBTQ students on the topic of school

http://www.whatkidscando.org/featurestories/2011/06_queer_youth/pdf/QueerYouthAdvice.pdf

Top 10 Trans-Friendly Colleges and Universities: list compiled by The Advocate, a leading LGBTQ news source

<http://www.advocate.com/politics/transgender/2012/08/15/top-10-trans-friendly-colleges-and-universities>

Best Practices for Serving Transgender and Gender Nonconforming Youth in Schools:

Massachusetts Transgender Political Coalition Policy Committee, November 2012

<http://www.masstpc.org/wp-content/uploads/2013/02/MTPC-2013-K-12-Best-Practices.pdf>

National Center for Transgender Equality: The National Center for Transgender Equality (NCTE) is a 501(c)3 social justice organization dedicated to advancing the equality of transgender people through advocacy, collaboration and empowerment.

<http://transequality.org/>

Terms and Definitions: a comprehensive list put together by UC Berkeley.

*It is important to note that while these terms and definitions may be useful, definitions vary widely and not all people in the LGBTQ community hold the same definition for any word

http://geneq.berkeley.edu/lgbt_resources_definiton_of_terms