

GLSEN[®]



MODEL DISTRICT POLICY ON TRANSGENDER AND GENDER NONCONFORMING STUDENTS

**Model Language,
Commentary & Resources**

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KEY

White: Model Policy Language
Yellow/Gray: Explanatory Language

INTRODUCTION

This document presents our Model District Policy on Transgender and Gender Nonconforming Students, which outlines best practices for schools to ensure that all students are safe, included and respected in school, regardless of their gender identity or expression — including transgender and gender nonconforming students. The model presents some policy objectives, key points and alternatives to consider. This model is meant to be adaptable to the specific needs of your school district, while keeping the original intent of the policy intact. This model was developed by examining strong local policies and models and generalizing them for a national context.

This model has been constructed so that you can easily copy model language in order to draft your own district policy. Model policy language is indicated by a white background and sidebar language is indicated by a yellow background (or gray background if the model is printed in black and white).

If you have any questions about this document or would like assistance to construct your own policy pertaining to transgender and gender nonconforming students, you may contact GLSEN's Public Policy Department at 202-621-5821 or by email at publicpolicy@glsen.org or NCTE at 202-903-0112 or by email at ncte@transequality.org.

GLSEN, the Gay, Lesbian & Straight Education Network, is the leading national education organization focused on ensuring safe schools for all students. Established in 1990, GLSEN envisions a world in which every child learns to respect and accept all people, regardless of sexual orientation or gender identity/expression. GLSEN seeks to develop school climates where difference is valued for the positive contribution it makes to creating a more vibrant and diverse community.

The National Center for Transgender Equality (NCTE) is a national social justice organization devoted to ending discrimination and violence against transgender people through education and advocacy on national issues of importance to transgender people. By empowering transgender people and our allies to educate and influence policymakers and others, NCTE facilitates a strong and clear voice for transgender equality in our nation's capital and around the country.

Purpose

The purpose of this policy is to foster an educational environment that is safe and free from discrimination for all students, regardless of sex, sexual orientation, gender identity, or gender expression, and to facilitate compliance with local, state and federal laws concerning bullying, harassment and discrimination. This policy should be interpreted consistent with the goals of reducing the stigmatization of and improving the educational integration of transgender and gender nonconforming students, maintaining the privacy of all students, and fostering cultural competence and professional development for school staff. Furthermore, this policy will support healthy communication between educators and parents to realize the successful educational development and well-being of every student.

A NOTE ON TERMINOLOGY

Transgender and gender nonconforming youth use a number of words to describe their lives and gendered experiences. To list just a few examples, these students may refer to themselves as trans, transsexual, transgender, male-to-female (MTF), female-to-male (FTM), bi-gender, two-spirit, trans man, trans woman, and a variety of other terms. Terminology and language describing transgender individuals can differ based on region, language, race or ethnicity, age, culture, and many other factors. Generally speaking, school staff and educators should inquire which terms students may prefer and avoid terms that make these students uncomfortable; a good general guideline is to employ those terms which the students use to describe themselves.

Definitions

These definitions are provided not for the purpose of labeling students but rather to assist in understanding this policy and the legal obligations of District staff. Students may or may not use these terms to describe themselves.

- **Gender identity:** A person’s deeply held sense or psychological knowledge of their own gender. One’s gender identity can be the same or different than the gender assigned at birth. Most people have a gender identity that matches their assigned gender at birth. For some, however, their gender identity is different from their assigned gender. All people have gender identity, not just transgender people.
- **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. Other terms that can have similar meanings are transsexual and trans.
- **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.
- **Bullying:** Bullying means written, verbal or physical conduct that adversely affects the ability of one or more students to participate in or benefit from the school’s educational programs or activities by placing the student (or students) in reasonable fear of physical harm. This includes conduct that is based on a student’s actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion [or any other distinguishing characteristics that may be included by the state or local educational agency]. This also includes conduct that targets a student because of a characteristic of a friend, family member, or other person or group with whom a student associates.
- **Harassment:** Harassment means written, verbal or physical conduct that adversely affects the ability of one or more students to participate in or benefit from the school’s educational programs or activities because the conduct is so severe, persistent or pervasive. This includes conduct that is based on a student’s actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion [or any other distinguishing characteristics that may be defined by the state or local educational agency]. This also includes conduct that targets a student because of a characteristic of a friend, family member, or other person or group with whom a student associates.
- **Transition:** The process in which a person changes their gender expression to better reflect their gender identity. In order to feel comfortable and to express

MEDICAL CONSIDERATIONS AND IDENTITY DOCUMENTS

Some, but not all, transgender youth need medical treatments to assist their transition. Treatments such as hormone therapy may be unaffordable, not medically indicated or contraindicated for many youth. Surgical treatments are generally not available for school-age transgender youth.

With this in mind, transgender student policies adopted by School Districts should not require proof of medical treatments as a prerequisite for respecting the student’s gender identity or expression. If a school has an objective basis that would justify questioning whether a student’s asserted gender identity or expression is genuine, it may ask for information to show the gender identity or expression is sincerely held. No particular type of information (such as medical history information) should be specifically required.

Transgender youth often have difficulty changing government-issued identity documents and other records to correspond to their preferred name and gender identity. In fact, some states do not allow correction of gender markers at all, and many allow individuals to change their gender marker on identity documents upon the completion of medical procedures that may be unavailable or inappropriate for many youth. Due to varying state and federal policies, youth may have identity documents with inconsistent name and gender information. Amendment of state- or federally-issued identity documents should not be a prerequisite for respecting a student’s gender identity or expression.

their gender identity to other people, transgender people may take a variety of steps: using a nickname 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.

Scope

This policy covers 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. This policy also pertains to usage 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. This policy applies to the entire school community, including educators, school and District staff, students, parents, and volunteers.

Bullying, Harassment, and Discrimination

Discrimination, bullying, and harassment on the basis of sex, sexual orientation, or gender identity or expression shall be prohibited within the School District. It is the responsibility of each school and the District and all staff to ensure that all students, including transgender and gender nonconforming students, have a safe school environment. The scope of this responsibility includes ensuring that any incident of discrimination, harassment, or bullying is given immediate attention, including investigating the incident, taking appropriate corrective action, and providing students and staff with appropriate resources. Complaints alleging discrimination or harassment based on a person's actual or perceived gender identity or expression are to be taken seriously and handled in the same manner as other discrimination, bullying, or harassment complaints.

School administrators shall make every effort to keep transgender and gender nonconforming students at the original school site. Transfers shall not be a school's first or preferred response to harassment of transgender and gender nonconforming students and shall be considered only when necessary for the protection or personal welfare of the transferred student or when requested by the student or the student's parent. The student or the student's parent or guardian must consent to any such transfer.

SAFE SCHOOLS LAWS

Several states have antibullying and nondiscrimination laws that specifically protect students on the basis of gender identity and expression. In some jurisdictions, many elements of this model policy may be explicitly incorporated in policies or regulations implementing these state laws. With or without explicit state mandates, School Districts may adopt policies that ensure fairness, respect and safety for all students.

FEDERAL PROTECTIONS

It is important to note that federal law, specifically Title IX, prohibits sexual harassment and discrimination based on gender or sex stereotypes in every jurisdiction. While Title IX does not specifically use the terms "transgender" or "gender identity or expression," these protections can often be successfully employed to protect transgender and gender nonconforming students from bullying, harassment, and discrimination. For more information of the scope of these protections, please see the Oct. 26, 2010 "Dear Colleague Letter" issued by the US Department of Education, Office of Civil Rights (available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>).

PARENTAL INVOLVEMENT

The parents and guardians of transgender and gender nonconforming students can play a critical role both establishing a safe and accepting school environment for such youth. Transgender and gender nonconforming youth are both coming out in growing numbers and transitioning earlier. We encourage schools to work with supportive parents and guardians whenever possible to establish healthy communication and ensure the needs of the needs of these often vulnerable students are fully met.

DISCRIMINATION AGAINST TRANSGENDER AND GENDER NONCONFORMING STUDENTS

Discrimination often affects transgender and gender nonconforming students in particular ways that prevent them from fully participating in the school environment and impacts their ability to learn. Discrimination can take forms such as ignoring or failing to respond to ongoing bullying and harassment, holding the student to strict or unreasonable applications of a school dress code that results in discipline and may prevent them from attending class, preventing students from using appropriate restrooms, harassment by teachers and staff, and even expulsion. By adopting policies such as this Model, School Districts will have procedures in place for accommodating both transgender or gender nonconforming students and the wider community without resorting to these forms of discrimination.

Numerous studies demonstrate that the bullying, harassment, and discrimination faced by transgender and gender nonconforming students is often pervasive. According to GLSEN's Harsh Realities report, nearly nine in ten transgender students have been verbally harassed in the last year due to their gender expression (87%), and more than half have also been physically assaulted (53%). However, most (54%) transgender students do not feel that they can report incidents of victimization to school authorities, and less than a fifth of transgender students said that school staff intervened most of the time or always when hearing homophobic or negative remarks about someone's gender expression. In fact, more than a third of transgender students report that they have heard school staff make homophobic statements, sexist remarks, or negative remarks about someone's gender expression.

A hostile school climate can negatively impact the educational career of transgender students and have an effect on their capacity for employment throughout their lives. Nearly half of transgender students report regularly skipping school because of safety concerns, clearly impacting their ability to receive an education, and nearly one in six (15%) of transgender and gender nonconforming students face harassment so severe that they are forced to leave school. Transgender students who experience high levels of harassment had grade point averages about half a grade lower, and were also less likely to plan to go to college. Furthermore, the effects of school victimization may extend into adulthood. LGBT young adults who were targeted with LGBT-biased bullying and victimization in secondary school show elevated rates of depression, suicidal ideation, and risk for STDs and HIV (Russell, Ryan, Toomey, Diaz, & Sanchez, 2011).

The *Doe v. Yunits* (2000 WL 33162199 (Mass. Super. 2000)) case in Massachusetts provides an unfortunate but common example of how discrimination can prevent transgender and gender nonconforming students from receiving an appropriate education. A transgender girl in this middle school was repeatedly disciplined for wearing feminine clothing and make-up. Although any other girl at her school could have worn the outfits without being disciplined, she was not allowed to attend school without the principal approving her dress. The transgender student was forced to miss so many days that she was not able to pass the grade, and she eventually had to leave the school. The *Doe* court ultimately ordered the school to allow the student to wear any girls clothing that otherwise followed the general school dress code.

Privacy/Confidentiality

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 medical information. Disclosing this information to other students, their parents, or other third parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA). The District shall ensure that all medical information relating to transgender and gender nonconforming students shall be kept confidential in accordance with applicable state, local and federal privacy laws. School staff shall not disclose information that may reveal a student's transgender status to others, including parents and other school staff, unless legally required to do so 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 other medical information about the student. When contacting the parent or guardian of a transgender student, school staff should use the student's legal name and the pronoun corresponding to the student's gender assigned at birth unless the student, parent, or guardian has specified otherwise.

Media and Community Communication

When communicating to the media or community about transgender issues, the school or District shall have a single spokesperson to address the issue. Rather than directly commenting on the issue, other District and school staff shall direct parents and the media to the designated spokesperson. Protecting the privacy of transgender students must be a top priority for the spokesperson and all staff, and all medical information shall be kept strictly confidential. Violating confidentiality of this information is a violation of this policy and may be a violation of local, state or federal privacy laws.

DEALING WITH MEDIA REQUESTS

Schools and Districts may receive requests for information about transgender students or policies. These types of inquiries can occur when local media learns about a student transitioning or adoption of a policy regarding transgender students. In such cases, it is important that school and District staff respond appropriately in order to avoid undue and potentially harmful attention to individual students. Organizations such as GLSEN and NCTE may be able to provide assistance to advocates and school staff dealing with this type of media scrutiny. In general, if the media inquires regarding the adoption of a new policy or the presence of transgender students, a designated spokesperson should develop information about appropriate terminology and use of preferred names and pronouns and prepare a statement or set of talking points regarding the issue for use with the media. The school or District should avoid raising issues relating to transgender students or policies through public hearings or communication to the media or community. For example, a school should never make a community announcement or other statement simply because a transgender student is in the process of transitioning or has joined the school community. Additionally, in order to maintain the privacy of students and their families, any transgender students and their parents should be advised not to speak to the media.

Official Records

The school shall maintain a mandatory permanent pupil record that includes a student's legal name and legal gender. However, to the extent that the school is not legally required to use a student's legal name and gender on other school records or documents, the school shall use the name and gender preferred by the student. The school will change a student's official record to reflect a change in legal name or 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. School IDs, for example, are not legal documents and should use the student's preferred name. In situations where school staff or administrators are required by law to use or to report a transgender 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.

Names and Pronouns

Every student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity. A court-ordered name or gender change is not required, and the student need not change his or her official records. The intentional or persistent refusal to respect a student's gender identity (for example, intentionally referring to the student by a name or pronoun that does not correspond to the student's gender identity) is a violation of this policy.

Access to Gender-Segregated Activities and Areas

To the extent possible, schools should reduce or eliminate the practice of unnecessarily segregating students by gender. In situations where students are segregated by gender, students should be included in the group that corresponds to their gender identity.

- **Restroom Accessibility**

Students shall have access to all restrooms that correspond to their gender identity consistently asserted at school. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided access to a single user restroom. However, no student shall be required to use such a restroom because they are transgender or gender nonconforming.

- **Locker Room Accessibility**

The use of locker rooms by transgender students shall be assessed on a case-by-case basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports, ensuring the student's safety and comfort, and minimizing stigmatization of the student. In most cases, transgender students should have access to the locker room that corresponds to their gender identity consistently asserted at school, like all other students. Any student – transgender or not – who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a P.E. instructor's office in the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the

locker room that corresponds to their gender identity before or after other students). Any alternative arrangement should be provided in a way that protects the student's ability to keep his or her transgender status private. In no case shall a student be required to use a locker room that conflicts with the student's gender identity.

- **Physical Education Classes, Intramurals Sports, and Interscholastic Athletics**

All students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity. Furthermore, unless precluded by state interscholastic association policies, all students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity.

ADDITIONAL STEPS TO ENSURE EQUAL ACCESS TO GENDER-SEGREGATED SPACES

The policy guidelines for gender-segregated spaces outlined herein present a number of protections meant to apply to all students and thereby, protect transgender students on the basis of their gender identity and expression. Schools and Districts may wish to take additional steps to facilitate equal access to gender-segregated spaces for all students. The options presented here should be used in conjunction with a policy, such as the one outlined in this model, which allows students to make use of gender-segregated spaces consistent with their gender identity.

- **Designation of gender-neutral restrooms**

School staff may designate one or more restrooms to be gender-neutral, meaning that they are accessible to students of all genders. Gender-neutral restrooms can help to make restrooms both safer and more accessible for a variety of people, not just transgender and gender nonconforming students. Gender-neutral restrooms allow students to access the restroom without having to worry whether someone is going to question or harass them for using the "wrong" one. This also increases options for gender nonconforming people. Therefore, it is ideal for schools to make single-occupancy restrooms gender-neutral whenever possible. However, students should not be restricted to using only designated gender-neutral restrooms.

- **Designation of a particular restroom for voluntary use by other students**

School staff, with the agreement of the transgender student (and his/her parents, if involved), may designate one restroom in the school, such as a restroom in the nurse's office or a teacher restroom, that will be usable by students who may feel uncomfortable sharing a facility with transgender students. This allows students who have feel uncomfortable sharing the facility with the transgender student(s) the option to make use of a separate restroom to have their concerns be addressed without stigmatizing any individual student.

CASE STUDIES: TRANSGENDER AND GENDER NONCONFORMING STUDENTS IN SCHOOL

The model policy is based on the principle of treating students in a manner consistent with the gender they consistently present at school. The following examples illustrate how the application of this principle to a variety of situations. These examples do not define every transgender or gender nonconforming student. Transgender and gender nonconforming students form a diverse community, and they may differ in how they present, including differences in factors like their comfort level with being known as transgender or gender nonconforming, their transition status, their age, and their gender expression. No student should ever be required to dress or present themselves in a stereotypically feminine or masculine way in order to be treated respectfully.

EXAMPLE: Sharon and Karen both wear long ponytails, minimal makeup, and a wardrobe that includes t-shirts, jeans, skirts, blouses, sneakers, and heeled sandals. Both identify as female and use female pronouns and other gendered language. Karen, however, was assigned male at birth and her legal name is Calvin. Both consistently present as female at school.

EXAMPLE: Alexis was assigned female at birth, but she identifies as gender nonconforming. Alexis prefers to express herself and dress like a tomboy, she enjoys playing sports with boys in her class, and she prefers that her friends call her Alex. While Alex currently uses female pronouns, she is questioning her gender identity and is considering transitioning to a male role. Currently, Alex is consistently presenting as female at school, but that will change if she decides to transition.

EXAMPLE: Although Casey attended kindergarten and first grade as a boy, about midway through first grade, she and her family decided that Casey would transition and begin presenting as a girl. Casey prefers to dress in stereotypically feminine attire such as dresses or skirts. Although she is growing her hair out, it is still in a rather short, typically boyish haircut. Casey, her parents, and school administrators have asked her friends and teachers to use female pronouns to address her, but occasionally her friends and teachers make mistakes. Casey is consistently presenting as female at school.

EXAMPLE: Juan was named Juanita at birth and was always seen as a tomboy throughout elementary school. Upon the start of middle school, he began to live as a boy and asked everyone to call him “he.” Several months into the school year, after a round of particularly hurtful bullying, for a few days he presented as female and asked people to call him Juanita. After a few days, however, he realized he could not be the Juanita everyone wanted him to be, and he went back to being Juan with male pronouns. Despite the fact that Juan changed his mind for a short period of time, he should still be considered to be consistently presenting as male at school.

EXAMPLE: As part of the school’s annual Spirit Week, each year there is a day when the school’s football players dress like cheerleaders. During this day, while the football players are dressed in a stereotypically feminine way, they are not expressing a consistent gender identity or expression. Instead, they are clearly dressing in a costume meant to be humorous. Instead, they are clearly dressing in a costume meant to be humorous, and therefore this situation falls outside the scope of any policy based on this model.

Dress Code

Schools may enforce dress codes pursuant to District policy. Students shall have the right to dress in accordance with their gender identity consistently asserted at school, within the constraints of the dress codes adopted by the school. School staff shall not enforce a school's dress code more strictly against transgender and gender nonconforming students than other students.

Student Transitions

In order to maintain privacy and confidentiality regarding their transition and gender identity, transgender students may wish — but are not required — to transition over a summer break or between grades. Regardless of the timing of a student's transition, the school shall act in accordance with the following age-appropriate policies.

Elementary School: Generally, it will be the parent or guardian that informs the school of the impending transition. However, it is not unusual for a student's desire to transition to first surface at school. If school staff believe that a gender identity or expression issue is presenting itself and creating difficulty for the child at school, approaching parents about the issue is appropriate at the elementary level. Together, the family and school can then identify appropriate steps to support the student.

Secondary School: Generally, notification of a student's parent about his or her gender identity, expression or transition is unnecessary, as they are already aware and may be supportive. In some cases, however, notifying parents carries risks for the student, such as being kicked out of the home. Prior to notification of any parent or guardian regarding the transition process, school staff should work closely with the student to assess the degree to which, if any, the guardian will be involved in the process and must consider the health, well-being, and safety of the transitioning student.

When a student transitions during the school year, the school shall hold a meeting with the student (and parents if they are involved in the process) to ascertain their desires and concerns. The school should discuss a timeline for the transition in order to create the conditions supporting a safe and accepting environment at the school. Finally, the school shall train school administrators and any educators that interact directly with the student on the transition plan, timelines for transition, and any relevant legal requirements.

DRESS CODE ALTERNATIVES

The model policy contemplates that a school district may have a dress code that is not gender-specific. This approach minimizes the risk of liability under state and federal constitutions and laws prohibiting discrimination based on sex or gender identity. We recognize that many schools currently have gender-specific dress codes. In this case, students must be permitted to dress in compliance with the school's dress code consistent with their gender identity. While the presented dress code policy allows Districts to adapt a pre-existing dress code to meet the needs of transgender and gender nonconforming students, other Districts may wish to adopt a policy that does not restrict a student's clothing choices on the basis of gender or which allows students to choose from gender-neutral clothing options. Regardless, transgender and gender nonconforming students should be allowed dress in accordance with the dress code requirements based on their gender identity or expression. Dress codes should be based on educationally relevant considerations, apply consistently to all students, include consistent discipline for violations, and make reasonable accommodations when the situation requires an exception. Dress codes that restrict clothing choices based on a student's gender can potentially conflict with District obligations under the First Amendment as well as gender, gender identity, or gender expression nondiscrimination laws.

Training and Professional Development

The District shall conduct staff training for all staff members on their responsibilities under applicable laws and this policy, including teachers, administrators, counselors, social workers, and health staff. Information regarding this policy shall be incorporated into training for new school employees.

To the extent funding is available, the School District shall implement ongoing professional development to build the skills of all staff members to prevent, identify and respond to bullying, harassment and discrimination. The content of such professional development shall include, but not be limited to: (i) developmentally appropriate strategies to prevent bullying incidents; (ii) developmentally appropriate strategies for immediate, effective interventions to stop bullying incidents; (iii) information regarding the complex interaction and power differential that can take place between and among a perpetrator, target and witnesses to the bullying; (iv) research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying in the school environment, such as transgender and gender nonconforming students; (v) information on the incidence and nature of cyberbullying; and (vi) internet safety issues as they relate to cyberbullying.

Publication

This policy will be distributed annually and will also be included in any student codes of conduct, disciplinary policies, student handbooks, and school websites.

ADDITIONAL RESOURCES

California Safe Schools Coalition Model School District Policy Regarding Transgender and Gender Nonconforming Students, accessible at <http://www.casafeschools.org/csscmamodelpolicy1209.pdf>. This model policy has been the basis for policies adopted by several districts in California, and it provided appropriate language for several sections of this model.

GLSEN Model District Anti-Bullying and Harassment Policy, accessible at http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/000/001/1718-1.pdf.

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