

# 413 - Addendum C - Administrative Guidelines for Transgender and Gender-Expansive Student Rights and Protections

These Administrative Guidelines (“Guidelines”) set forth White Bear Lake Area Schools’ (“District”) procedures for schools to address the needs and concerns of transgender and gender-expansive students to ensure safe, supportive, and healthy school environments where every child can learn. These Guidelines are intended to: 1) ensure that all students are welcomed, valued, included, and respected; 2) help schools ensure safe learning environments free of discrimination, harassment, and bullying; and 3) promote the educational and social integration of transgender and gender-expansive students. These Guidelines do not and cannot anticipate every situation that may occur, as every student is unique. The support for each student must be assessed and addressed individually based upon the student’s specific requests and needs.

These Guidelines are supported by District Policy 102 (Equal Education Opportunity), 413 (Harassment and Violence), 515 (Bullying Prohibition Policy), 515 (Protection and Privacy of Pupil Records, 522 (Title IX Sex Nondiscrimination Policy, Grievance Procedure and Process), and 525 (Violence Prevention).

## I. DEFINITIONS

A. **Cisgender** is a term used to describe individuals whose gender identity matches their sex assigned at birth.

B. **Gender-expansive** describes someone with a more flexible gender identity than might be associated with a gender binary.

C. **Gender expression** means the manifestation, presentation, or communication of one's gender identity through behavior, physical appearance, clothing, accessories, voice, body characteristics, or other means. Although transgender people may seek to make their gender expression match their gender identity, rather than their sex assigned at birth, gender expression may or may not conform to a person's gender identity.

D. **Gender identity** is a person's deeply held sense or psychological knowledge of their own gender, regardless of the sex or gender they were assigned at birth. A person's gender identity can be the same or different than the sex or gender assigned at birth.

E. **Gender non-conforming** is an umbrella term that is used to describe individuals whose gender expression, gender identity, or gender role differs from gender norms associated with their sex assigned at birth.

F. **Parent** means a person with legal custody or the legal guardian of a child.

G. **Questioning** is an identity label for people exploring their sexual orientation or gender identity.

H. **Sex** refers to a set of biological attributes. It is primarily associated with physical and physiological features including chromosomes, gene expression, hormone levels and function, and reproductive/sexual anatomy. Sex is usually categorized as female, male, or intersex, but there is variation in the biological attributes that comprise sex and how those attributes are expressed.

I. **Sex assigned at birth** refers to the sex designation recorded on an infant's birth certificate when such a record is provided at birth.

J. **Sexual orientation** refers to a person's pattern of sexual attraction, often toward a specific gender, toward multiple genders, or to nobody at all.

K. **Transgender** describes people whose gender identity or expression is different from that traditionally associated with an assigned sex at birth.

L. **Transition** refers to the process in which transgender people begin asserting the gender that corresponds to their gender identity instead of the sex assigned at birth.

## II. NONDISCRIMINATION

A. **Bullying and Harassment.** Transgender and gender-expansive students have the right to attend school and participate in all school sponsored events and activities in an environment that is free from unlawful discrimination, including bullying or harassment that is based on gender identity, gender expression, sexual orientation, or any protected class status.

B. **Response to Sexual Harassment.** Harassment that is based on gender identity or transgender status is harassment based on sex. If sexual harassment occurs, the District must take prompt action to stop the harassment from occurring and to prevent it from recurring. Various laws and policies may be implicated, including Title IX, the Minnesota Human Rights Act, District Policy 413 (Harassment and Violence) and District Policy 514 (Bullying Prohibition Policy).

## III. FACILITY USE

A. **Restroom Accessibility.** Pursuant to state law, students shall have access to the restroom that corresponds to their gender identity asserted at school:

1. Any student who has a need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided access to a single user restroom.
2. No student shall be required to use a single user restroom because they are transgender or gender-expansive.

3. The District shall work with each gender-expansive student to determine which restrooms are most comfortable for the student.

4. In no case shall a transgender or gender-expansive student be required to use a restroom that conflicts with the student's gender identity.

**B. Locker Room Accessibility.** The use of locker rooms by transgender and gender-expansive students shall be assessed on an individualized basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports and other school activities, ensuring the student's safety and comfort, and minimizing stigmatization of the student.

1. Unless the student requests otherwise, transgender and gender-expansive students should have access to the locker room that corresponds to the student's gender identity asserted at school, like all other students.

2. Any student who has the need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, 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 physical education instructor's office in or near the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponds to gender identity before or after other students).

3. Any alternative arrangement should be provided in a manner that protects the student's ability to keep the student's transgender or gender-expansive status confidential.

4. The District shall work with each gender-expansive student to determine which restrooms and locker room facilities are most comfortable for the student.

5. In no case shall a transgender or gender-expansive student be required to use a locker room that conflicts with the student's gender identity.

**C. School Trips.** All students shall be permitted to participate in all school trips in a manner that corresponds with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable. In planning school trips, staff is expected to assess the student's need in collaboration with the student and/or the student's parent(s)/guardian(s) and make reasonable efforts to provide an accommodation that is acceptable to the student. Accommodations will be discussed in advance of the trip on a case-by-case basis.

## IV. GENDER EXPRESSION

**A. Student Names, Pronouns, and Gender Markers.** A student has the right to request that the student be referred to by a name and pronouns that correspond to the student's gender identity by all school staff and fellow students. Parent(s)/ Guardian(s) have a right to request that the District change the student's name and/or gender marker in the school's student information system. A court-ordered name change or official gender change is not required, and the student is likewise not required to change the school's official records in order to be addressed by the name and pronouns that correspond to the student's gender identity.

**B. Student Attire.** Regardless of age, transgender and gender-expansive students have the right to dress in a manner that is consistent with their gender identity at school and at school sponsored events and activities.

## V. EDUCATION RECORDS

**A. MARSS Report.** School districts must currently use a student's legal name and sex assigned at birth in the Minnesota Automated Reporting Student System (MARSS).

**B. Other Records.** At the request of a transgender or gender-expansive student, or their parent, the district will use the student's preferred name, gender identity, and pronouns when referring to the student in education records. This applies to all school records, including, but not limited to, the following:

- Transcripts
- Diplomas
- IEPs
- Section 504 Plans
- Honor or Award Certificates
- Yearbooks
- School IDs
- Announcements
- Programs for sports, plays, and concerts.

**C. Amendment of Education Records.** The Office for Civil Rights (OCR) has issued the following guidance for responding to requests to amend or correct education records to reflect a student's gender identity and new name in order to protect the student's privacy rights:

*A school may receive requests to correct a student's education records to make them consistent with the student's gender identity. Updating a transgender student's education records to reflect the student's gender identity and new name will help protect privacy and ensure personnel consistently use appropriate names and pronouns.*

*Under FERPA, a school must consider the request of an eligible student or parent to amend information in the student's education records that is inaccurate, misleading, or in violation of the student's privacy rights. If the school does not amend the record, it must inform the requestor of its decision and of the right to a hearing. If, after the hearing, the school does not amend the record, it must inform the requestor of the right to insert a statement in the record with the requestor's comments on the contested information, a statement that the requestor disagrees with the hearing decision, or both. That statement must be disclosed whenever the record to which the statement relates is disclosed.*

*Under Title IX, a school must respond to a request to amend information related to a student's transgender status consistent with its general practices for amending other students' records. If a student or parent complains about the school's handling of such a request, the school must*

*promptly and equitably resolve the complaint under the school's Title IX grievance procedures.*

## VI. STUDENT ACTIVITIES, PHYSICAL EDUCATION AND HEALTH EDUCATION, CLASSROOM AND PROGRAM EXPECTATIONS

**A. Minnesota State High School League Activities.** The MSHSL has adopted a bylaw that states: “In accordance with applicable state and federal laws, rules and regulations, the Minnesota State High School League allows participation for all students consistent with their gender identity or expression in an environment free from discrimination with an equal opportunity for participation in athletics and fine arts.” Based on this bylaw, transgender students must have an equal opportunity to participate but are subject to the same performance criteria that apply to all students trying out for a team. The MSHSL bylaws outline an appeals process for addressing eligibility disputes in this area. The current bylaws state:

*Transgender Eligibility Appeal Procedures. The application to appeal a transgender eligibility determination is limited to the following circumstances:*

*(1) The school must have made a determination of ineligibility based on the student's gender identity after receiving information that the student has a consistent gender identity or that the gender identity is sincerely held as part of the student's core identity and the gender identity is different from the student's sex assigned at birth and that the student wishes to participate in athletics in a manner consistent with the student's gender identity.*

*(2) The appeal must be submitted to the MSHSL Executive Director or Executive Director's Designee and may include, but is not limited to, the following:*

*(a) The student's current transcript, school registration and any additional relevant information.*

*(b) The written statement from the student and the student's parent(s)/legal guardian(s) affirming the consistent gender related identity and expression to which the student self-relates.*

*(c) Statements from individuals such as, but not limited to parents, friends, and/or teachers, which affirm that the actions, attitudes, dress and manner demonstrate the student's consistent or sincerely held gender-related identification and expression.*

*(d) A written statement from an appropriate health-care professional, acting within the scope of his/her licensure that verifies the existence of the student's consistent and uniform gender-related identity or sincerely held gender-related identity.*

*(e) Any other evidence that the gender identity is sincerely held as part of the person's core identity as may be required by the school or the MSHSL office relative to the eligibility determination.*

**B. Physical Education and Health Education Classes and Intramural Sports.** Transgender and gender-expansive students shall be permitted to participate in physical education classes, health education classes, and intramural sports and activities in a manner consistent with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable.

**C. Classroom and Program Expectations.** Teachers and staff in all subject areas will make their best efforts not to divide students based on sex assigned at birth or gender identity during any activities or classes. A student's gender identity shall not be considered when assessing ability.

**D. Other School Sponsored Activities.** Transgender and gender-expansive students have the right to participate in school sponsored activities consistent with their gender identity. Transgender and gender-expansive students must have an equal opportunity to participate and are subject to the same performance criteria that apply to all other students. To the extent possible, schools should reduce or eliminate the practice of segregating students by gender.



## VII. PARENT ACCESS TO INFORMATION

**A. Parent Involvement.** If a student asks a school official to modify education records to refer to the student based on the student's gender identity rather than the sex assigned at birth, the school official will inform the student that the request requires that the parent be notified. If the student wants to pursue the modification, the school official or other appropriate staff member will inform the student's parents of the change unless they are over the age of 18.

**B. May Not Withhold Information from a Student's Parent.** A staff member must not refuse to provide parents with information about their child who is under the age of 18, including information about whether their child has asked to use a name, pronouns, restrooms, or locker rooms based on the child's gender identity rather than sex assigned at birth. Staff members may refuse to provide such information if the student is 18 years of age or older, unless the parent has been designated as the child's legal guardian or conservator. The law generally gives parents the right to access all educational data on their child, if the child is under the age of 18.

## VIII. DATA PRIVACY

**A. Disclosure of Transgender or Gender-Expansive Status to other Employees.** All students have a right to privacy, including the right to keep private one's transgender or gender-expansive status at school. Transgender and gender-expansive students have the right to discuss and express their gender identity and expression openly and to decide when, how, and with whom to share private information, as well as to determine what information will be shared.

To ensure the safety and well-being of the student, District employees shall not disclose a student's gender identity, sex assigned at birth, transgender identity, or information that may reveal a student's gender identity (e.g., birth name) to anyone, including, but not limited to, other staff members, students, or parents of other students, unless such disclosure has been authorized by the student or their parent(s)/guardian(s). If such a disclosure is necessary, it will be documented in writing and should be discussed with the student in advance.

**B. No Disclosure of Transgender or Gender-Expansive Status to Other Parents or Students.** A school district employee may not confirm or otherwise disclose a student's transgender or gender-expansive status to the other students, parents of other students in the school, or community members. A student's gender identity is classified as private educational data.

**C. Response to Parent Inquiries.** If the parent of another student expresses a concern or makes a complaint that the District is violating their child's privacy rights by allowing transgender students to use restroom and locker room facilities consistent with their gender identity, the complaint should be forwarded to the building principal. When responding, the building principal should state that school officials may not share information about other students and that the school district follows the laws governing the rights of transgender students. If applicable, the principal may also consider informing the parent that single-use facilities are available for all students who have an increased desire for privacy.

## IX. PROCEDURES

**A. Proof Not Required.** Students do not need to provide any documentation or other "proof" that they are transgender or gender-expansive as a prerequisite to being afforded the rights of a transgender and gender-expansive student.

**B. Notice to Building Administrator.** If a parent or student informs a staff member that a student wishes to change their facility use, gender identity, or update a status in the education records, the staff member must notify the building principal so the principal can ensure that the student's rights are honored and that appropriate supports are in place. Staff members should not unilaterally make decisions about supports that will or will not be provided to the student. If a student asks a school official to modify education records to refer to the student based on the student's gender identity rather than the sex assigned at birth, the school official will inform the student that the request requires parental consent. If the student wants to pursue the issue, the school official or other appropriate staff member will inform the student's parents of the change unless they are over the age of 18.

**C. Staff Training and Compliance.** All administrative staff shall be informed of the existence of these Guidelines. The District will provide training on these Guidelines and how to support transgender or gender-expansive students at reasonable intervals, to be determined by the District.

District employees who refuse to abide by these Guidelines may be subject to disciplinary actions, up to and including termination, as set forth in the relevant employee discipline policy. This includes a staff member's persistent refusal to respect a student's gender identity; for example, by consistently referring to the student by a name or pronoun that does not correspond with the student's gender identity.