

Non-Discrimination for Students: Gender Identity and Expression

General Provisions

This procedural directive is meant to advise school site staff and administration regarding transgender and gender non-conforming student concerns in order to create a safe learning environment for all students and to ensure that every student has equal access to all components of their education programs and activities.

The student shall be treated the same as all other students in the group of his or her affirmed gender in all respects of the education programs and activities offered by the Albuquerque Public Schools.

Gender Identity Policy and Procedural Directive

- [Questions and Answers \(PDF\)](#)

- [Gender Identity Policy and Procedural Directive - Spanish \(PDF\)](#)

Definitions

For purposes of this procedural directive, “gender expression” refers to external cues that one uses to represent or communicate one’s gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.

For purposes of this procedural directive, “gender identity” refers to one’s internal sense of gender, which may be different from one’s assigned sex at birth, and which is consistently asserted, or for which there is other evidence that the gender identity is sincerely held as part of the student’s core identity.

For purposes of this procedural directive, “gender non-conformity” refers to one’s gender expression, gender characteristics, or gender identity that does not conform to gender stereotypes.

For purposes of this procedural directive, “gender stereotypes” refers to stereotypical notions of masculinity and femininity, including expectations of how boys or girls represent or communicate one’s gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.

For purposes of this procedural directive, “gender transition” refers to the experience by which a transgender person goes from living and identifying as one’s assigned sex to living and identifying as the sex consistent with one’s gender identity. A gender transition often includes a “social transition,” during which an individual begins

- [Questions and Answers - Spanish \(PDF\)](#)

to live and identify as the gender consistent with the individual's gender identity, with or without certain medical treatments or procedures.

For purposes of this procedural directive, "gender-based discrimination" is a form of sex discrimination, and refers to differential treatment or harassment of a student based on the student's sex, including gender identity, gender expression, and gender nonconformity with gender stereotypes, that results in the denial or limitation of education services, benefits, or opportunities. Conduct may constitute gender-based discrimination regardless of the actual or perceived sex, gender identity, or sexual orientation of the persons experiencing or engaging in the conduct.

For purposes of this procedural directive, "gender-specific facilities" refers to facilities and accommodations used by students at school or during school-sponsored activities and trips, and include, but are not limited to, restrooms, locker rooms, and overnight facilities.

For purposes of this procedural directive, "sex assigned at birth" or "assigned sex" refer to the gender designation listed on one's original birth certificate.

For purposes of this procedural directive, "transgender" describes an individual whose gender identity is different from the individual's assigned sex at birth. For example, "Transgender boy" and "transgender male" refer to an individual assigned the female sex at birth who has a male gender identity. An individual can express or assert a transgender gender identity in a variety of ways, which may but do not always include specific medical treatments or procedures. Medical treatments or procedures are not considered a prerequisite for one's recognition as transgender. For purposes of this policy, a "transgender student" is a student who consistently

asserts a gender identity different from the student's assigned sex at birth, or for which there is documented legal or medical evidence that the gender identity is sincerely held as part of the student's core identity.

Prohibition on Gender-Based Discrimination and Harassment

According to Department of Education guidance transgender students shall be protected from discrimination and harassment under Title IX. It specifically states "Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and the Office of Civil Rights accepts such complaints for investigation."

State statute prohibits employers from discriminating on the basis of gender identity.

Board of Education policy prohibits discrimination on the basis of gender identity.

These prohibitions affirm that transgender students shall be protected from discrimination and harassment in the public school system. District employees shall respond appropriately to ensure that schools are free from any such discrimination or harassment.

Each school and the district shall ensure that students who are transgender and gender nonconforming have a safe school environment. This includes ensuring that any incident of discrimination, harassment, or violence 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 transgender status or gender nonconformity shall to be handled in the same manner as other discrimination or harassment complaints through the Equal Opportunity Services Office and the district support team.

Student Transfers

The goal shall be to maintain continuity of the student's education in a safe learning environment. In general, schools shall aim to keep students who are transgender and gender nonconforming at the original school site. Administrative transfers shall not be a school's first response to harassment 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/legal guardian and approved by a member of the superintendent's leadership team pursuant to administrative procedural directive. The student or the student's parent/legal guardian shall consent to any such transfer prior to an administrative transfer taking place.

Names, Pronouns and Official Records

Names/Pronouns

Students shall have the right to be addressed by a name and pronoun corresponding to their gender identity that is asserted at school. Students shall not be required to obtain a court ordered name, a gender change or to change their official records before they may be addressed by the name and pronoun that corresponds to their gender identity. This procedural directive may not prohibit inadvertent slips or honest mistakes, but it shall apply to an intentional and persistent refusal to respect a student's gender identity.

The requested name and gender identity shall be included in the student information system, in addition to the student's legal name and sex assigned at birth, in order to inform teachers of the name and pronoun to use when addressing the student.

Transgender and gender non-conforming students shall 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 shall not authorize school staff to disclose other medical information about the student. When contacting the parent/legal guardian of a transgender student, school staff shall use the student's legal name and the pronoun corresponding to the student's gender assigned at birth unless the student or parent/ legal guardian has specified otherwise.

Official Records

Pursuant to state statute and regulation, Albuquerque Public Schools is required to maintain a mandatory permanent student record that includes the name of the student, as well as the student's sex.

School staff or administrators are required by law to use students' legal name and gender in state academic records, such as standardized testing, but school staff and administrators shall use students' preferred name and gender in all internal records, documents, and interactions.

Albuquerque Public Schools shall change a student's official records to reflect a change in legal name or gender only upon receipt of documentation (court order or birth certificate) that such legal name and/or gender have been changed pursuant to New Mexico legal requirements.

Albuquerque Public Schools shall ensure that any school records containing the student's birth name or reflecting the student's assigned sex, if any, are treated as confidential, personally identifiable information; are maintained separately from the student's records; and are not disclosed to any district employees, students, or others without the express written consent of the student's parent/legal guardian or the student after the student turns eighteen (18) or is emancipated.

In situations where school staff or administrators are required by law to use or to report the legal name or biological sex of a student who is transgender but whose official record has not been amended, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

Access to Gender-Segregated Activities and Areas

General Statement on Facilities

The student shall be provided access to designated gender-specific facilities at school, at all district-sponsored activities, including overnight events and extracurricular activities on and off campus, consistent with the student's gender identity. The student, however, may request access to private facilities based on privacy, safety, or other concerns.

Restroom Accessibility

Students shall have access to the restroom that corresponds to their gender identity at school. Where available, a single stall bathroom may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such a single stall bathroom shall be a matter of choice for a student, and no student shall be compelled to use such bathroom.

Locker Room Accessibility

Transgender students shall have access to the locker room of their gender identity and shall not be forced to use the locker room corresponding to their sex assigned at birth. In locker rooms that involve undressing in front of

others, transgender students who want to use the locker room corresponding to their gender identity shall be provided with the best possible available accommodation. Based on availability and appropriateness to address privacy concerns, such accommodations could include, but are not limited to:

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

Physical Education Classes and Intramural 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.

Gender Segregation in Other Areas

As a general matter, schools should evaluate all gender-based activities, rules, policies, and practices — including, but not limited to, classroom activities, school ceremonies, and school photos — and maintain only those that

have a clear and sound pedagogical purpose. Students shall be permitted to participate in any such activities or conform to any such rule, policy, or practice consistent with their gender identity.

As a general rule, in any other circumstances where students are separated by gender in school activities (e.g., class discussions, field trips), students shall be permitted to participate in accordance with their gender identity.

Dress Codes

Schools may enforce dress codes pursuant to administrative procedural directive. Students shall have the right to dress in accordance with their gender identity within the constraints of the dress codes adopted by the district and the school. School staff shall not enforce a school's dress code more strictly against transgender and gender non-conforming students than other students.

Professional Development

Albuquerque Public Schools shall provide training to all certified district-level and school-based administrators regarding the district's obligations to prevent and address gender-based discrimination as well as implementation of the policies, procedures, and regulations, and best practices for creating a nondiscriminatory school environment for transgender students. Site administrators shall, throughout each school year, provide this information to all faculty and staff during existing trainings, meetings, and other appropriate opportunities.

Bullying Prevention and Sexual Harassment Programs

The district will provide age-appropriate instruction to all students on gender-based discrimination and will provide examples of prohibited conduct, including harassment, in various school-related contexts, including the types of conduct prohibited with respect to sex-specific facilities and elsewhere at school as part of its bullying prevention and sexual harassment programs.

Individual Support Plan Meeting

Albuquerque Public Schools shall notify the student and his/her parents that they may, at any point during the student's enrollment in the Albuquerque Public Schools, request through the Equal Opportunity Services Office, an individual support plan meeting to ensure the student has access and opportunity to participate in all programs and activities, and is otherwise protected from gender-based discrimination at school. If the district receives such a request, it will convene a support team that will:

- Include, at a minimum, the student, his/her parents, the principal, counselor, District Title IX Director, if requested, an advocate or representative of the parents' choice (if any), a medical professional of the parents' choice (if any), personnel familiar with the issues (as needed), and relevant site personnel familiar with the student;

- Develop a student-specific support plan to provide the student with safe and equitable access to all school and Albuquerque Public Schools facilities and activities, addressing any particular issues raised by the student or his/her parents;
- Document its meetings, recommendations, and decisions, including, but not limited to, the date and location of each meeting, the names and positions of all participants, the basis for its recommendations and decisions, and supporting third-party opinions and information considered and/or relied upon in the meeting; and
- At least once each school year and at any time upon the request of the student or his/her parents, review the student's particularized circumstances to determine whether existing arrangements related to the student's gender identity, gender transition, or transgender status are meeting his/her educational needs and ensuring that the student has equal access to and equal opportunity to participate in the district's education programs and activities. Once constituted, the individual support plan shall be in place for the remainder of the student's enrollment in the district or until his/her parents request in writing that it be terminated.

Administrative Position: Chief Academic Officer
Department Director: Director of Equity/Equal Opportunity Services Office

References:

Legal Cross Ref.: §28-1-7 NMSA 1978
NMAC 1.20.2.108
Board Policy Cross Ref.: A.03 Nondiscrimination

Procedural Directive Cross Ref: Students Attending a School outside Their Attendance Boundaries
Student Dress

NSBA/NEPN Classification: ACA

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