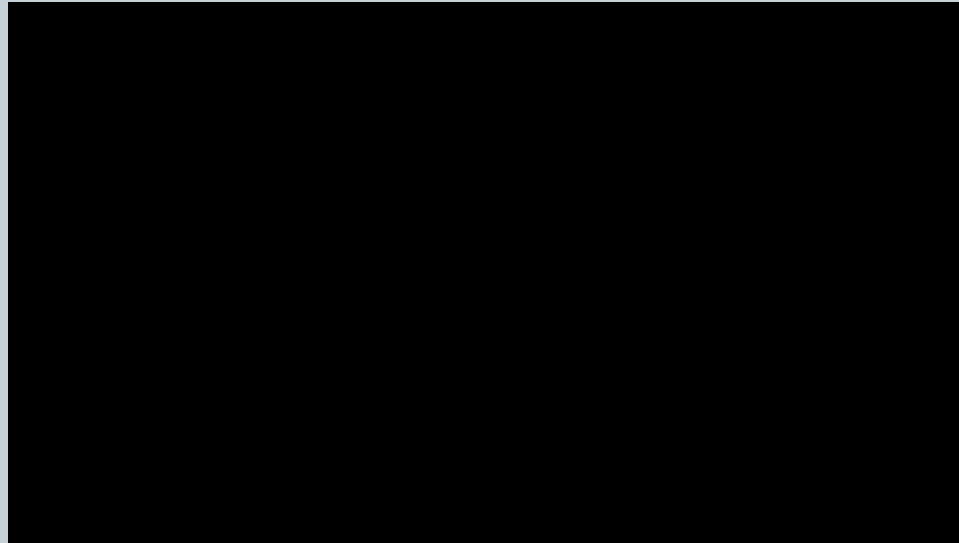


# DIVERSITY



HEIDI J. ALDER  
LEAR & LEAR, OF COUNSEL  
EDUCATION LAW SECTION

# The Office – Diversity Day



# How Diverse is Our School?



## **Raise your hand and keep them up if you teach or interact with:**

- White students, born and raised in Utah, who are members of the Church of Jesus Christ of Latter-day Saints (LDS faith) and who speak English as their primary language and who live with both mom and dad

## **Put your hand down if you have:**

- Students who are 1<sup>st</sup> generation immigrants
- Students who are 2<sup>nd</sup> generation immigrants
- Students who are not LDS
- Students who are not born and raised in Utah
- Students who are gay
- Students who are transgender
- Students who are black
- Students who are Hispanic/Latino
- Students who do not speak English as their primary language
- Student who live with mom OR dad OR grandparents OR aunt/uncle

# How Do We Handle Diversity in Our School?



# Diversity Tips 1-10



**Tip #1:** Recognize that we all have biases.



# Explicit Bias vs. Implicit Bias



Explicit Bias	Implicit Bias
Express Directly	Expressed Indirectly
Aware of Bias	Unaware of Bias
Operates Consciously	Operates Sub-Consciously
Example: “I like whites more than Latinos”	Example: Sitting further away from a Latino than a white individual

# Implicit Bias



- Refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner and can cause us to have feelings or attitudes about other people based on characteristics such as race, ethnicity, age, and appearance.
- Activated involuntarily and without an individual's awareness or intentional control.

# A Few Key Characteristics of Implicit Biases



- Implicit biases are pervasive. Everyone possesses them, even people with avowed commitments to impartiality such as judges.
- The implicit associations we hold do not necessarily align with our declared beliefs or even reflect stances we would explicitly endorse.
- We generally tend to hold implicit biases that favor our own in-group, though research has shown that we can still hold implicit biases against our in-group.



# Diversity Tips 1-10



**Tip #2:** Acknowledge that left unchecked, biases turn into stereotypes that turn into prejudices and discrimination.

- **NOTE:** Implicit biases can be changed. Our brains are incredibly complex, and the implicit associations that we have formed can be gradually unlearned.





# Diversity Tips 1-10



**Tip #4:** Understand legal obligations to ensure discrimination does not occur in our school.



# Our Legal Responsibility

**Sex/Gender**

Title IX of the  
Education  
Amendments  
Act of 1972

**Race/Color/ Nat'l  
Origin/Religion**

Titles IV and  
VI of the  
Civil Rights  
Act of 1964

**Disability**

Section 504 of the  
Rehabilitation of 1973

Americans with  
Disabilities Act (ADA)

Individual with  
Disabilities Education  
Act (IDEA)

# Federal Laws



- **Title IX**
  - To make sure no student is discriminated against on the basis of that individual's sex/gender, sexual orientation, or gender identity
- **Titles IV and VI**
  - To make sure no student is discriminated against on the basis of his/her race, national origin, skin color, or religion
- **Section 504/ADA/IDEA**
  - To make sure students with disabilities are not discriminated against and that they have equal access to education as the non-disabled students

# Examples of Discrimination Complaints in Utah



- Complaint that a district discriminates on the basis of race and color by assigning less qualified teachers to teach in West side schools and by failing to provide appropriate busing for West side students.
- Complaint that a basketball coach used the “n” word and the term “monkey boy” when referring to students of color.
- Complaint against school district for lack of correction and prevention of alleged bullying targeted at a gay student who later committed suicide.
- Complaint about clothing (t-shirts) with messages that may be considered offensive to others based on race, gender, color, religion, or national origin.
- Complaint from parent of transgender male student (born as girl, transitioned to boy) who wanted to have yearbook picture taken wearing what the boys wore, when school refused.
- Complaint that a district discriminated on the basis of race by subjecting students of color to disproportionate disciplinary measures, including in-school suspensions and suspensions of greater than 10 days, and to disproportionate contact with law enforcement.

# Diversity Tips 1-10



## **Tip #5:** Be an equal opportunity disciplinarian.

- A large number of civil rights complaints involve the disparity in discipline between white and non-white students for the same offense.
- Research supports that this is happening in schools across the country.
- Be aware of the inadvertent tendency for school personnel to discipline minority students (particularly black students) harsher than white students and be vigilant about ensuring ALL students get the same treatment for the same or similar offenses.

# Diversity Tips 1-10



**Tip #6:** Be familiar with Nebo School District's policies on non-discrimination.

- NSD Policy JDC
  - Student Discrimination and Harassment
- NSD Policy JDD/GBEA
  - Prohibition of Bullying, Hazing, and Retaliation
- Familiarize yourself with the policy examples of types of conduct that could be considered bullying, discrimination, and harassment based upon a student's race, color, religion, sex/gender, national origin, disability, or other legally protected classification



# Diversity Tips 1-10



**Tip #7:** Recognize when other students' teasing/bullying is tied to race, national origin, sex, or disability.

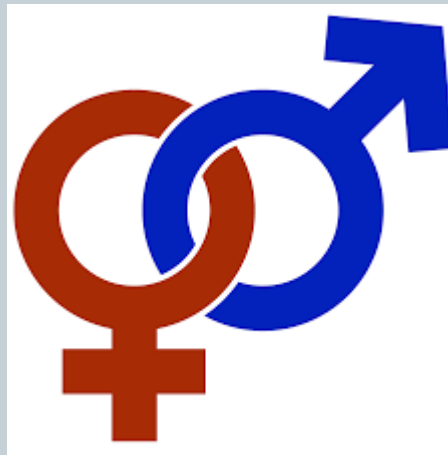
## FOR EXAMPLE:

- Use of the “n” word, “wetback,” or other derogatory terms for a student’s race or national origin.
- Use of the term “retarded” and/or making fun of students’ disabilities (even if a student is not disabled, comparing a non-disabled student to a disabled student in a disparaging way).
- Terms that suggest sexual promiscuity or impropriety (e.g., whore, slut), or spreading rumors about a student’s sexual proclivities.
- Sending nude or semi-nude images of a student without the student’s permission; or soliciting through pressure or blackmail images of nude or semi-nude images of a student.

# Diversity Tips 1-10



**Tip #8:** Recognize that the term “sex” in Title IX has been interpreted by several courts and the Office for Civil Rights (OCR) to include “sexual orientation” and “gender identity.”



# Diversity Tips 1-10



**Tip #9:** Put aside whatever personal thoughts/feelings/beliefs from whatever source they come and treat LGBTQ students with the same love and care you show for all other students.



# Statistics on LGBTQ Youth



- LGBTQ students are 3 times more likely to experience harsh disciplinary treatment than their straight counterparts (47% LGBTQ had experienced suspension vs. 30% non-LGBTQ -- usually when these kids stand up for themselves).
- LGBTQ youth are more likely to experience homelessness than their non-LGBTQ peers (40% of homeless youth are LGBTQ).
- 27% of LGBTQ youth report they can “definitely” be themselves in school as an LGBTQ person (including sexual identity).
- 13% of LGBTQ youth report hearing positive messages about being LGBTQ in school.
- 26% of LGBTQ youth report that they always feel safe in the classroom.
- 40-50% of LGBTQ attempt suicide when they **are not** supported or affirmed. When they **are** supported or affirmed, number drops to 4% (the national average for non-LGBTQ persons).

# Legal History of Transgender Students in Schools



- ❖ There have been 30+ lawsuits filed around the country in both state and federal courts over transgender student issues, and particularly regarding the use of restrooms and locker rooms.
- ❖ To date, no there is no Utah law or controlling court case with regard to accommodating transgender students.
- ❖ However, all students (transgender or not) are entitled to receive an education free from illegal discrimination and harassment.

# What To Do While the Courts Fight it Out?



In the meantime . . . .

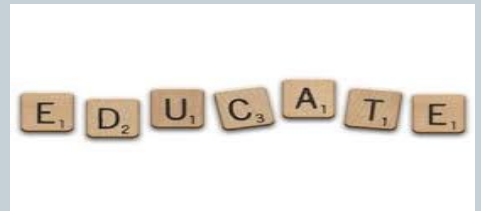
1. Educate ourselves (listen and learn).
2. Be aware of the issues that need to involve school administration.
3. Ensure a practice of non-discrimination for all students.

# Step 1. Education



## Listen and Learn . . . .

- Listen to the stories of transgender persons. Hear their experience and the experience of those who love them. These can come from people you know, TEDx Talks, YouTube videos, etc.
- Listen to students and parents who are expressing concern and worry to you about their well-being and school safety.
- Listen carefully and seek to understand before responding.



# Step 1: Education, Cont.



## Terminology:

- Biological Sex: The sex organs a child is born with.
- Gender Identity: How a people think of themselves and which gender they feel they are. In other words, gender identity is an emotional, rather than a physical characteristic. It is generally believed that gender identity is formed by about the age of four (although some may not realize it until later) and it very rarely changes after that.
- Gender Expression: How people demonstrate their gender to the outside world through things like dress, speech, and behavior. Gender expression may change depending on circumstances.

NOTE: Sexual attraction is not a factor in determining gender identity or gender expression. Often, gender identity is defined long before a person is sexually attracted to anyone.



# Step 1: Education, Cont.



## Terminology:

- Transgender Person: A person whose gender identity does not match his/her biological sex at birth. Importantly, a person's status as transgender does not depend upon whether that person has undergone (or even intends to undergo) any medical treatment for gender reassignment, nor does it depend on who a person is sexually attracted to.
- Transgender Female: A person whose assigned sex at birth is male but identifies and lives as a female. MTF or male-to-female.
- Transgender Male: A person whose assigned sex at birth is female but identifies and lives as a male. FTM or female-to-male.
- Transition: The process a transgender individual goes through to live as their self-identified gender. It includes social transitions and may or may not include medical transitions.

# Step 2. Transgender Student Issues



Transgender student issues which you should refer to, or seek direction from, school administration include:

- Use of different names and pronouns
- Communications with the student and parents
- School records
- Use of school bathrooms / locker rooms
- School overnight trips
- Student-to-Student harassment or bullying
- Dress code issues
- Participation in gender specific sports and activities

**NOTE:** Nebo School District addresses transgender student issues on a case-by-case basis. This is generally done after school administrators consult with district legal counsel.

## Step 3. Preventing Gender Discrimination at School



- Be aware of gender based bullying, harassment, and hurtful teasing.
- Use inclusive phrases to address your class (e.g., students, children, scholars, etc.).
- Group students in ways that do not rely on gender (e.g., instead of “boys over here, girls over there,” group students by tables, letters in their names, colors of their clothes, etc.).
- Immediately intervene when you hear derogatory gender stereotypes.
- Demonstrate your care for ALL students. Students know a safe place when they feel it.

# Diversity Tips 1-10



## **Tip #10: Be nice to EVERYONE.**

- As educators and other school officials we have responsibility to ensure schools are free from discrimination and that ALL students feel safe.
- Role model inclusion. Show kids how to treat others by including all.
- Ensure there is good supervision of classrooms, hallways, playgrounds, and cafeterias to increase a sense of safety.
- Interrupt student comments based on stereotypes or identity. Make it a teachable moment.
- Stop hurtful teasing and bullying based on gender put-downs, racial slurs, insults based on disability, etc.

# Remember Why You Do What You Do



- Take a step back from all the political agendas and remind yourself why you went into education.
- You love kids.\* You inspire kids.
- Love them ALL the same. Inspire them ALL the same.
- Find the good in every child and drag it out.

\*If you don't, get out of education!

# Be a Mr. Jensen

