

CCS Best Practices – LGBT

PURPOSE: It is best practice to have procedures that protect the health and well-being of all students. These procedures are designed to prevent, intervene in, and respond to questions of how to best serve the needs of a population.

This area is one of frequent change legally and so practices outlined here represent “Best Practices” as of December, 2015.

LGBT Students

This “best practice” is designed to address how schools can protect lesbian, gay, bisexual, and transgender (LGBT) students from harassment and discrimination and, at the same time, protect themselves from potential liability. The goal of the district shall be to ensure the safety, comfort, and healthy development of the student while maximizing social integration of the student and minimizing stigma against the student.

Background. Gender identity relates to a person’s inner sense of being male, female or something on a continuum between—or even beyond—these two concepts. Gender expression relates to the way in which a person communicates gender identity through clothing, hairstyle, grooming or voice. However, when a person whose gender identity, gender expression, or behavior does not conform to that typically associated with the sex to which they were assigned at birth, respecting this right can become complicated.

School staff, students, and parents must work together to make the best decisions in gender identity matters for all students. For example, students and parents may object to decisions on the basis their child’s privacy is being invaded. It is important to reach a safe and non-stigmatizing alternative for all students.

Existing Federal Laws. Public schools have obligations under federal law to protect students from anti-LGBT harassment and discrimination. Two examples of these laws are Equal Protection Clause and Title IX.

The Equal Protection Clause is intended to ensure there is equal application of the law and no discrimination. A school district and its employees must protect students from anti-LGBT harassment. If a school official fails to take action when they learn of such harassment because they think an LGBT student should expect to be harassed, or that the student provokes the harassment by being openly LGBT, then the school has failed to provide equal protection to the student. Likewise, school officials violate the Equal Protection Clause if they fail to provide the same level of protection against harassment to boys and girls, to LGBT and non-LGBT students.

Title IX prohibits harassing conduct that is of a sexual nature if it is unwelcome and denies or limits a student’s ability to participate in or benefit from a school’s program, regardless of whether the harassment is aimed at gay or lesbian students or is perpetrated by individual of the same or opposite sex. Title IX does not address discrimination or other issues related to sexual orientation.

Definitions.-

- *Assigned Gender* - The gender assigned to a child at birth based on physical anatomy.
- *Affirmed Gender* – An individual’s asserted gender identity, regardless of anatomy.
- *Cisgender*-A person whose gender identity corresponds with that person’s biological sex assigned at birth.
- *Gender-Expansive* – This refers to youth who do not identify with traditional gender roles. They are not confined to one gender narrative or experience.
- *Gender Expression*- This is the way in which a person acts to communicate gender within a given culture – in terms of clothing, communication patterns and interests. A person’s gender expression may or may not be consistent with socially prescribed gender roles and may or may not reflect his or her gender identity.

- *Gender Nonconforming* – This includes persons who identify outside traditional gender categories or identify as both genders.
- *Gender Identity* – refers to how one thinks of one’s own gender: whether one thinks of oneself as a man (masculine) or as a woman (feminine).
- *LGBT* – An acronym referring to Lesbian, Gay, Bisexual, Transgender, or Questioning. There are specific needs and concerns related to each individual identity.
- *Sexual Orientation* – An enduring emotional, romantic, or sexual attraction toward others. Traditional sexual orientation has been divided into three categories: homosexual, bisexual, and heterosexual.
- *Transgender* – A person whose gender identity or expression is different from that traditionally associated with an assigned sex at birth.
- *Transition* – The process in which a person goes from living and identifying as one gender to living and identifying as another.

Guidance.-

Privacy. All persons, including students have a right to privacy. This includes the right to keep private one’s status or gender nonconforming presentation at school.

School personnel should not disclose information that may reveal a student’s transgender status or gender nonconforming presentation to others, including parents and other school personnel, 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.

When contacting the parent/guardian of a transgender or gender nonconforming student, school personnel 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.

The expression of transgender identity, or any other form of gender-expansive behavior, is a healthy, appropriate and typical aspect of human development. A gender-expansive student should never be asked, encouraged or required to affirm a gender identity or to express their gender in a manner that is not consistent with their self-identification or expression. Any such attempts or requests are unethical and will likely cause significant emotional harm. It is irrelevant whether a person’s objection to a student’s identity or expression is based on sincerely held religious beliefs or the belief that the student lacks capacity or ability to assert their gender identity or expression (e.g., due to age, developmental disability or intellectual disability). (Source: Schools in Transition – A Guide for Supporting Transgender Students in K-12 Schools).

Official Records. CCS is required to maintain a mandatory permanent student record that includes a student’s legal name and legal gender. The district is not required to use a student’s legal name and gender on other school records or documents.

The district will change a student’s official record to reflect a change in legal name or legal gender upon receipt of documentation that such change has been made pursuant to a court order.

Names/Pronouns. A 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 is not considered best practice. An example of this would be intentionally referring to the student by a name or pronoun that does not correspond to the student's gender identity.

Gender Segregated Activities. To the extent possible, schools should reduce the practice of segregating students by gender. In situations where students are segregated by gender, such as health education classes, students should be included in the group that corresponds to their gender identity.

Dress Codes. Transgender and gender nonconforming students have the right to dress in a manner consistent with their gender identity or gender expression. Schools should not adopt dress codes that restrict students' clothing or appearance on the basis of gender.

Access to Gender-Segregated Activities and Areas.

Activities involving the need for accommodations in order to address student privacy concerns are addressed on a case-by-case basis. Staff shall make reasonable effort to provide an accommodation acceptable to the student.

Application.

Names/Pronouns. The first contact between a student and teacher is important to their working relationship. To assist in building this working relationship, middle and high school teachers may record the "preferred" names given by students on the first day of class when name given differs from legal name recorded on roster.

- Teachers can enter the preferred name into the Grade Book. The preferred name should be used in class to identify the student. This expectation does not include those situations where a student selects a name on the basis of attention seeking.
- Data managers can train middle and high school teachers on how to run a report that will indicate student "preferred" names.
- Preferred names should be shared with school administrators and school counselors so that correct names are used to identify the student in each setting, e.g., the preferred name at home may differ from the preferred name at school.
- All formal reports and files (e.g., cumulative information) generated by the data manager must bear the legal name of the student. Teachers are able to use the preferred name in all classroom communications.

It is best practice to address students by the pronoun that reflects their identity regardless of their presentation. A student who is transitioning may indicate name and pronoun preferences. Once identified, these preferences should be respected; the impact of doing so on a student's sense of well-being and security cannot be emphasized enough. Individuals intentionally and persistently referring to the student using the former name or pronouns may be in violation of federal, state, and district nondiscrimination and anti-harassment provisions. Within a classroom, there may be a small number of students who have a preferred name that is very different from their legal

name. After class, a teacher is asked to individually approach students who have a preferred name that is very different from their legal name, e.g., presenting male with a female name, *"I noticed your preferred name is very different from your given name. What name do you use at home?"*

- **Best Practice.** Schedule a meeting to understand the wishes and desires of the student in regards to gender. During this meeting, you should try to learn if the student has the support of the parents/guardians or not, and the pros and cons of notifying the parents in the process. Work with your administrative team and school counselor on next steps.
- School personnel should not discuss a student's status with anyone other than the student and student's parent/guardian unless the information is necessary in order to accommodate the student or ensure the student's safety.

Overnight Field Trip. Schedule a meeting with the student and parent/guardian together.

- **Best Practice.** The school administrator shall arrange a conference and extend invitations to the student and parent/guardian (students under the age of 18 years) to discuss matters pertinent to the upcoming field trip. The desired outcome(s) for the conference are determining the accommodations and modifications that need to be in place for the participation on the part of this student.
- Conference attendees may include, but not be limited to, school administrator, school counselor, supervising staff member for the class and/or activity. The intent for multiple school representatives is not to overwhelm but to provide needed information and advocacy for the decision(s) that must be made. The student and parent (guardian) should be informed of those participating in the conference prior to the scheduled conference.
- The student who is uncomfortable using a shared facility shall be provided with a safe and non-stigmatizing alternative. This may include an addition of a privacy partition or curtain, provision to use a nearby private restroom or office or separate changing schedule. A student should not be required to use sex-segregated facilities inconsistent with their gender identity. Where available, schools are encouraged to designate facilities designed for use by one person at a time as accessible to all students regardless of gender.
- The justification for room assignments by gender is for the purpose of reducing the possibility of inappropriate behaviors between students. If LGBT or gender non-conforming students object to standard gender-separated housing, seek to understand the reasons behind the objection to staying in a particular room. Provide a trusted person at the school who can talk with the student. Discern if the objection for standard gender-separated housing is for reasons of privacy or safety. Is there a history of romantic involvement between students? Is the student experiencing harassment? If harassment is reported, there must be further investigation.
- Private accommodations shall be made available at no additional cost to the student. School administration shall determine the funding source for the additional cost created by the additional room.

Athletic Participation. The North Carolina High School Athletic Association (NCHSAA) adopted a rule clarifying the participation of students in sports programs. The policy states - "A student's gender is denoted by what is listed on the birth certificate." (4/28/2014) Women shall not participate on a men's interscholastic athletic team where the school has a women's team in the same sport. Men's rules will be used where women plan on men's teams. Under no condition shall men participate on women's teams in any sport. NCHSAA

The Middle and High School athletic programs are considered integral parts of the total school experience for students in our system and contribute much to the individual students' positive growth and development. The program offers a variety of sixteen organized sports at the middle school level and twenty-eight at the high school level. All participating students and schools must comply with the rules and guidelines of the North Carolina High School Athletic Association and the North Carolina State Board of Education. ([2014-15 CCS Athletic Handbook](#)).

Dress Codes – Transgender students have the right to dress in a manner consistent with their gender identity or gender expression as long as the student's attire complies with the school- or district-wide dress code. A transgender student must be allowed to wear the clothing that corresponds to their gender identity, regardless of their assigned sex at birth, the gender designated on their birth certificate or other legal documents.

Questions –

This section is included to address specific questions that not directly addressed in earlier sections of this document.

- Q - Should "Q" be honored in the same way as LGBT? What legal expectations are there in regard to "questioning" youth? The concern is that some youth change gender frequently.
A- This is an area of "question" now and there is not an established legal answer. The appropriate response is to address this on a case-by-case situation.
- Q- Overnight Field Trips- When parent is unaware their child is presenting as "transgender", how should school proceed when overnight field trips are involved? The question comes of the overriding principal that students shall not be outed.
A- Due to the variance found in overnight field trips, the best practice is for the school administrator is to confer with district staff regarding the specific situation.
- Q - Letters of Recommendation to Colleges/Universities. How should one proceed in a letter of recommendation when parent is not supportive of student's presentation as "transgender" / is supportive of student's presentation as "transgender"? Must the legal name be the one used when student has requested the use of a different name?
A- The school staff should handle this in the same manner as we do for students who "go by" a name other than their formal name. An example would be where a student's name is "Catherine" and her parents wanted her always to be "Catherine" but she wanted to be called "Cathy" at school.

- Q- What are the responsibilities of the school in regard to “transgender” youth when parents are in total disagreement of identifying their child in any way other than their legal name?

A - A- The school staff should handle this in the same manner as we do for students who “go by” a name other than their formal name. An example would be where a student’s name is “Catherine” and her parents wanted her always to be “Catherine” but she wanted to be called “Cathy” at school.

- Q - Provide a list of documents requiring use of legal name. School staff members do not have a good understanding of what documents are considered “legal”.

A- Technically there are no “legal” documents. There are more “formal” documents where staff may want to use someone’s “Legal” (birth certificate or later court order) name. The “Legal” name is needed on the transcript and in the PowerSchool/cumulative folder for tracking purposes.