

TRANSGENDER AND GENDER EXPANSIVE STUDENTS GUIDELINES - MAINE

A. Purpose

The purposes of this policy are 1) to foster a learning environment that is safe, and free from discrimination, harassment, and bullying; and 2) to assist in the educational and social integration of transgender students and gender expansive students in our schools. This policy is intended to be interpreted in light of applicable federal and state laws and regulations and School Board policies, procedures, and school rules.

This policy is not intended to anticipate every possible situation that may occur, since the needs of particular students and families differ depending on the student's age and other factors. In addition, the programs, facilities, and resources of each school also differ. Administrators and school staff are expected to consider the needs of students on a case-by-case basis and to utilize this policy and other available resources as appropriate.

B. Definitions

The following definitions are not intended to provide rigid labels for students, but to assist in discussing and addressing the needs of students. Except as specifically defined in Maine law, the terminology in this area is constantly evolving, and preferences for particular terminology vary widely. Administrators, school staff, volunteers, students, and others who interact with students are expected to be sensitive to the ways in which particular transgender and gender expansive students may wish to be identified. However, for the sake of brevity, this policy refers to “transgender students” and “gender expansive students.”

1. *Sexual orientation* – Sexual orientation is defined in the Maine Human Rights Act as an individual's “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression”.
2. *Gender identity* – Gender identity is defined in the Maine Human Rights Act as “gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth.”
3. *Gender expression* – The manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
4. *Gender expansive* – An umbrella term used to describe a person who expands notions of gender expression and identity beyond perceived or expected societal gender norms.
5. *Transgender* – An adjective describing a person whose gender identity or expression is different from that traditionally associated with assigned sex at birth.

6. *Transition* – The process by which a person goes from living and identifying as one gender to living and identifying as another. For most elementary and secondary students, this involves no or minimal interventions. In most cases, transgender students under the age of 18 are in a process of social transition from one gender to another.

C. Addressing the Needs of Transgender Students

For the purposes of this policy, a student will be considered transgender if, at school, they asserts a gender identity or expression different from the gender assigned at birth. This involves more than a casual declaration of gender identity or expression, but it does not necessarily require a medical diagnosis.

The following procedure will be used to address needs raised by transgender students and/or their parent(s)/guardian(s).

1. A transgender student and/or their parent(s)/guardian(s) should contact the building administrator or the student's guidance counselor. In the case of a student who has not yet enrolled in school, the appropriate building administrator should be contacted.
2. If requested by the student, or if deemed necessary by the administration to address school-related issues, a meeting will be scheduled to discuss the student's particular circumstances and needs. In addition to the student, and depending on the particular needs of the student, other participants in the meeting may include the parent(s)/guardian(s), a building administrator, a guidance counselor or social worker, the school nurse, and/or other school staff. Outside providers and/or a support person for the student may also be included if appropriate.
3. In the case of a student who has not yet informed their parent(s)/guardian(s), the administrator should first discuss parent/guardian involvement with the student to avoid inadvertently putting the student at risk by contacting their parent(s)/guardian(s). The student will be notified by the administrator prior to contacting their parent(s)/guardian(s).
4. If requested by the student, or deemed necessary by the administration to address school-related issues, a plan will be developed by the school in consultation with the student and other meeting participants. If the student has an IEP and/or a 504 Plan, the provisions of these plans should be taken into consideration in developing a plan for addressing transgender and gender expansive issues within the school program.
5. The school may request documentation from medical providers or other service providers as necessary to assist staff in developing a plan appropriate for the student.
6. Any plan developed must be reviewed and approved by the building administrator. If the parties cannot reach an agreement about the elements to be included in the plan, the building administrator and/or Superintendent shall be consulted as appropriate.

D. Guidance on Specific Issues

1. Privacy: The student plan should address how to deal with disclosures that the student is transgender. In some cases, a student may want school staff and students to know, and in other cases, the student may not want this information to be widely known.

The student’s plan shall be kept confidential and shared only with individuals attending the plan development meeting, the Superintendent, others with a bona fide need to know, and, if necessary, the district’s legal counsel.

As part of the development of the student’s plan, the discussion should include what information may be shared, to whom the information may be shared, and how the information should be shared.

School staff should take care to follow the student’s plan and not to inadvertently disclose information that is intended to be kept private or that is protected from disclosure (such as confidential medical information, the student’s transgender status, their legal name, or sex assigned at birth).

School staff should keep in mind that under FERPA, student records may only be accessed and disclosed to staff with a legitimate educational interest in the information. Disclosures to others should only be made with appropriate authorization from the administration and or parent(s)/guardian(s).

2. School Records: Schools are required to maintain a large number of records for students. If a student makes a legal change in their name and/or gender, appropriate documentation should be provided to the building administrator and records will be changed.

A student who has not legally changed their name and/or gender may still request that the school unit utilize their preferred name and/or gender on school records, and this request will be honored to the extent that the school unit is not legally required to use a student’s legal name or gender on particular records. This information should be included in any plan developed for the student.

If a student requests a change to their name and/or gender in school records without parental approval, the Superintendent should be consulted, and the matter resolved on a case-by-case basis. Students should be informed that parents/guardians have a right to access all education records of their child and therefore the school cannot keep the change in name and/or gender a secret. This information should be discussed in the development of the student’s plan.

In the event of a student transfer to a new school unit, the building administrator will identify a person who will inform the new school unit or out-of-district school program that the student’s records indicate a change in name preference, and what the student’s prior and current name preferences are.

3. Names/Pronouns: A student who has been identified as transgender under these guidelines should be addressed by school staff and other students by the name and pronoun corresponding to their gender identity that is consistently asserted at school.

4. Restrooms: A student who has been identified as transgender under these guidelines should be permitted to use the restrooms assigned to the gender which the student consistently asserts at school. A transgender student who expresses a need for privacy will be provided with reasonable alternative facilities or accommodations such as using a separate stall or a staff facility. However, a student shall not be required to use a separate non-communal facility over their objection.
5. Locker Rooms: The use of locker rooms requires schools to consider a number of factors, including but not necessarily limited to the safety and comfort of students; the transgender student's preference; student privacy; the ages of students; and available facilities. As a general rule, transgender students will be permitted to use the locker room assigned to the gender which the student consistently asserts at school. A transgender student will not be required to use a locker room that conflicts with the gender identity consistently asserted at school. A transgender student who expresses a need for privacy will be provided with reasonable alternative facilities or accommodations, such as using a separate stall, a staff facility or separate schedule.
6. Other Gender-Segregated Facilities or Activities: As a general rule, in other facilities or activities when students may be separated by gender, transgender students may participate in accordance with the gender identity consistently asserted at school. Interscholastic athletic activities should be addressed through the Maine Principals Association Transgender Participation Policy.
7. Dress Code: Transgender students may dress in accordance with their consistently asserted gender identity, consistent with any applicable requirements in the dress code or school rules.

E. Safety and Support for Transgender and Transitioning Students

1. As part of the support plan development, the concerned parties should discuss safe zones (ex. main office, counselor's office) the student may access at any time the student feels unsafe or uncomfortable. A support person (and possibly a back-up person) should also be identified for each student.
2. School staff are expected to comply with any plan developed for a transgender or gender expansive student.
3. School staff are expected to promptly notify the building administrator or other designated support person for the student if there are concerns about the plan, or about the student's safety or welfare.

4. School staff should be sensitive to the fact that transgender and gender expansive students can be at higher risk for being bullied or harassed, and should immediately notify the appropriate administrator if they become aware of a problem.

F. Staff Training and Informational Materials

1. The Superintendent and/or building principal may institute in-service training and/or distribute educational materials about transgender issues to school staff as they deems appropriate.

Cross Reference: ADDA - Transgender Students Policy
 AC - Nondiscrimination/Equal Opportunity and Affirmative Action

Legal Reference: 5 MRSA Sec. 4551 et seq

Adopted: 11/9/22