

**Gorham School Department Transgender Guidelines**  
**(Adopted - Spring 2018, Reviewed & Updated September 2023)**

*Reviewed by Gorham District Leadership Team (upon legal recommendations by Bruce Smith & Peter Felmy of Drummond & Woodsum)*

**Terminology:**

- Gender Identity: Sincerely held core belief as to how one views their gender
- Transgender: People whose gender identity is different from their biological sex assigned at birth
  - Transgender status is not dependent upon whether the individual has undergone, or even plans to undergo, gender reassignment surgery

**Maine Law:**

- There is no question that, in Maine, the law protects students and staff based upon their gender identity
  
- Maine Supreme Court, *Doe v. RSU 26* (1/30/14)
  - Denying access to communal bathroom consistent with elementary student's gender identity and requiring her to use unisex staff bathroom constituted sexual orientation discrimination in violation of the Maine Human Rights Act
  - Court ruled that schools should accept a student's assertion of gender identity when there is a consistent and uniform assertion of that identity
  
- Maine law does not require
  - Schools are not required to permit students casual access to any bathroom of their choice
  - The law does not provide that access to sex-separated school facilities is a unilateral decision to be made by the student and parents/guardians
  - Students/parents/guardians are not required to notify school staff of the student's transgender status
  - Schools are not required to alter official records in the absence of a legal name change
  
- Transgender students must generally be permitted to participate in school programs/activities in accordance with their gender identity
  
- The Maine Human Rights Act prohibits discrimination on the basis of sexual orientation (which includes gender identity & expression)
  - Schools may not "separate or segregate" transgender students regardless of community sentiment to the contrary or safety concerns
  - Schools may not tolerate a "hostile" education or working environment
  
- Title 20-A, schools may not tolerate "injurious hazing", "bullying", or "harassment"
  - State law states: "All students have the right to attend public schools that are safe, secure, and peaceful environments."
  - Hazing: Any action that recklessly or intentionally endangers the mental or physical health of any school personnel or student
  - Bullying: Any written, oral, or electronic expression (or physical act) that is directed at a student and which hurts the student and/or interferes with his/her rights
  - Harassment: Bullying that concerns a protected characteristic (race, gender, disability, etc.

**Gorham School Policies:**

- “The Gorham School Committee is committed to maintaining a workplace and learning environment that is free from illegal discrimination and harassment.

In accordance with applicable Federal and/or State laws and regulations, the Gorham School Department prohibits discrimination against and harassment of employees, candidates for employment, students and others with rights to admission or access to school programs, activities or premises on the basis of race, color, sex, sexual orientation, religion, ancestry or national origin, or disability. For the purpose of this and other Gorham School Department anti-harassment and discrimination policies, “sexual orientation” means a person’s actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression.

Further, in compliance with Federal law, the Gorham School Department prohibits discrimination against school unit employees and candidates for employment on the basis of age, pregnancy, or genetic information.” ~ AC

- [GSD Policy AC: NONDISCRIMINATION/EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION](#)
- [GSD Policy ACAA: STUDENT DISCRIMINATION, HARASSMENT, AND SEXUAL HARASSMENT](#)

**Official Student Records:**

- School will wait for a court order
- All other records, school will use preferred name (class lists, emails home, etc)

**Names & Pronouns:**

- School staff will
  - Be supportive
  - At the request of a student, address the student by using the student’s preferred name/pronoun
  - At the request of a student, instruct peers to address the student by the preferred name/pronoun
  - We understand mistakes will happen

**Bathrooms & Locker Rooms:**

- Students will be allowed to use the bathroom, locker room, and shower facilities corresponding to their gender identity (Maine Human Rights Commission has taken a firm view on this issue)
- School staff will ascertain student preference
- School staff will consider privacy interests of all students, but will not exclude a transgender student based upon concerns of others

**Confidentiality:**

- **Privacy/FERPA**

- A student's transgender status in an educational record is personally identifiable information
  - Refers to information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.
- Using birth names or pronouns that do not match the student's gender identity risks a breach of privacy
- Remember, written parent/guardian consent is generally required before school staff are permitted to share personally identifiable information
  - One exception
    - One exception to parent/guardian consent is if the information must be shared with school personnel for legitimate educational reasons
    - This does not mean the information can be shared with all staff
- Key questions to consider
  - How does the family and/or student prefer that the information be handled?
  - Why are you seeking to share the information?
- Student wants to change their records to reflect preferred name but don't want to tell your parents.
  - Explain to student, FERPA requires us to share educational records with parents. If parents ask for an educational record, we will send it. We can't promise a student parents will not find out. We can't keep this from a family. Therefore, focus on talking with the student about how we can work with them to fold their parents into these important conversations

### **Athletics:**

- MPA policy states that all students should have the opportunity to participate in sporting activities in a manner that is consistent with their gender identity, "unless such participation would result in an unfair athletic advantage or would present an unacceptable risk of injury to other student athletes."
  - MPA formal procedure in place
    - Hearing held before gender identity equity panel where panel considers relevant information
    - Determination binding on member schools and valid through graduation of student, unless otherwise states
    - Family and/or school can appeal

### **Other Situations That Schools May Deal With:**

- Parents/guardians that do not approve
  - This may be the toughest issue to effectively deal with
  - Ensure that the student feels support from the school
  - Meet with the parent/guardian to process the situation
  - Process and make decisions with the school and district administration
- Parent/guardian does not know
  - Ensure student has access to trained school personnel (counselor/social worker) to process this with

- School personnel is under no obligation to share this information with the parent/guardian (similar to sexual orientation)
  - Parent will be informed if there is a safety concern for the student
- Parents (or others) that are disrespectful to transgender staff
  - Schools cannot tolerate any hazing/harassment of staff
  - Process and make decisions with the school and district administration
- Harassment
  - School personnel cannot tolerate bullying and harassment
  - Staff must enforce school district policy and follow the law
  - Staff need to speak up if they become aware of bullying/harassment based on a student's or staff member's sex, gender identity, sexual orientation (or other protected characteristic)
  - School administration must act promptly and effectively to end the unacceptable behavior.

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