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Yarmouth School Department
 Empowering All Students

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YARMOUTH SCHOOL DEPARTMENT // ACAA TRANSGENDER AND GENDER-EXPANSIVE STUDENTS

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Transgender and Gender-Expansive Students

NEPN/NSBA Code: ACAA

A. Purpose and Scope

The Yarmouth School Department strives to 1) foster a learning environment that is safe, affirming, and free from discrimination, harassment and bullying for all students; 2) assist in the educational and social integration of transgender and gender expansive students in our schools; and 3) encourage parental support and involvement. This policy is intended to be interpreted in light of applicable federal and state laws and regulations, as well as School Committee policies and 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 differ. Administrators and school staff shall consider the physical and emotional safety of students and the concerns of their families on a case-by-case basis, and utilize this policy and other available resources as appropriate.

This policy applies to all conduct and communications identified in Policy JICK – Bullying and Cyberbullying in Schools, Section IV.

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 individual 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. 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 gender at birth.”
2. Gender-expansive – An umbrella term used to describe people who expand notions of gender expression and identity beyond the gender binary. For the purpose of this policy, gender-expansive includes people who may be gender fluid, embracing an adaptable nature to the concept of gender identity and expression.
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. Transgender – An adjective describing a person whose gender identity or expression is different from that traditionally associated with the assigned gender at birth.

C. Addressing the Needs of Transgender and Gender-Expansive Students

For the purposes of this policy, a student shall be considered transgender or gender expansive if, at school, they assert 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 require a medical diagnosis. Throughout their school career, it shall remain the student’s prerogative to initiate changes to their preferred name and/or gender identity.

If a student and/or their parent(s)/guardian(s) want the school to recognize the student’s identity as transgender or gender expansive, the following procedure shall be used.

1. A transgender or gender-expansive student and/or their parent(s)/guardian(s) should contact the building administrator or the student’s school 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 their parent(s)/guardian(s), or if deemed necessary by the administration, a planning meeting shall be scheduled to discuss the student’s particular circumstances and needs.
3. In the case of a student who has not yet informed their parent(s)/guardian(s) of their desire to assert a gender identity or expression different from the gender assigned at birth, the administrator or appropriately designated personnel shall first discuss parent/guardian involvement with the student. The student shall be notified by the administrator or appropriately designated personnel prior to their parent(s)/guardian(s) being contacted, and shall have the opportunity at that time or at any point to pause the planning process. Stopping or pausing the process does not prevent the student from continuing to access school support services, including counselors and social workers.
4. The planning meeting shall involve the student’s parent(s)/guardian(s) unless the superintendent, after due investigation, knows or has reasonable cause to suspect that involving the parent(s)/guardian(s) would likely lead to abuse or neglect of the student, as defined in Maine’s Child and Family Services and Child Protection Act 22 M.R.S. §§ 4002; 4011-A). In such cases, the superintendent shall take appropriate steps to protect the student, including ensuring appropriate state and local authorities are contacted.
5. In addition to the student and parent(s)/guardian(s), and depending on the particular needs of the student, other participants in the meeting may include a building administrator, a school counselor or social worker, the school nurse, and/or other school staff. Private providers and/or a support person for the student may also be included if appropriate.
6. If requested by the student and/or parent/guardian, a written plan shall be developed by the school in consultation with the student, the parent(s)/guardian(s), and other meeting participants.

7. The school administration may request documentation from private providers if deemed necessary to assist in developing a plan appropriate for the student.
8. Any plan developed must be reviewed and approved by the building administrator. If the parties involved in developing the plan cannot reach an agreement about the elements of the student's plan, the Superintendent shall be consulted as appropriate.

D. Guidance on Specific Issues

1. Confidentiality: All students have the right to keep confidential one's transgender or gender-expansive status at school. In some cases, a student may want school staff and students to know that they are transgender or gender-expansive, and in other cases the student may not want this information to be widely known. Accordingly:
 - a. The student's plan shall be kept confidential and shared only with individuals attending the plan development meeting, the Superintendent, others with a legitimate educational interest, and, if necessary, the District's legal counsel.
 - b. As part of the development of the student's plan, the discussion shall include what information may be shared, with whom the information may be shared, and how the information should be shared.
 - c. School staff shall 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 gender assigned at birth).
 - d. School staff must keep in mind that under FERPA, student records may only be accessed and disclosed to parents/guardians, and also to staff with a legitimate educational interest in the information. Disclosures to others shall only be made with appropriate authorization from the administration and parents/guardians.
 - e. No portion of this policy precludes a student from confidentially speaking with a school counselor or social worker about transgender or gender-expansive issues. Such conversations are confidential to the extent set forth in applicable law.
 - f. School personnel shall not prescribe or suggest medical treatment nor provide tools that promote or conceal gender expression at any time.
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 must be provided to the building administrator for records to be changed.

As ruled by the Maine Supreme Court and the Maine Human Rights Commission, 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 shall 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 shall 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 shall be consulted and the matter resolved on a case-by-case basis. Students shall 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 shall 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 shall identify a person who shall 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: School staff, substitutes, volunteers and other students shall be expected to refer to the student by the name and pronoun corresponding to their gender identity as asserted at school.
 4. Restrooms: As ruled by the Maine Supreme Court and the Maine Human Rights Commission, all students shall be permitted to use restrooms that closely match their gender identity including non-gender bathrooms that are available at each school. All students will also have access to non-communal bathrooms. If any student expresses a need for privacy, they shall be provided with access to reasonable alternative facilities or accommodations such as a single-occupancy toilet facility or a staff facility. However, a student shall not be required to use a separate, non-communal facility over their objection.
 5. Locker Rooms: As ruled by the Maine Supreme Court and the Maine Human Rights Commission, all students shall be permitted to use the locker room that most closely matches their gender identity, including non-gender facilities. Non-communal changing places will also be made available for any student to use for any reason without request. If any student expresses a need for privacy, they shall be provided with access to reasonable alternative facilities or accommodations, such as using a separate stall, a staff facility, or an alternative schedule.
 6. Overnight travel: When participating in school-sponsored, overnight travel, each student shall be permitted to access accommodations that most closely match their gender identity, including non-gender-specific facilities to the greatest extent possible. Each student will be allowed to access accommodations that afford them the greatest sense of safety and security.
 7. Other gender-specific facilities or activities: As ruled by the Maine Supreme Court and the Maine Human Rights Commission, in any other facilities or activities when students may be separated by gender, the student may participate in accordance with their gender identity, including non-binary students, who may participate in accordance with their choices. Participation in interscholastic athletic activities shall be addressed in accordance with current Maine Principals' Association guidelines and procedures.

E. Safety and Support for Transgender and Gender Expansive Students

1. As part of the support plan development, the concerned parties shall 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) shall also be identified for each student.
2. School staff shall be expected to comply with any plan developed for a transgender or gender-expansive student.
3. School staff shall be 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 shall be sensitive to the fact that transgender and gender-expansive students can be at higher risk for being bullied or harassed, and shall immediately notify the appropriate administrator if they become aware of a problem.

F. Safety and Support for Transgender and Gender Expansive Students

The Superintendent and/or building administrators shall institute in-service and/or distribute educational materials about transgender and gender-expansive issues to school staff as they deem appropriate.

References:

5 M.R.S. §§ 4551; 4553(5-C), (9-C); 4592(9)
22 M.R.S. §§ 4002; 4011-A

Doe v. Regional School Unit 26, 2014 ME 11, 24

AC – Nondiscrimination – Equal Opportunity and Affirmative Action

ACAA – Harassment and Sexual Harassment of Students

ACAA-R – Student Discrimination and Harassment Complaint Procedure

JICK – Bullying and Cyberbullying in Schools

JRA – Student Records and Information

JRA-E – Annual Notice of Student Education Records and Information Rights

JRA-R – Student Education Records and Information - Administrative Procedures

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