

STUDENTS AND PERSONNEL	
TRANSGENDER, GENDER NONCONFORMING AND TRANSITIONING STUDENTS POLICY	J-23

## I. Policy Statement

Educators, parents and other stakeholders in public education all have the obligation and duty to ensure that school is a safe and supportive learning environment for all students in order that they may progress academically and developmentally. In order to achieve this end, the School Department shall foster an educational environment that is safe and free from discrimination for all students, regardless of sex, sexual orientation, gender identity or gender expression.

## II. Legal Authority

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et. seq., is a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. Specifically, Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and the Office of Civil Rights accepts such complaints for investigation.<sup>1</sup>

The Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (1974), (FERPA), is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. Pursuant to FERPA, schools have a legal obligation to protect the privacy of transgender, gender nonconforming and transitioning students when maintaining education records.<sup>2</sup>

The United States Department Education and the Rhode Island Department of Education have issued guidance stating that School Districts shall adhere to both Title IX and FERPA in order to protect transgender, gender nonconforming and transitioning students from discrimination and to protect their privacy.

Rhode Island General Laws § 11-24-1 et. seq., entitles all persons within the jurisdiction of the state to the full and equal accommodations, advantages, facilities, and

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<sup>1</sup> Dear Colleague Letter: Transgender Students (May 13, 2016), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>

<sup>2</sup> Id.

privileges of any place of public accommodation, resort or amusement, and prohibits discrimination based on gender identity or expression.

The Rhode Island General Assembly mandates that school committees, including the Portsmouth School Committee, assure the implementation of federal and state laws, the regulations of the board of regents for elementary and secondary education, and of local school policies, programs, and directives. It also mandates that school committees address the health and wellness of students.<sup>3</sup>

The Rhode Island General Assembly requires superintendents of schools to implement policies established by school committees and to comply with provisions of federal and state law.

### **III. District's Adoption of Guidance**

The Portsmouth School Committee hereby adopts the U.S. Department of Education's Guidance on Transgender Students and the Rhode Island Department of Education's Guidance on Transgender and Gender Nonconforming Students.

### **IV. District Protocol**

The Superintendent of Schools shall forthwith establish a district wide protocol facilitating the terms of this policy that is consistent with applicable federal and state law, rule, and guidance from the U.S. Department of Education and Rhode Island Department of Education.

### **V. Evaluation and Review**

This policy shall be reviewed and updated on a regular basis, and shall be automatically amended to conform to amendments and changes in applicable state and federal laws, rules and regulations.

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<sup>3</sup> See R.I. Gen Laws 16-2-9 §§ (a) (3) & (24).