

Montgomery County Public Schools Guidelines Regarding Student Gender Identity Matters¹

It is important that all staff members and students recognize and respect matters of gender identity including students who identify as transgender or gender nonconforming, and such students should feel comfortable expressing their gender identity. To the extent practicable, Montgomery County Public Schools (MCPS) will accommodate requests regarding gender identity and endeavor to protect student privacy and confidentiality. MCPS is committed to a safe, welcoming school environment where students are engaged in learning and are active participants in the school community because they feel accepted and valued. In accordance with the Montgomery County Board of Education's core values, the following guidelines, which are aligned with recently issued guidance from the Maryland State Department of Education and the U.S. Departments of Justice and Education,² set forth the systemwide expectation that discrimination, stigmatization, and bullying will not be tolerated. These guidelines cannot anticipate every situation that might occur. Consequently, the needs of each student must be assessed on a case-by-case basis.

Goals

- Support students so they may participate in school life consistent with their asserted gender identity;
- Respect the right of students to keep their gender identity or transgender status private and confidential;
- Reduce stigmatization and marginalization of transgender and gender nonconforming students;
- Foster social integration and cultural inclusiveness of transgender and gender nonconforming students; and
- Provide support for staff members to enable them to appropriately and consistently address matters of student gender identity.

¹ Related Montgomery County Board of Education Policies and MCPS Regulations:
JHF, ACA, ACB, ACF, JHF-RA, ACA-RA, ACF-RA

² For more information and lists of additional resources, see: Maryland State Department of Education, *Providing Safe Spaces for Transgender and Gender Non-Conforming Youth: Guidelines for Gender Identity Non-Discrimination* (October 2015), and United States Department of Justice and United States Department of Education, *Dear Colleague Letter on Transgender Students* (May 13, 2016), available at:

marylandpublicschools.org/MSDE/divisions/studentschoolsvcs/student_services_alt/docs/ProvidingSafeSpacesTransgendergenderNonConformingYouth012016.pdf;

and

www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf.

Definitions

The definitions provided here are not intended to label students but rather to assist in understanding transgender and gender-nonconforming students. Students might or might not use these terms to describe themselves.³

- Agender – Without a gender (nongendered, genderless).
- Sex assigned at birth – the sex designation recorded on an infant’s birth certificate should such a record be provided at birth.
- Gender identity – A person’s deeply held internalized sense or psychological knowledge of the person’s own gender. One’s gender identity can be the same as or different from the sex assigned at birth. Most people have a gender identity that matches their sex assigned at birth. For some, however, their gender identity is different from their sex assigned at birth. All people have gender identity, not just transgender people. For the purposes of this guidance, a student’s gender identity is that which is consistently asserted at school.
- Gender expression – The manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, speech and word choices, or mannerisms.
- Transgender – An adjective describing a person whose gender identity or expression is different from that traditionally associated with the person’s sex assigned at birth. Other terms that can have similar meanings are “transsexual” and “trans.”
- Gender-nonconforming – A term for people whose gender expression differs from conventional or stereotypical expectations, such as “feminine” boys, “masculine” girls, and those whose gender expression is androgynous. This includes people who identify outside traditional gender categories or identify as two or more genders. Other terms that can have similar meanings include “gender diverse” or “gender expansive.”
- Transition – The process in which a person changes the person’s gender expression to better reflect the person’s gender identity. In order to feel comfortable and to express their gender identity to other people, transgender people may take a variety of steps: using a nickname or legally changing their names and/or their sex designation on legal documents; choosing clothes and hairstyles that reflect their gender identity; and generally living, and presenting themselves to others, consistently with their gender identity. Some, but not all, transgender people take hormones or undergo surgical procedures to change their bodies to better reflect their gender identity.

³ Definitions were informed by the following sources: American Psychological Association; United States Department of Justice and Department of Education; Maryland State Department of Education; Maryland Public Secondary Schools Athletic Association; National School Boards Association; National Collegiate Athletic Association; Massachusetts Department of Elementary and Secondary Education; New York City Department of Education; California School Boards Association; Howard County Public Schools; District of Columbia Public Schools; Chicago Public Schools; Gay, Lesbian & Straight Education Network; Lambda Legal; and American Civil Liberties Union.

- Cisgender: A person whose gender identity and gender expression align with the person's sex assigned at birth; a person who is not transgender or gender-nonconforming.

Proactively Working with Transgender and Gender-Nonconforming Students

- The principal (or designee) in collaboration with the student, and the student's family (if the family is supportive of the student), should develop a plan to ensure that a student has equal access and equal opportunity to participate in all programs and activities at school and is otherwise protected from gender-based discrimination at school. Attachment A1 is the Intake Form: Supporting Students, Gender Identity.
- Each student's needs should be evaluated on a case-by-case basis, and all plans should be evaluated on an ongoing basis and revised as needed. As a part of the plan, schools should identify staff who will be the key contact(s) for the student. The plan should delineate how support will be provided and how and to whom information will be disseminated. In addition, each plan should address preferred name, pronouns, athletics, extracurricular activities, locker rooms, bathrooms, safe spaces, zones and other safety supports, and formal events such as graduation.
- Prior to contacting a student's parent/guardian, the principal or identified staff should speak with the student to ascertain the level of support the student either receives or anticipates receiving from home. In some cases, transgender and gender-nonconforming students may not openly express their gender identity at home for reasons such as safety concerns or lack of acceptance. Matters of gender identity can be complex and may involve familial conflict; if this is the case and support is required, the Office of School Support and Improvement or the Office of Student and Family Support and Engagement should be contacted.

Privacy and Disclosing Information

- All students have a right to privacy. This includes the right to keep private one's transgender status or gender-nonconforming presentation at school.
- Information about a student's transgender status, legal name, or sex assigned at birth may constitute confidential medical information. Disclosing this information to other students, their parents/guardians, or third parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA).
- Schools should ensure that all medical information relating to transgender students are kept confidential in accordance with applicable state, local, and federal privacy laws.
- Please note that medical diagnosis, treatment or other documentation are **not** required in order for a school to accommodate requests regarding gender identity.
- Transgender and gender-nonconforming students have the right to discuss and demonstrate their gender identity and expression openly and decide when, with whom, and how much to share private information. The fact that students choose to disclose their status to staff or other students does not authorize school staff to disclose students' status to others, including parents and other school staff, unless legally required to do so or unless students' have authorized such disclosure.

Names/Pronouns

- Students should be addressed by school staff members by the name and pronoun corresponding to the gender identity that is consistently asserted at school. Students are

not required to obtain a court-ordered name and/or sex designation change or to change their student records as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity. To the extent possible, and consistent with these guidelines, school personnel should make efforts to maintain the confidentiality of the student's transgender status.

- Whenever schools are not legally required to use a student's legal name or sex assigned at birth on school records and other documents, the school should use the name and gender preferred by the student, including using students' preferred name for classroom rosters, identification badges, announcements, certificates, newspapers, newsletters, and yearbooks.

Official Records

- Schools are required to maintain a permanent student record for each student, which includes the legal name and gender of the student. In situations where schools are required to use the legal name and gender from a student's permanent record, such as for standardized tests or reports to the Maryland State Department of Education (MSDE), school staff and administrators shall adopt practices to avoid the inadvertent disclosure of the student's legal name and gender when it differs from the student's preferred name and gender.
- As MSDE has clarified, a student's permanent record should be changed to reflect a change in the student's legal name or gender upon receipt of documentation that such legal name and/or gender have been changed pursuant to a court order, new birth certificate, through state or federally issued identification, or with documentation from a licensed healthcare practitioner. If a student and/or the student's parent/guardian requests a change to the student's permanent record absent such documentation, the school should contact the Office of Student and Family Support and Engagement.
- The school should provide a means to protect the student's previous identity once a change to a student's legal name and/or gender has occurred and store the prior records where they are not easily accessible to staff who have no need to see them.
- Unless the student or parent/guardian has specified otherwise, school staff, when contacting the parent/guardian of a transgender student, should use the student's legal name and pronoun corresponding to the student's sex assigned at birth.

Dress Code

- Transgender and gender non-conforming students have the right to dress in a manner consistent with their gender identity or gender expression as long as it complies with the MCPS dress code. School staff shall not enforce a school's dress code more strictly for transgender or gender-nonconforming students than for other students.
- Schools should consider gender neutral dress codes for class or yearbook photos, honor society ceremonies, graduation ceremonies, or dances.

Gender-Based Activities

- Schools should evaluate all gender-based policies, rules, and practices and maintain only those that have a clear and sound pedagogical purpose. Whenever students are separated by gender in school activities or are otherwise subject to an otherwise lawful gender-

specific rule, policy, or practice, students must be permitted to participate consistent with their gender identity.

Gender-Separated Areas:

- Where facilities are designated by gender, students **must** be provided access to gender-specific facilities (e.g., bathrooms, locker rooms, and changing rooms) in alignment with their consistently asserted gender identity.
- Any student who is uncomfortable using a shared facility because of safety, privacy, or any other reason, should upon request, be provided with a safe and non-stigmatizing alternative arrangement such as a single bathroom, or with regard to locker rooms, a privacy partition or curtain in changing areas, use of a nearby private restroom or office, or a separate changing schedule. The student should be provided access in a manner that safeguards confidentiality.
- Students who are entitled to use a facility consistent with their gender identity cannot be required to use an alternative arrangement. Alternative arrangements should be used only at the request of a student and in a manner that keeps the student's transgender status confidential.
- Some students may feel uncomfortable with a transgender student using the same sex-specific facility. This discomfort is not a reason to deny access to the transgender student. School administrators and counseling staff should work with students to address the discomfort and to foster understanding of gender identity and to create a school culture that respects and values all students.
- New Construction/Renovation:
 - If existing facilities do not meet the requirements of school administration to provide a gender-neutral facility for students, schools should work with Department of Facilities Management to develop facility plans, which could include renovation of existing facilities.
 - Taking into account student safety considerations, the Department of Facilities Management should work to design gender-neutral bathroom facilities that are for student/public use.
 - To the extent feasible, MCPS should build at least one gender-neutral restroom on each floor and in high-traffic areas.
 - To the extent feasible, MCPS should provide at least one gender-neutral changing facility into the design of new schools and school renovations, taking into account safety and confidentiality considerations in the design and location of the gender-neutral facility.

Physical Education Classes and Intramural Sports

- Whenever the school provides gender-segregated physical education classes and intermural sports, students must be allowed to participate in a manner consistent with their gender identity.

Interscholastic Athletics

- Student participation in interscholastic athletics is determined in accordance with Maryland Public Secondary Schools Athletic Association (MPSSAA) policies and

guidelines. Attachment A2 is the MPSSAA's *Transgender Person Guidance for Participation in Interscholastic Athletics*.

- Per MPSSAA guidance and to ensure competitive fairness, the integrity of women's sports, and equal opportunities to participate without discrimination, transgender and gender-nonconforming students in MCPS shall be permitted to participate on the interscholastic athletics team of: (a) the student's sex assigned at birth; (b) the gender to which the student has transitioned; or (c) the student's asserted gender identity, as established in their school records (excluding records required by law to maintain legal name and gender).
- Schools should refer any appeals regarding eligibility to participate in interscholastic athletics to the MCPS Athletics Unit.
- Competition at other schools: accommodations provided at the home school should be made available at other facilities with the consent of the student and as part of the student's plan. The coach or home school should notify the school to be visited about any necessary accommodations, keeping the identity of the student confidential.

Outdoor Education/Overnight Field Trips

- Students must be allowed to participate consistent with their asserted gender identity.
- Sleeping arrangements should be discussed with the student and family (if the family is supportive of the student). Upon request, the student should be provided with a safe and non-stigmatizing alternative arrangement, such as a private sleeping area if practicable.
- Schools should try to accommodate any student who may desire greater privacy, if practicable, without isolating other students.
- A student's transgender status is confidential information and school staff may not disclose or require disclosure of a student's transgender status to other students or their parents in connection with a field trip without the consent of the student and/or the student's parent.

Bullying and Harassment:

- MCPS rules on Bullying, Harassment, or Intimidation are provided in Policy JHF and Regulation JHF-RA, which are available on the MCPS website at: <http://www.montgomeryschoolsmd.org/departments/policy/section.aspx?sectionID=10>
- Bullying and harassment include conduct that is directed at a student based on a student's actual or perceived gender identity or expression, and includes conduct that targets a student because of a characteristic of a friend, family member, or other person or group with whom a student associates.
- Complaints alleging discrimination or harassment directed at a student based on a student's actual or perceived gender identity or expression should be handled in the same manner as other discrimination or harassment complaints. Schools should be vigilant about bullying and harassment and address it.
- School staff members should take all reasonable steps to ensure safety and access for transgender and gender-nonconforming students at their school and support students' rights to assert their gender identity and expression.
- Students shall not be disciplined on the basis of their actual or perceived gender identity or expression.

Safe Spaces

- Hallway or “Flash” Pass: If needed, schools should allow a transgender or gender-nonconforming student to go to a safe space (e.g., main office, counselor’s office) at any time the student encounters a situation that feels unsafe or uncomfortable.
- Safe Zones: Schools should designate certain teachers’ classrooms, specific offices, or a location in a school that is deemed a safe zone where any student, for whatever reason, may go to be free from judgment and to feel comfortable and safe.