Gender Inclusive Schools: Policy, Law, and Practice

1. What do you mean when you talk about gender inclusive schools?
In a gender inclusive school, diverse representations of gender are reflected in structural and interpersonal aspects of the running of a school, including policies, curriculum, facilities, and forms. A gender inclusive school also makes the diversity of gender visible in books, hallway displays, and everyday conversation.

While the topic of gender is often raised in the context of students who are transgender or gender-expansive, cisgender students also benefit from inclusive policies and practices. In a gender inclusive school, all students are more likely to successfully engage in their talents and passions.

Implementing systemic change takes time, but there are some actions you can take immediately. For more information, see Gender Spectrum's Framework for Gender Inclusive Schools and Welcoming Schools' Affirming Gender in Elementary School.

2. What is the school climate like for transgender and gender-expansive students?
Research in this area consistently shows that transgender and gender-expansive students are at increased risk for harassment by peers and adults. According to a report by the Gay, Lesbian and Straight Education Network (GLSEN):

- Almost all transgender students had been verbally harassed (e.g., called names or threatened) in the past year at school because of their gender expression (87%).

- More than half of all transgender students had been physically harassed (e.g., pushed or shoved) in school in the past year because of their gender expression (53%).

- More than one fourth of transgender students had been physically assaulted (e.g., punched, kicked, or injured with a weapon) in school in the past year because of their gender expression (26%).

- A third of transgender students heard school staff make homophobic (32%) remarks, sexist (39%) remarks, and negative comments about someone's gender expression (39%) in the past year (Greytak, Kosciw, & Diaz, 2009).

This report also indicates that a hostile school climate impacts a student's ability to thrive in school and beyond:

- Transgender students experiencing high levels of harassment were approximately twice as likely as other transgender students to miss school for safety reasons.

- Transgender students who experienced high levels of harassment had significantly lower grade point averages than those who experienced lower levels of harassment (Greytak et al., 2009).

Peer victimization related to gender identity or expression is also associated with disruptions in educational trajectories, traumatic stress, and alcohol and substance use (Collier 2013). Even without exposure to overt rejection, discrimination, or violence, individuals who do not see people like themselves represented in their community or society may develop a sense of not belonging, leading to long-term negative effects (Hendricks & Testa, 2012).

When schools implement policies and procedures to diminish harassment based on gender identity and expression, students report greater connections to school personnel, which were associated with greater feelings of safety (McGuire, Anderson, Toomey, & Russell, 2010). This finding mirrors research on lesbian, gay, and bisexual students that found that those living in states and cities with more protective school climates reported fewer past-year suicidal thoughts than those living in states and cities with less protective climates (Hatzenbuehler, Birkett, Van Wagenen, & Meyer, 2014).

3. What federal laws or policies protect transgender and gender-expansive students?

- Title IX: Requires all schools that receive public funding to proactively enact policies and procedures that prevent discrimination based on gender. In December 2014, The Office of Civil Rights (OCR) provided guidance indicating that Title IX includes protections for gender-expansive youth and can be applied retroactively. Additionally, in May 2016, the U.S. Departments of Education and Justice released the Dear Colleague Letter on Transgender Students and Examples of Policies and Emerging Practices for Supporting Transgender Students.

- The Equal Access Act: Prohibits discrimination against students who want to participate in and form extracurricular clubs.

- The Family Educational Rights and Privacy Act protects personal information about students in school records—including sexual orientation and gender identity—and in most circumstances prohibits release of this information without consent.

- The First Amendment of the U.S. Constitution protects the right of students to free speech and freedom of expression, including expression of one's gender identity.

- 14th Amendment of the U.S. Constitution guarantees that no state will "deny to any person within its jurisdiction the equal protection of the laws." School must take equal efforts to thwart reports of bullying of transgender, gender-expansive, and cisgender students.

Several policy and legal briefs from federal agencies have confirmed the rights of transgender and gender-expansive students under the laws. They include a Q&A on Title IX and Sexual Violence from the U.S. Department of Education's Office of Civil Rights and a brief filed by the U.S. Department of Justice in a lawsuit lodged by a transgender student who was denied access to restrooms congruent with his gender identity. And in late 2015, the Office for Civil Rights formed a resolution agreement after finding an Illinois school district in violation of civil rights laws for discriminating against a transgender high school student by denying her access to the girls' locker rooms.

For more information, see the National Center for Transgender Equality's FAQ and a list of states that have protections for transgender and gender-expansive students.

4. What are best practices around policies related to bathrooms, locker rooms, and dress codes/uniforms?

All students should be afforded the right to use facilities and participate in school functions in a manner congruent with their gender identity. This principle is not only good practice; federal laws and policies support it. According to a brief filed by the Department of Justice: "*Prohibiting a student from accessing the restrooms that match his gender identity is prohibited sex discrimination under Title IX. There is a public interest in ensuring that all students, including transgender students, have the opportunity to learn in an environment free of sex discrimination*" (G.G. v. Gloucester County School Board, 2015).

Respect for students' identities and potential need for privacy are not mutually exclusive. There are many reasons that students may feel uncomfortable using communal locker rooms or bathrooms and providing an *option* to use a private space such as a single stall bathroom is always a good idea for any student who might seek additional privacy. For a sample of statewide policies that are applicable to districts and schools, see this guidance document from Massachusetts. A sample comprehensive model district policy can be found here.

5. What pronouns should I use with a transgender student?

It is best to use the pronouns that the student prefers, so asking the student what their preferred gender pronouns (PGPs) are is the best place to start. Many schools and some states now have policies regarding use of pronouns that correspond to students' gender identity. Washington's State Office of the Superintendent of Public Instruction addresses this in its transgender student procedure policy:

> A student is not required to change their official records or obtain a court-ordered name and/or gender change as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity. When communicating with transgender or gender nonconforming students regarding particular issues such as conduct, discipline, grades, attendance or health, school employees will focus on the conduct or particular issues rather than making assumptions regarding the student's actual or perceived gender identity . . .The district will not condone the intentional and persistent refusal to respect a student's gender identity, or inappropriate release of information regarding a student's transgender status.

Some students who do not identify as male or female, may ask to be referred to with pronouns such as *ze* and *they*. While this new language and usage may initially be difficult to incorporate, with practice they will become more natural in their use. For more on usage, see this chart from Transgender Student Educational Resources (TSER).

6. What should our policy be about changing gender markers on school records?

This is an area that can be complicated by disagreements among students and their parents/guardians. Working collaboratively toward an agreed upon action is always preferable, even if it might delay the process.

Whether or not a student has openly transitioned at school, changing gender markers is critical to maintaining privacy for the student and to insure that their gender identity is respected. A simple error, such as a substitute teacher inadvertently reading an incorrect name on an attendance sheet has the potential to disclose a student's identity to their peers or to trigger negative feelings that can be associated with being referred to as the wrong gender.

The comprehensive report Schools in Transition: A guide for supporting transgender students in K–12 schools provides strategies to maintain school's record keeping and reporting requirements and safeguard students' privacy. Successful solutions generally include changing the configuration of database systems and mechanisms for sharing information.

A legal guide by Lambda Legal describes how the Family Educational Rights and Privacy Act can be used to protect the privacy of student educational records. Under this law, students (or parents or guardians if a student is under 18) have the right to request that schools change names and gender markers on records.

7. How do I advocate to school professionals and colleagues about instituting gender inclusive practices?

Approach this topic as you would any other new initiative that you would want to introduce to your school community. Some key steps include:

- Formally or informally assess the current school climate.

- Assess how creating a gender inclusive school aligns with current school initiatives, including school climate, social and emotional learning, equity, and academic achievement.

- Work with allies, including colleagues and parents who are committed to inclusive schools.

- Engage school administrators to bring professional development and other strategies to lay the groundwork for inclusive schools.

Some resources that may help you include:

A Gender Inclusive School Assessment Tool: A checklist that can be used by individuals or teams to assess progress and next steps toward being gender inclusive.

Gender Inclusive Action Planning: A comprehensive planning tool to move schools toward gender inclusive schools.

Promoting Resiliency for Gender Diverse and Sexual Minority Children in Schools: A series of 5 pamphlets.

8. What types of and how do we measure outcomes for staff training to determine effectiveness of training?

There are many ways to determine the effect of training, both directly and indirectly. Pre- and posttraining scales and knowledge assessments may be given to students, faculty/staff, and parents. Additionally, school climate surveys which are used for positive behavioral intervention and supports (PBIS) can help to assess changes in school climate. You can also use Gender Spectrum's assessment tool to measure progress before and after training.

Monitoring school office discipline referrals and other more direct monitoring procedures may also be helpful.

9. How can I help address concerns from parents/guardians related to transgender inclusive policies?

Some guiding principles include:

- Respectfully meet parents/caregivers where they are and encourage conversation and dialogue.
- Frame responses in relation to the well-being of all students.
- Connect policies and procedures to the school's core mission, as well as applicable state and federal law.
- Maintain confidentiality for transgender students.

Here are a few sample responses if a parent asks, "Why is the school making such a big deal about transgender kids? Do we have a problem with that here?"

- Our school is committed to offering a safe and welcoming environment for all students. As such, we are prepared for transgender students. Are there specific questions you or your child have about gender that I can help clarify for you?
- Gender-based discrimination is illegal under Title IX. The law recognizes that we need specific laws and policies to protect transgender students, because transgender students are subjected to discrimination and bullying based on gender identity.

For more sample responses see Responding to Concerns: Supporting Transgender Students.

10. How can I address concerns from school administrators and colleagues related to steps needed to create gender inclusive schools?

Training and educating all school professionals is an essential, proactive step to making schools accepting and inclusive; see Promoting Resiliency for Gender Diverse and Sexual Minority Children in Schools Pamphlets. The same guiding principles for responding to parents (see above) apply to responding to colleagues and administrators. In addition, you may want to directly connect the need for gender inclusive schools with concepts that generally resonate with administrators and educators, such as the links between academic achievement and safe and welcoming school climates. Conversations that explore ways in which all adults and students are affected by gender can also be helpful.

Note that some may fear having a lack of knowledge and language to talk with students about gender. To learn more about how to have those kinds of conversations, see Responding to Concerns: Teaching About Gender.

Bringing needs assessment results from your school into the conversation may also help open the door. Savage and Lagerstrom (April 2015) developed a checklist which can be used to determine a school's current strengths and needs for a gender inclusive school climate. This gender inclusive assessment tool may also be helpful.

Also, consider connecting administrators with colleagues and professional organizations that have been leaders in supporting transgender and gender-expansive students. Resources targeted toward administrators include a feature article in the publication District Administrator and guidance from statewide and national professional organizations, such as this one from the Michigan School Boards Association.

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Note. This document is one from a series of four topical sets of frequently asked questions related to creating safe and inclusive learning environments for transgender and gender expansive students. The series was developed in collaboration by Gender Spectrum and NASP. For the full series and a corresponding reference list, see www.nasponline.org/resources-and-publications/resources/diversity/lgbtq-youth.