

## TRANSGENDER AND GENDER EXPANSIVE STUDENTS

The M.S.A.D. No. 75 Board of Directors is committed to addressing and supporting the needs of transgender and gender expansive students.

### A. Purpose

The purposes of this policy are to: (1) foster a learning environment that is safe and free from discrimination, harassment and bullying; and (2) assist in the educational and social integration of transgender and gender expansive students in our schools. This policy is intended to be interpreted in light of applicable federal and state laws/regulations, as well as other applicable Board policies, 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. In addition, the programs, facilities and resources of each school also differ. Administrators and school staff are expected to consider the needs of students on a case-by-case basis, and to utilize this policy and other available resources as appropriate.

### 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. *Sexual orientation* – Sexual orientation is defined in the Maine Human Rights Act as an individual’s “actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.”
2. *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 sex at birth.”
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 an assigned sex at birth.

5. *Gender expansive* – An umbrella term used to describe people who expand notions of gender expression and identity beyond what is perceived as the expected gender norms. Some gender-expansive people identify with being either male or female, some identify as neither, and others identify as a mix of both. Gender expansive people include those with transgender and nonbinary identities as well as those whose gender expressions are seen to be non-conforming or stretching society’s notions of gender.
6. *Transition* – The process by which a person goes from living and identifying as one gender to living and identifying as another gender. For most elementary and secondary students, this involves no or minimal medical interventions. Transgender students under the age of 18 are often in a process of social transition from one gender to another.

### **C. Addressing the Needs of Transgender and Gender Expansive Students**

For the purposes of this policy, a student will be considered transgender or gender expansive if, at school, they assert a gender identity or expression different from the gender assigned at birth. M.S.A.D. No. 75 shall accept a student’s assertion of their gender identity when there is consistent assertion of gender identity or any other evidence that the student’s gender identity is sincerely held as a part of their core identity. M.S.A.D. No. 75 will not require medical or mental health records as proof of a student’s gender identity except in circumstances defined in the section below.

1. 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 will be used:
  - a. 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. In the case where a student initially contacts another school employee, the employee should encourage the student to contact a building administrator or school counselor who will determine next steps.
  - b. If requested by the student and/or parent/guardian, or if deemed necessary by the administration to address school-related issues, a meeting will be scheduled to discuss the student’s particular circumstances and needs. In addition to the student and depending on the particular needs of the student, other participants in the meeting may include the parent(s)/guardian(s), a building administrator, a school counselor or social worker, the school nurse, and/or other school staff. Outside providers and/or a support person for the student may also be included if appropriate.
  - c. In the case of a student who has not yet informed their parent(s)/guardian(s), the building administrator or student’s school counselor should first discuss parent/guardian involvement with the student to avoid inadvertently putting the student at risk by contacting their parent(s)/guardian(s). In the situation where there is no parent/guardian knowledge of a student’s request to create a

transgender plan, the Superintendent shall be consulted and the matter resolved on a case-by-case basis. In resolving the matter, the Superintendent should evaluate whether there is evidence of substantial risk of harm to the student by notifying the parent(s)/guardian(s) of the student's request. The student will be notified by the building administrator or student's school counselor prior to contacting their parent(s)/guardian(s).

- d. If requested by the student, or deemed necessary by the administration to address school-related issues, a plan will be developed by the school in consultation with the student and other meeting participants. If the student has an IEP and/or a 504 Plan, the provisions of these plans should be taken into consideration in developing a plan for addressing transgender and gender expansive issues within the school program.
  - e. The school administration may request that the student and/or parent/guardian provide documentation from outside providers if deemed necessary to assist in developing a plan appropriate for the student.
  - f. 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.
2. If a building administrator has a credible and objective reason to believe that a transgender or gender expansive student's gender identity is being asserted for an improper purpose, the administration may request additional evidence supporting the student's stated gender identity, which may include the following:
    - a. A written statement from a physician, physician's assistant, nurse practitioner, or nurse who has been involved with the student's healthcare;
    - b. A written statement from a psychologist, psychiatrist, or social worker who has met with the student;
    - c. Passports or other formal documents showing the student's legal gender;
    - d. Familial documents, such as family photographs or statements from the student's parent(s), guardian(s), or other adult relative(s) or caregiver(s);
    - e. A statement from an adult who is close to the student and can speak to the student's core gender identity.

#### **D. Guidance on Specific Issues**

1. **Privacy:** All students have a right to privacy. This includes the right to keep private one's transgender status or gender non-conforming presentation 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 *bona fide* need to know and if necessary, the District's legal counsel.
  - b. As part of the development of the student's plan, the discussion should include what information may be shared, to whom the information may be shared, and how the information should be shared.
  - c. School staff should 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 sex assigned at birth).
  - d. School staff should keep in mind that under FERPA, student records may only be accessed and disclosed to parent(s)/guardian(s) and to staff with a legitimate educational interest in the information. Disclosures to others should only be made with appropriate authorization from the administration and/or parents/guardians.
  - e. No part 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.
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 should be provided to the building administrator and records will be changed.

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 will 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 should 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 parent/guardian approval, the Superintendent should be consulted and the matter resolved on a case-by-case basis. The Superintendent shall consider the position of the student and may also obtain information from school staff or medical providers. In resolving the matter, the Superintendent should evaluate whether there is risk of harm to the student by notifying the parent(s)/guardian(s) of the student's request to change their name and/or pronouns. Students should 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 should be discussed in the development of the student's plan.

At the request of the student and consistent with the student's identity, the District shall use the student's preferred name and pronouns consistent with their gender identity on all other documents including but not limited to school identifications, classroom rosters, certificates and diplomas.

In the event of a student transfer to a new school unit, the building administrator will identify a person who will inform the new school unit or out-of-district school program that the student's records indicate a change in name preference and the student's prior and current name preferences.

It's important to note that the District has no authority over other schools or organizations including but not limited to Region 10 Technical High School, Maine Comprehensive Assessment System, National Assessment of Educational Progress (NAEP) or the College Board (SAT/ACT). Schools and organizations outside the District will likely have their own policies related to school records.

3. **Names/Pronouns:** The student should be addressed by all school staff, (including but not limited to) substitutes, coaches, volunteers and other students by the name and pronoun corresponding to their gender identity that is asserted at school.
4. **Restrooms:** The student is permitted to use the restrooms that most closely match their gender identity. If any student expresses a need for privacy, they will be provided with access to reasonable alternative facilities or accommodations such as a single-occupancy toilet facility or a staff facility. However, the student shall not be required to use a separate non-communal facility over their objection.
5. **Locker Rooms:** The student is permitted to use the locker room that most closely matches their gender identity. If any student expresses a need for privacy, they will be provided with access to reasonable alternative facilities or accommodations, such as using a separate stall, a staff facility, or an alternative schedule.
6. **Other Gender-Segregated Facilities or Activities:** As a general rule, in any other facilities or activities when students may be separated by gender, the student may participate in accordance with their gender identity. Participation in interscholastic athletic activities will be addressed in accordance with current Maine Principals Association guidelines and procedures.
7. **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.
8. **Dress Code:** The student is expected to comply with Board policies and school rules regardless of gender identity.

### **E. Safety and Support for Transgender and Gender Expansive Student**

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

### **F. Staff Training and Informational Materials**

1. The Superintendent or building administrators may institute in-service training and/or distribute educational materials about transgender and gender expansive issues to school staff as they deem appropriate.
2. Teachers and other staff who have responsibilities for a transgender or gender non-conforming student with a plan will receive necessary support and training in implementing the plan.
3. The District should provide training for all staff on transgender and gender expansive students, their appropriate treatment, requirements under this policy and how to support these students.

LEGAL REFERENCE: 5 M.R.S. §§ 4553(5-C), (9-C); 4592(9);

20-A MRSA § 4008

Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.); 34 C.F.R. Part 106

#### **CROSS REFERENCE -**

AC - Nondiscrimination/Equal Opportunity and Affirmative Action

ACAA - Harassment and Sexual Harassment of Students

ACAA-R - Student Discrimination and Harassment Complaint Procedure

GBEBB - Staff Conduct with Students

JICK - Student Protection from Bullying

JRA - Student Education Records & Information

JRA-E - Notification of Rights Under FERPA

JRA-R - Student Education Records and Information Administrative Procedure

**FIRST READING:** October 12, 2023  
**SECOND READING:** November 16, 2023  
**ADOPTION:** November 16, 2023, effective February 2, 2024