

TO: Board of School Committee

FROM: Committee on Policy  
Committee Members Want, Leapley, Perich, Parr and Bonilla

DATE: March 14, 2022

RE: Amendments to Policy 100.1: Transgender and Gender Non-Conforming Students

At the February 16, 2022, Committee on Policy meeting, it was moved the amendments to policy Students 100.1: Transgender and Gender Non-Conforming Students, as amended, and forward this item to the full Board of School Committee for approval.

Committee Members Want, Leapley, Perich, Parr and Bonilla were in favor.

Respectfully submitted,



Angela Carey

Clerk of the Board of School Committee



Angela Carey <acarey@mansd.org>

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## Memo on Transgender Policy

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**Katie Cox Pelletier** <kcoxpelletier@mansd.org>

Wed, Mar 9, 2022 at 11:14 AM

To: Angela Carey <acarey@mansd.org>

Cc: Jennifer Gillis <jgillis@mansd.org>, Andrew Toland <atoland@mansd.org>

The proposed changes to Board policy Students 100.1: Student Transgender Rights were brought forward to the policy committee and considered at the February 16, 2022 policy committee meeting. These changes were part of a regular review of this policy to address needed language, and were brought forward one year after the implementation of the original policy in response to administrator and community feedback. The proposed changes were made prior to the filing of a recent complaint regarding this policy, which is currently under review with legal counsel.

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Katie Cox Pelletier, Esq.  
Chief Legal & Policy Officer  
Manchester School District  
[20 Hecker St. 3rd Floor](#)  
[Manchester, NH 03102](#)  
(603) 624-6300

**MANCHESTER SCHOOL DISTRICT**

**TITLE:** Students 100.1 Edits to Communication and Safety Protocol

**COMMITTEE ON** Policy **MEETING OF:** \_\_\_\_\_

**ACTION:** X                      **CONSENT:** \_\_\_\_\_                      **INFORMATION:** \_\_\_\_\_

**BACKGROUND:**

**Attached please find edits to the section of this policy regarding communication and safety protocols for students.**

**FISCAL IMPACT:**


**FISCAL VERIFICATION:** \_\_\_\_\_

**RECOMMENDATION:**

That the Committee on Policy moves to approve the changes to Students 100.1 and forward to the full Board of School Committee for approval.

Prepared by:

Presented by:



\_\_\_\_\_  
Kathryn Cox Pelletier  
Attorney

\_\_\_\_\_  
Katie Cox Pelletier  
Attorney

Leslie Want  
\_\_\_\_\_  
Leslie Want  
Committee Chair

## Proposed Changes to Students 1001. Transgender and Gender Non-Conforming Students

### III. Guidance

#### A. Privacy

The Board recognizes a student's right to keep private one's transgender status or gender nonconforming presentation at school. Information about a student's transgender status, legal name, or gender assigned at birth also may constitute confidential information. School personnel should not disclose information that may reveal a student's transgender status or gender nonconforming presentation to others, **including ~~parents and other school personnel,~~** unless legally required to do so or unless the student has authorized such disclosure. Transgender and gender nonconforming students have the right to discuss and express their gender identity and expression openly and to ~~decide~~ when, with whom, and how much to share private information. **Nothing herein shall be construed to change the obligation of the school to take action when student safety is concerned.**

*decide*

When **~~contacting the parent or guardian of referring to~~** a transgender or gender nonconforming student, school personnel should use the student's legal name and the pronoun corresponding to the student's gender assigned at birth unless the student, parent, or guardian has specified otherwise. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative to meet the need for that individual's privacy, regardless of gender identity.

Students who present as transgender or gender non-conforming at school will be supported by school personnel.

## **Students 100.1: Transgender and Gender Non-Conforming Students**

[JBAB: Transgender and Gender Non-Conforming Students]

### **I. PURPOSE**

District policy requires that all programs, activities, and employment practices be free from discrimination based on sex, sexual orientation, or gender identity. This policy is designed in keeping with these mandates to create a safe learning environment for all students and to ensure that every student has equal access to all school programs and activities.

This policy sets out guidelines for schools and district staff to address the needs of transgender and gender nonconforming students and clarifies how state law should be implemented in situations where questions may arise about how to protect the legal rights or safety of such students in accordance with RSA 193:38, which protects students from discrimination on the basis of Sex, Gender Identity, and Sexual Orientation. This policy does not anticipate every situation that might occur with respect to transgender or gender nonconforming students, and the needs of each transgender or gender nonconforming student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of the transgender or gender nonconforming student while maximizing the student's social integration and minimizing stigmatization of the student.

### **II. DEFINITIONS**

The definitions provided here are not intended to label students but rather are intended to assist in understanding this policy and the legal obligations of District staff. Students might or might not use these terms to describe themselves.

"Gender identity" is a person's deeply held sense or psychological knowledge of their own gender, regardless of the gender they were assigned at birth. Everyone has a gender identity.

"Transgender" describes people whose gender identity is different from their gender assigned at birth.

"Gender expression" refers to the way a person expresses gender, such as clothing, hairstyles, activities, or mannerisms.

"Gender nonconforming" describes people whose gender expression differs from stereotypical expectations, such as "feminine" boys, "masculine" girls, and those who are perceived as androgynous.

### **III. GUIDANCE**

#### **A. Privacy**

The Board recognizes a student's right to keep private one's transgender status or gender nonconforming presentation at school. Information about a student's transgender status, legal name, or gender assigned at birth also may constitute confidential information. School personnel should not disclose information that may reveal a student's transgender status or gender nonconforming presentation to others, ~~including parents and other school personnel~~, unless legally required to do so or unless the student has authorized such disclosure. Transgender and gender nonconforming students have the right to discuss and express their gender identity and expression openly and to decide when, with whom, and how much to share private information.

*Add: Nothing herein shall be construed to change the obligation of the school to take action when student safety is concerned.*

When ~~contacting the parent or guardian of~~ *when referring to* a transgender or gender nonconforming student, school personnel should use the student's legal name and the pronoun corresponding to the student's gender assigned at birth unless the student, parent, or guardian has specified otherwise. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative to meet the need for that individual's privacy, regardless of gender identity.

## **B. Official Record**

The District is required to maintain a mandatory permanent pupil record ("official record") that includes a student's legal name and legal gender. However, the District is not required to use a student's legal name and gender on other school records or documents. The District will change a student's official record to reflect a change in legal name or legal gender upon receipt of documentation that such change has been made pursuant to a court order. In situations where school staff or administrators are required by law to use or to report a transgender student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

## **C. Names/Pronouns**

A student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity. A court-ordered name or gender change is not required, and the student need not change his or her official records. The intentional or persistent refusal to respect a student's gender identity (for example, intentionally referring to the student by a name or pronoun that does not correspond to the student's gender identity) is a violation of this policy.

## **D. Gender-Segregated Activities**

To the extent possible, schools should reduce or eliminate the practice of segregating students by gender. In situations where students are segregated by gender, such as for health education classes, students should be included in the group that corresponds to their gender identity. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative to maintain that individual's right to privacy during student activities that are segregated by gender.

## **E. Restroom Accessibility**

Students shall have access to the restroom that corresponds to their gender identity consistently asserted at school. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided access to a single stall restroom, but no student shall be required to use such a restroom.

## **F. Locker Room Accessibility**

The use of locker rooms by transgender students shall be assessed on a case-by-case basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports, ensuring the student's safety and comfort, and minimizing stigmatization of the student. In most cases, transgender students should have access to the locker room that corresponds to their gender identity consistently asserted at school. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a P.E. instructor's office in the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponds to their gender identity before or after other students). Any alternative arrangement should be provided in a way that protects the student's ability to keep his or her transgender status confidential. In no case shall a transgender student be required to use a locker room that conflicts with the student's gender identity.

## **G. Physical Education Classes & Intramural Sports**

Transgender and gender nonconforming students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity.

## **H. Interscholastic Competitive Sports Teams**

Transgender and gender nonconforming students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity. This policy is in line with current (2021) New Hampshire Interscholastic Athletic Association (NHIAA) guidance regarding participation of transgender and gender nonconforming students in athletics.

## **I. Dress Codes**

Transgender and gender nonconforming students have the right to dress in a manner consistent with their gender identity or gender expression. In general, schools may not adopt dress codes that restrict students' clothing or appearance on the basis of gender.

## **J. Discrimination/Harassment**

It is the responsibility of each school and the District to ensure that transgender and gender nonconforming students have a safe school environment. This includes ensuring that any incident of discrimination, harassment, or violence is given immediate attention, including investigating the incident, taking appropriate corrective action, and providing students and staff with appropriate resources. Complaints alleging discrimination or harassment based on a person's actual or perceived transgender status or gender nonconformity are to be handled in the same manner as other discrimination or harassment complaints.

### Legal References:

NH RSA 193:38: Discrimination in Public Schools

NHIAA By-Laws, Article 2, Section 21 (2020-2021 school year)

2021 Adoption

First Reading (Policy Committee): 1/12/21

Second Reading and BOSC Approval: 2/8/21