

GUIDELINES FOR STUDENTS

Gender Identity



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.¹ 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 guidance from the Maryland State Department of Education² and [Board of Education Policy ACA, Nondiscrimination, Equity, and Cultural Proficiency](#), set forth the districtwide expectation that discrimination, stigmatization, and bullying will not be tolerated. These guidelines cannot anticipate every situation which 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 MCPS staff members to enable them to appropriately and consistently address matters of student gender identity.

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.^{3,4}

AGENDER Without a gender (also “nongendered” or “genderless”).

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.

GENDER EXPRESSION The manner with which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, speech and word choices, or mannerisms.

GENDER FLUID A person whose gender identity or gender expression is not fixed and shifts over time depending on the situation.

GENDER IDENTITY A person's deeply held internalized sense or psychological knowledge of the person's own gender. One's gender identity may 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 persons who are transgender or gender nonconforming people. For the purposes of this guidance, a student's gender identity is that which is consistently asserted at school.

GENDER NONCONFORMING A term for individuals whose gender expression differs from conventional or stereotypical expectations, such as “feminine” boys, “masculine” girls, and those whose gender expression may be 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.”

LGBTQ An acronym for the Lesbian, Gay, Bisexual, Transgender, Queer, and Questioning community. This acronym often is written as LGBTQ+ in an effort to be more inclusive.

SEX ASSIGNED AT BIRTH The sex designation recorded on an infant's birth certificate, should such a record be provided at birth.

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.”

TRANSITION The process by which a person decides to live as the gender with which the person identifies, rather than the gender assigned at birth. In order to openly express their gender identity to other people, transgender people may take a variety of steps (e.g., 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 align with their gender identity. Although transitioning includes the public representation on one's gender expression, transitioning is a personal process and individuals transitioning have the right to privacy.

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

²For 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), available at: marylandpublicschools.org/about/Documents/DSFSS/SSSP/ProvidingSafeSpacesTransgenderGenderNonConformingYouth012016.pdf.

³Terminology used in these guidelines is intended to be as inclusive as possible; however, it is understood that terms and language are evolving and may become outdated quickly.

⁴Definitions were informed by the following sources: American Civil Liberties Union; American Psychological Association; California School Boards Association; Chicago Public Schools; District of Columbia Public Schools; Gay, Lesbian, and Straight Education Network; Howard County Public Schools; Human Rights Campaign; Lambda Legal; Maryland State Department of Education; Maryland Public Secondary Schools Athletic Association; Massachusetts Department of Elementary and Secondary Education; National Collegiate Athletic Association; National School Boards Association; New York City Department of Education; and Trevor Project.

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 the 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. The principal, designee, or school-based mental health professional (e.g., school psychologist or school counselor) should use MCPS Form 560-80: *Intake Form: Supporting Students, Gender Identity* (Attachment A-1) to support this process and assist the student in participating in school. The completed form must be maintained in a secure location and may not be placed in the student's cumulative or confidential files. While the plan should be consistently implemented by all school staff, the form itself is not intended to be used or accessed by other school staff members.
- 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 members 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, safe zones, and other safety supports; and formal events such as graduation.
- Prior to contacting a student's parent/guardian, the principal or identified staff member 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 because of 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 (OSFSE) should be contacted.

PRIVACY AND DISCLOSURE OF 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, including that relating to transgender students, is kept confidential in accordance with applicable state, local, and federal privacy laws.

- Please note that medical diagnosis, treatment, and/or other documentation are not required for a school to accommodate requests regarding gender presentation, identity, and diversity.
- 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 members or other students does not authorize school staff members to disclose students' status to others, including parents/guardians and other school staff members, unless legally required to do so or unless students have authorized such disclosure. It is inappropriate to ask transgender or gender nonconforming students more questions than are necessary to support them at school.

NAMES/PRONOUNS

- All students have the right to be referred to by their preferred name and/or pronoun. 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 preferred name. 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 the student's preferred name for classroom rosters, identification badges, announcements, certificates, newspapers, newsletters, and yearbooks.
- Unless the student or parent/guardian has specified otherwise, when contacting the parent/guardian of a transgender student, MCPS school staff members should use the student's legal name and pronoun that correspond to the student's sex assigned at birth.

OFFICIAL SCHOOL 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 members 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.
- 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. Any of the following documents is evidence of a legal name and/or gender change:

- A court order;
- New birth certificate;
- State- or federally-issued identification; or
- 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 OSFSE.
- The school must protect the student's previous identity once a change to a student's legal name and/or gender has occurred. Please refer to the Student Record Keeper Manual, Office of Shared Accountability (OSA), or OSFSE for additional information.
- When a name and/or gender change has been made to official school records, the school must notify OSA so that appropriate notice to MSDE can be made.
- When a name and/or gender change has been made to official school records, school administrators should advise families that they must provide updated copies of any records provided to the school that were generated by external sources (e.g., immunization records, doctor's orders, or other records from medical providers).
- Similarly, a former student's permanent record should be changed to reflect a change in the former 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, state- or federally-issued identification, or with documentation from a license healthcare practitioner. These changes are processed by Central Records.

DRESS CODE

- Transgender and gender nonconforming students have the right to dress in a manner consistent with their gender identity or gender expression, so long as it complies with the MCPS dress code. School staff members 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. In addition, in circumstances where gendered clothing is worn (e.g., in shows and performances), students should be allowed to wear the garments associated with their gender identity.

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 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 respect 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 members should work with students to address their discomfort 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.
- Bearing in mind 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 incorporate at least one gender-neutral changing facility into the design of new schools and school renovations, allowing for 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 intramural sports, students must be allowed to participate in a manner consistent with their gender identity.

INTERSCHOLASTIC ATHLETICS

- Transgender and gender nonconforming student participation in interscholastic athletics is determined in accordance with Maryland Public Secondary Schools Athletic Association (MPSSAA) policies and guidelines (Available online at https://www.mpssaa.org/assets/1/6/MPSSAA_Transgender_Guidance_revised_8.16.pdf).
- 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:
 - the student's sex assigned at birth; or
 - the gender to which the student has transitioned; or
 - the student's asserted gender identity.
- 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 members may not disclose or require disclosure of a student's transgender status to other students or their parents/guardians as it relates to a field trip without the consent of the student and/or the student's parent/guardian.

BULLYING AND HARASSMENT

- LGBTQ+ students have a higher incidence of being bullied and harassed, as well as a higher rate of suicide contemplation and are more than five times as likely as non LGBTQ+ students to attempt suicide.
- MCPS Board Policy JHF and MCPS Regulation JHF-RA on *Bullying, Harassment, or Intimidation* are available on the MCPS website at: 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 promptly.
- 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 based upon their actual or perceived gender identity or expression.
- Schools are encouraged to have age-appropriate student organizations develop and lead programs to address issues of bullying prevention for all students with emphasis on LGBTQ+ students.

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. Schools also should ensure that staff members who have safe zone stickers on their doors have received appropriate training regarding providing inclusive, affirming environments.

CONTACTS

- For more information please contact the MCPS OSFSE at 240-314-4824, or the MCPS Office of School Administration, Compliance Unit, at 240-740-3215.