



Superintendent's Circular

NUMBER:
EQT-04
Version 01

TRANSGENDER AND GENDER NONCONFORMING STUDENTS — NONDISCRIMINATION ON THE BASIS OF GENDER IDENTITY

*This Circular will remain in effect unless rescinded or superseded
by a subsequent version.*

This circular sets out guidelines for schools and district staff to create a culture where transgender and gender nonconforming students feel safe, supported, and fully included, and to meet each school's obligation to provide educational opportunities for all students. We aim to achieve inclusion of transgender and gender nonconforming students, while maintaining students' right to privacy.

BIAS-BASED CONDUCT, DISCRIMINATION, AND HARASSMENT

Massachusetts law and the Boston Public Schools (BPS) require that all classrooms, programs, activities, and employment practices be free from bias and discrimination on the basis of sex, sexual orientation, and gender identity. It is the responsibility of each school and the district to ensure that transgender and gender nonconforming students have a safe school environment. For policies and procedures about BPS's "Bullying Prevention and Intervention Plan," please see Superintendent's Circular SSS-

18. For more information about safety transfers in the district, please see Superintendent's Circular AMT-07.

Reports of bias, discrimination or harassment based on a person's actual or perceived gender identity or gender nonconformity are handled in the same manner as other reports of bias-based conduct. Students, employees, and third parties alleged to have violated this policy (EQT-04) will be investigated and addressed according to the protocols detailed in Superintendent's Circular EQT-02, "Bias-Based Conduct Toward Students Families or Other Third Parties."

NAMES AND PRONOUNS

In Massachusetts, an individual may adopt a name that is different from the name that appears on their birth certificate. No additional legal or other documentation is required for school staff to honor student requests to go by a chosen/affirming name. If a student or their family is looking to update the name that appears on official school records, they may do so either by completing the Change of Student Information Form - Name and Gender Change Request (if the update is related to gender identity) or by contacting BPS Welcome Services (if the update is not related to gender identity). Note: This process is not a legal name change and does not affect any records other than those kept by BPS.

After a student requests a name change, school personnel shall make every effort to consistently use the student's chosen name and stated pronouns. For students who remain in the same school following a gender transition, it is important to develop a plan for ensuring the use of the chosen name and stated

pronouns. School-based staff are strongly encouraged to contact the Office of Equity for additional support in this process.

PRIVACY, CONFIDENTIALITY, AND STUDENT RECORDS

Under Massachusetts law, information about a student's assigned birth sex, gender transition, name change associated with transition, medical or mental health treatment related to gender identity, or any other related information is part of the individual's student record (for more information, see the Massachusetts Student Records Regulations, 603 CMR 23.00). Student records are confidential and must be kept private and secure except in limited circumstances, such as when authorized school personnel require the information to provide administrative, teaching, counseling, nursing, or other services to the student in the performance of their official duties. Authorized school personnel may include, but are not limited to, individuals such as the principal, school nurse, classroom teacher(s), social worker, and/or guidance counselor.

When a student new to a school is using a chosen or affirming name, the birth name is considered private information and may be disclosed only with authorization as provided under the Massachusetts Student Records Regulations. If the student has previously been known at school and/or in school records by their birth name, school personnel must use the student's chosen name. 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, for safety reasons, or if the student and/or guardian 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 information to share. A student who is 14 years of age or older, or who has entered the ninth grade, may consent to disclosure of information from their student record. If a student is under 14 and is not yet in the ninth grade, only the student's parent has the authority to decide on disclosures and other student record matters.

To the extent that the school is not legally required to use a student's legal name and gender on other school records or documents, every effort shall be made to update student records with the student's chosen name and not circulate records with the student's birth name. Records with the student's birth name shall be kept confidential.

For more information about Student Record Regulations, please see Superintendent's Circular LGL-07.

RESTROOMS, LOCKER ROOMS, AND CHANGING FACILITIES

In accordance with Massachusetts law, all students are entitled to have access to restrooms, locker rooms, and changing facilities consistent with the student's gender identity. As part of the transition process, the school leader (or their designee) and student (and parent/guardian, when applicable) shall address the student's access to the restrooms, locker room, and changing facilities.

Each situation needs to be addressed based on the particular circumstances of the student and the school facilities. In all cases, the school leader (or their designee) shall be clear with the

student (and parent/guardian when applicable) that the student may access the restroom, locker room, and changing facility that corresponds to the student's gender identity. Transgender students who prefer not to use a sex-segregated restroom should be provided with a safe and adequate alternative, such as a single stall restroom or nurse's restroom if possible. The single-user facility, however, *may not* be given as the *only* option for transgender or gender nonconforming students.

School-based staff should be aware that there will be students who do not identify along the gender binary (boy/girl or man/woman). These students may use terms such as "nonbinary," "gender fluid," or "gender queer" to describe their gender identity. They should be given access to whichever facility feels most comfortable to them. Students who prefer not to use a sex-segregated restroom should be provided with a safe and adequate alternative, such as a single stall restroom or nurse's restroom if possible. The single-user facility, however, *may not* be given as the *only* option for transgender or gender nonconforming students. If possible, schools should consider designating one or more restrooms at their school as "all gender," meaning that anyone of any gender may use that restroom.

Student and/or school staff discomfort is not an acceptable reason to deny restroom access to transgender and/or gender nonconforming students. School administrators, educators, and counseling staff should take a proactive approach to address any discomfort, foster understanding, and create a school culture that respects and values all students. School-based staff may contact the Office of Equity for additional support in this area.

PHYSICAL EDUCATION CLASSES, INTRAMURAL SPORTS, AND INTERSCHOLASTIC ATHLETIC ACTIVITIES

Where there are sex-segregated classes or athletic activities, including intramural and interscholastic athletics, all students must be allowed to participate in a manner consistent with their gender identity. The Massachusetts Interscholastic Athletic Association, as outlined in their Gender Identity Policy Clarification, will defer to the determination made by the student and their school regarding gender identity.

DRESS CODES

All students have the right to dress in a manner consistent with their gender identity or expression. In general, schools should eliminate dress codes that restrict students' clothing or appearance on the basis of gender.⁽¹⁾ School staff must not enforce the dress code more strictly against transgender and gender-nonconforming students than other students.

DIPLOMAS

Graduating students are entitled to use a chosen or affirming name on their BPS diploma, this name may be different from the name listed in student records. Students wanting a diploma printed with a name other than or in addition to the name listed in student records should speak to their school guidance counselor or the LGBTQ+ student support manager.

(1) The Office of Equity will provide schools with a sample dress code upon request.

GENDER-BASED ACTIVITIES, RULES, POLICIES AND PRACTICES

Schools should evaluate all gender-based policies, rules, and practices, and maintain only those with a clear and sound pedagogical purpose and equivalent offerings for students of all genders. Gender-based policies, rules, and practices may have the effect of marginalizing, stigmatizing, and excluding students, including gender nonconforming students.

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 in such activities or conform to such rule, policy, or practice consistent with their gender identity.

RELATED RESOURCES

- The Gay, Lesbian and Straight Education Network (GLSEN) Gender Terminology Guide is available here:
<https://www.glsen.org/activity/gender-terminology>.
- For information about the Boston Public Schools policies on bias-based conduct or bullying, see Superintendent's Circulars EQT-02, EQT-03, or SSS-18.
- For more information about the Massachusetts gender identity law, see the Massachusetts Department of Elementary and Secondary Education guidance document, "Nondiscrimination on the Basis of Gender Identity" at
<http://www.doe.mass.edu/ssce/GenderIdentity.pdf>.
- Contact the Office of Equity at 617-635-9650 or
bpsequity@bostonpublicschools.org for information about additional support.

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