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Transgender and Gender Nonconforming Procedures

I. Purpose

In accordance with policy JBAB, a student will be considered transgender if, at school, they consistently assert a gender identity or expression different from that traditionally associated with their assigned sex at birth. This involves more than a casual declaration of gender identity or expression, but it does not necessarily require a medical diagnosis.

II. Definitions

The following definitions are not intended to provide rigid labels for students, but to assist in discussing and addressing the needs of students. The terminology in this area is constantly evolving, and preference for particular terminology varies widely.

Administrators, school staff, volunteers, students and others who interact with students are expected to be sensitive to the ways in which particular transgender students may wish to be identified. However, for the sake of brevity, this policy refers to “transgender students.”

1. *Gender identity* – A person’s deeply held sense or psychological knowledge of their own gender. One’s gender identity can be the same or different than that traditionally associated with their assigned sex at birth.
2. *Gender expression* – The multiple ways in which a person represents or expresses their gender to others, often through behavior, clothing, hairstyles, activities, voice or mannerisms. Gender expression could be referred to as masculine, feminine, gender nonconforming, etc.
3. *Cisgender* – A person whose gender identity and expression are aligned with those traditionally associated with their assigned sex at birth.
4. *Transgender* – A person whose gender identity and/or expression are not aligned with that traditionally associated with their assigned sex at birth. “Transgender” is often used as an umbrella term to refer to students who identify as transgender, or who are gender nonconforming or gender non-binary, gender variant, gender fluid, genderqueer, agender, non-labeling, in the process of questioning their gender, etc.
5. *Gender nonconforming* – Describes an individual whose gender expression, behaviors, or interests are different from societal and stereotypical gender expectations traditionally associated with their assigned sex at birth.
6. *Gender non-binary* – Describes an individual whose gender identity and/or expression does not align with the gender binary of male or female. A gender non-binary person may describe their gender identity and/or expression as androgynous, gender fluid, genderqueer, agender, non-labeling, etc.
7. *Gender fluid* – Describes an individual whose gender identity and/or expression may be gender nonconforming or non-binary, who has a wider and more flexible range of gender expression that may even change from day to day. While the gender expression of a student who is gender fluid is flexible or may appear to change with some

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frequency, their gender fluid identity can be recognized as the “gender which the student consistently asserts at school” in regards to this policy.

8. *Gender Transition* – The process by which a person goes from living and identifying as one gender to living and identifying as another gender. Gender transition is typically prompted by the feeling that an individual’s gender identity does not match the one typically associated with their assigned sex at birth. Examples include: transitioning from a boy to a girl, a girl to a boy, a girl to gender non-binary, or a boy to gender non-binary. For most elementary and secondary students, this involves no or minimal medical interventions. In most cases, transgender students under the age of 18 are in a process of “social transition” from one gender to another.
9. *LGBTQ*: An acronym that stands for “lesbian, gay, bisexual, transgender, and queer/questioning.” Questioning incorporates those who are uncertain or fluid about their sexual orientation and/or gender identity.
10. *Sex*: The biological condition or quality of being female or male.
11. *Sexual orientation* – Describes a person’s romantic and/or sexual attraction. Sexual orientation is different and not the same as gender identity or gender expression. In this policy, sexual orientation refers to an individual’s “actual or perceived” sexual orientation.

III. Procedures

This procedure will be used to address needs raised by transgender students and/or their parent(s)/guardian(s).

1. A transgender student and/or their parent(s)/guardian(s) should contact the student’s counselor or building administrator. In the case of a student who has not yet enrolled in school, the appropriate building administrator should be contacted.
2. A meeting should be scheduled to discuss the student’s particular circumstances and needs. In addition to the student, parent(s)/guardian(s) and building administrator, participants may include the school counselor, school nurse, teachers and/or other school staff, and possibly outside providers who can assist in developing a plan for that student.
3. A written plan will be developed by the school, in consultation with the student, parent(s)/guardian(s) and others as appropriate, to address the student’s particular needs. If the student has an IEP or a 504 Plan, the provisions of these plans should be taken into consideration in developing the plan for addressing transgender issues.
4. If the parties cannot reach an agreement about the elements to be included in the plan, the building administrator and/or Superintendent shall be consulted as appropriate.

IV. Guidance on Specific Issues

1. *Privacy*: The student’s plan should address how to deal with disclosures that the student is transgender. In some cases, a student may want school staff and students to know, and in other cases the student may not want this information to be widely known. School staff should take care to follow the student’s plan and not to

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- inadvertently disclose information that is intended to be kept private or that is protected from disclosure (such as confidential medical information). School staff should keep in mind that under FERPA, student records may only be accessed and disclosed 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.
2. *Official Records:* Schools are required to maintain a permanent record for each student which includes legal name and gender. This information is also required for standardized tests and official school unit reports. This official information will only be changed upon receipt of documentation that a student's name or gender has been changed in accordance with any applicable laws. Any requests to change a student's legal name or gender in official records should be referred to the Superintendent. To the extent that the school is not required to use a student's legal name or gender on school records or other documents, the school should use the name and gender identified in the student's plan.
 3. *Names/Pronouns:* A student who has been identified as transgender under this policy should be addressed by school staff and other students by the name and pronouns corresponding to their gender identity that is consistently asserted at school.
 4. *Restrooms:* A student who has been identified as transgender under this policy should be permitted to use the restrooms assigned to the gender which the student consistently asserts at school. A transgender student who expresses a need for privacy will be provided with reasonable alternative facilities or accommodations such as using a separate single-occupancy or a staff facility. However, a student shall not be required to use a separate single-occupancy facility over their objection.
 5. *Locker Rooms:* The use of locker rooms requires schools to consider a number of factors, including but not necessarily limited to the safety and comfort of students; the transgender student's preference; student privacy; the ages of students; and available facilities. As a general rule, transgender students will be permitted to use the locker room assigned to the gender which the student consistently asserts at school. A transgender student will not be required to use a locker room that conflicts with the gender identity consistently asserted at school. A transgender student who expresses a need for privacy will be provided with reasonable alternative facilities or accommodations, such as using a separate stall, a staff facility or separate 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, transgender students may participate in accordance with the gender identity consistently asserted at school. Interscholastic athletic activities should be addressed through the NHIAA participation policy, Article III, Section 5.
 7. *Note on Facilities:* If there are no facilities (restrooms, locker rooms, or other gender segregated facilities) that align with the gender which the student consistently asserts at

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school (i.e. in the case of a student who is gender non-binary), recommendations of parent(s)/guardian(s) and medical or mental health professionals should be obtained by the school and considered into the plan developed for the student.

8. *Dress Code*: Transgender students may dress in accordance with their consistently asserted gender identity, consistent with any applicable requirements in the dress code or school rules.
9. *Safety and Support for Transgender and Transitioning Students*: School staff is expected to comply with any plan developed for a transgender student and to 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. School staff should be sensitive to the fact that transgender and transitioning students may be at higher risk for being bullied or harassed, and should immediately notify the appropriate administrator upon becoming aware of a problem.

V. Staff Training and Informational Materials

1. The Superintendent and/or building principal may institute in-service training and/or distribute educational materials about transgender issues to school staff as deemed appropriate.
2. Teachers and other staff who have responsibilities for a transgender student with a plan will receive support in implementing the plan.
3. Training will include awareness of gender stereotyping.

Legal References:

NH RSA 354-A:2, XIV-c

Americans with Disabilities Act (28 CFR § 35.07), as amended

Section 504 of the Vocational Rehabilitation Act (29 USC § 794), as amended; 34 CFR § 104.7

Title IX of the Education Amendments of 1972 (20 USC § 1681 et seq.)

Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c et seq.)

NH Code Admin. R. Ed. 303.01(i) and (j)

See Also:

JBAB-R: Transgender and Gender Nonconforming Procedure

ACAA: Harassment and Sexual Harassment of Students

ACAA-R: Student Discrimination and Harassment Complaint Procedure

AC: Nondiscrimination/Equal Opportunity

JICFA: Hazing

JICK: Pupil Safety and Violence Prevention

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NHIAA participation policy, Article III, Section 5

Code: O