

WINOOSKI SCHOOL DISTRICT

POLICY ON TRANSGENDER AND GENDER NONCONFORMING STUDENTS

Policy

This policy is designed to provide direction for administrators, staff, students, and parents to address issues that may arise concerning the needs of transgender and gender nonconforming students. Title IX of the Education Amendments of 1972, and 9 V.S.A. 4502¹ protect all students from sex discrimination, including transgender students and students who do not conform to traditional gender stereotypes.²

It is the policy of the Winooski School District to provide a safe, orderly, civil and positive learning environment for all students, regardless of perceived or actual sex, sexual orientation, gender identity, or gender expression.

Definitions³

- “Cisgender” means a person whose gender identity corresponds to their assigned sex at birth.
- “Gender identity” means a person’s actual or perceived gender identity, or gender-related characteristics that are intrinsically related to a person’s gender or gender-identity, regardless of the person’s assigned sex at birth.
- “Gender expression” means the way a person externally communicates gender to other people such as through behaviors, clothing, hairstyles, voice, mannerisms, activities, or body characteristics.
- “Gender nonconforming” refers to a person whose gender-related identity and/or gender expression does not conform to the social expectations or norms for a person of that sex assigned at birth. Other terms that have the same or similar meaning include gender creative, gender variant, gender expansive, gender fluid or gender atypical.
- “Transgender” is a term that describes a person whose gender identity or gender expression is different from the person’s assigned sex at birth.
- “Sexual orientation” is a person’s emotional and sexual attraction to other people based on the gender of the other person. Sexual orientation is not the same as gender identity. Not all transgender students identify as gay, lesbian or bisexual, and not all gay, lesbian and bisexual students display gender nonconforming characteristics.

¹ Vermont’s Public Accommodations Act prohibits the discrimination on the basis of “race, creed, color, national origin, marital status, sex, sexual orientation, or gender identity of any person.” 9 V.S.A. § 4502.

² The recommendation for districts to adopt a Transgender and Gender Nonconforming Students policy was made in response to federal guidance issued May 2016 ([*US Department of Education Office of Civil Rights and US Department of Justice Office of Department of Justice Civil Rights Division Dear Colleague Letter on Transgender Students, May 13, 2016.*](#))

³ Definitions are adapted from the Vermont Agency of Education guidance document, “Best Practices for Schools Regarding Transgender and Gender Nonconforming Students.”

Privacy

All students have the right to privacy. Consistent with those rights provided under the Family Educational Rights and Privacy Act of 1974 a transgender or gender nonconforming student will be able to discuss and express their gender identity and gender expression openly and to decide when, with whom, and how much of their private information to share with others.

In addition, school staff will respect any requests to use a name and pronoun that corresponds to the student's gender identity that the student asserts or wishes to assert at school. Students will not be required to obtain a court ordered name and/or gender change or to change their pupil personnel records as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity⁴.

There may be times when disclosure to school staff or employees of a student's transgender status is necessary in order to fulfill a school's obligations to the transgender student with respect to safety and health, education and anti-discrimination efforts. In all cases the school will work closely with students and families in devising an appropriate plan regarding the confidentiality of a student's transgender status that works for both the student and the student's family while meeting competing legal requirements. To the extent possible and consistent with all competing legal requirements, school personnel will endeavor throughout to maintain the confidentiality of the student's transgender status⁵.

Student Records

The superintendent will adopt procedures that ensure that all students' personally identifiable information is maintained in compliance with FERPA⁶ and state and federally mandated reporting requirements.

To the extent that the school is not legally required to use a student's legal name or gender on school records and other documents, the school will use the name and gender preferred by the student⁷.

Where a student's record(s) may not be changed absent court order due to state and federal law, efforts will be taken to maintain those records in strictest confidentiality in order to preserve the student's transgender status and, where appropriate, for an amended version to be maintained which preserves the confidentiality of that transgender status where a review of the record is required for educational purposes by either school personnel education the student or personnel who will be evaluating the student (for eligibility purposes for example).

A student (or parent in the case of a minor student) who is currently enrolled may request retroactive changes to that student's record including name and gender. Such requests will be handled on a case by case basis with consideration of the need to maintain legally accurate records consistent with state and federal mandated reporting requirements with the school's ongoing efforts to maintain internal student confidentiality regarding a student's transgender status.

⁴ Under Title IX, a school must treat students consistent with their gender identity even if their education records or identification documents indicate a different sex. The Departments of Education and Justice have resolved Title IX investigations with agreements committing that school staff and contractors will use pronouns and names consistent with a transgender student's gender identity. (From *Dear Colleague* letter of May 13, 2016).

⁵ Even when a student has disclosed the student's transgender status to some members of the school community, schools may not rely on this FERPA exception to disclose PII from education records to other school personnel who do not have a legitimate educational interest in the information. Inappropriately disclosing (or requiring students or their parents to disclose) personally identifiable information from education records to the school community may violate FERPA and interfere with transgender students' right under Title IX to be treated consistent with their gender identity. (From *Dear Colleague* letter of May 13, 2016).

⁶ Family and Educational Rights and Privacy Act, 34 CFR Part 99.

Former student permanent pupil records will be changed by request of a parent of a minor student, or former students who have reached the age of majority, upon receipt of documentation⁸ that such legal name and/or gender have been changed pursuant to applicable state law⁹.

Use of Gender Segregated Facilities

A transgender student will not be required to use a locker room or restroom that conflicts with the student's gender identity¹⁰.

Any student who expresses a need or desire for increased privacy will be provided with reasonable alternative arrangements. Reasonable alternative arrangements may include the use of a private area, or a separate changing schedule, or use of a single stall restroom. Any alternative arrangement will be provided in a way that protects a student's ability to keep their transgender status confidential.

In all cases the use of restrooms and locker rooms by transgender students requires schools to consider numerous factors, including, but not limited to: the transgender student's preference; protecting student privacy; maximizing social integration of the transgender student; minimizing stigmatization of the student; ensuring equal opportunity to participate; the student's age; and protecting the safety of the students involved.

School Activities

As a general rule, in any other circumstances where students are separated by gender in school activities (i.e. overnight field trips), students will be permitted to participate in accordance with their gender identity consistently asserted at school. Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case-by-case basis considering the factors listed above.

⁷ There is no medical diagnosis or treatment requirement that students must meet as a prerequisite to being treated consistent with their gender identity. Because transgender students often are unable to obtain identification documents that reflect their gender identity (e.g., due to restrictions imposed by state or local law in their place of birth or residence) requiring students to produce such identification documents in order to treat them consistent with their gender identity may violate Title IX when doing so has the practical effect of limiting or denying students equal access to an educational program or activity. (From *Dear Colleague* letter of May 13, 2016).

⁸ See, 18 V.S.A. § 5112 for Vermont law governing the process for obtaining a new birth certificate following a sexual reassignment.

⁹ Under Title IX, a school must respond to a request to amend information related to a student's transgender status consistent with its general practices for amending other students' records. (From *Dear Colleague* letter of May 13, 2016).

¹⁰ *G.G. v. Gloucester Cnty. Sch. Bd.*, (4th Cir. Apr. 19, 2016).

PROCEDURES: (also referred to as rules or regulations) are the specific directions that indicate exactly how school personnel and others will carry out the policies adopted by the School Board. Procedures will be developed by the Superintendent in consultation with staff and are attached. Procedures may change more frequently than the underlying policy and do not require adoption by the Board.

Pronoun Definitions

1. **“They” is a neutral pronoun**, but a person’s name is the safest (most respectful) route. If you are aware of a person’s actual pronouns, “they” should not replace them.

2. **The most common pronouns**, “he” and “she” series, are appropriate even if the person has not directly told you so, as long as you have observed them operate within those pronouns around other people with ease and as long as you have no knowledge of a different request on their part. If not sure, use their name only.

3. **When a person explicitly states** or clarifies their pronouns (i.e., “asserts”), it is not optional to begin to use them regardless of one’s opinion. In addition to being a policy requirement, someone’s pronouns are at least as serious, if not more, than someone’s change of last name.

4. **As a teacher or staff, you are not required to state your pronouns** to the class as you may or may not be comfortable with other people’s assumptions about your gender. However, if you are comfortable doing so, stating your pronouns when meeting a new group makes some students struggling with a sense of belonging encounter a more welcoming classroom climate.

5. **Students are not required to state their pronouns** and it is recommended that you avoid pedagogical situations in which they perceive it to be the case. For example, rather than stating “say your name and your pronouns” say, “let’s introduce ourselves. My name is such and such, and I go by the he-series. Now it’s your turn, you can say your name and your pronouns if you are comfortable, otherwise just your name is fine.” In this case you are still modeling belonging and inclusive practices but you are also being explicit about the options students have.

6. **Remember that “silence is a message.”** When the teacher states their pronouns but does not explicitly elaborate on the options students have, the perception is created that what the teacher did is now a requirement for everyone. Similarly, if a teacher simply “stays out of it” and avoids a topic, the message is given that the matter (or the person as a whole) may not be regarded or even welcome in that space. The best practice is not to avoid, but to be explicit with our guidance and intentional with our words.

7. **Some students may be only comfortable discussing their pronouns confidentially** rather than in front of the class. Optionally, refer to this form for a quick record keeping tool to ensure student safety. Alternatively, you can read more in the second section of this document about best practices when a student changes their pronouns while in your class. <https://www.glsen.org/activity/pronoun-form-educators>

8. **When you encounter a pronoun series that is new to you**, ask and practice. Do not be afraid to make “honest mistakes” because most people understand that our society has trained us in a very specific way most of our lives.

9. **When you do make a mistake**, apologize, and move on. Do not make a big deal of it, do not indirectly force the recipient to linger in that discomfort, and do not center the conversation on you. Chances are that the other person’s transition is a lot more difficult than us learning a simple pronoun.

10. **Sporadic initial mistakes aside**, it should be obvious that you are making an honest effort. Repeatedly misgendering someone at some point ceases being “accidental” and begins to be perceived as deliberate. When the student feels unsafe and ridiculed due to patterns of deliberate misgendering, the behavior is treated as a case of gender identity-based harassment.

PRONOUN TRANSITIONS

(When a student asserts a pronoun change)

The guidance below is applicable only in cases when the student has requested the school or you as their teacher specifically to support them in “asserting” a pronoun change as defined by WSD Policy #5148, with the understanding that your accompaniment may be needed to promote their inter-personal safety within the classroom. However, this process will vary from individual to individual and you should not use this guidance as a strict set of steps, but rather as general advice to get you started.

For upper grades, for example, a student may prefer for you and other adults to stay out of the way in their process of gradually sharing their transition with others. For lower grades, on the other hand, students and families may want you to play a more direct role by helping the young student navigate difficult social situations. This guidance serves as one of several resources at your disposal. Approach your administrator and other team members when a question of this nature arises.

When a student or family initially approaches you, involve other relevant adults if possible and with the full consent of the student. If you can reasonably gauge that your student feels comfortable sharing and discussing this request with their guardians, please do so first. You might learn useful information from them. For lower grades (3rd grade and below), sharing some information with guardians right away may embarrass them, but it is usually best to tactfully share and in a way that does not make your student feel betrayed by you. Guardians are usually attuned to the child’s inner explorations of identity in lower grades, with some exceptions. Partner with them in making the student feel safe and supported.

For upper grades (5th grade and up), this initial conversation is critical. Sharing information without their consent can breach trust at best and be illegal or put the student in danger at worst. A conversation about one’s preferred pronouns is usually something that should remain confidential unless the student requests otherwise. However, there may be cases where you become a mandated reporter if the original conversation yields information that you are required to report, such as the possibility of abuse.

If your student feels unsafe disclosing this information to guardians, please state this in an email to your administrators (cc counselor and any other relevant team member) and proceed with the

This document has been vetted for compliance with the WSD Policy #5148 and current Vermont Agency of Education guidance rest of the recommendations below. The guardian will not be notified, but the information will not be withheld from them if they request it as long as the team has deemed that the student is

likely safe. If the team suspects that the student will be unsafe, information may still be disclosed to parents when requested but concurrent reports should be made and counselor accompaniment should be provided to the student to ensure their wellbeing.

- **As soon as possible after the request, have a one-time discussion** with your student where you ask all of the questions that come to mind, even the ones you may think are obvious. Best practice is to have another trusted adult present for this. Take notes.
- **Build yourself first.** Practice and get used to changing your language in the way you address your student so that you can model it for others. It is ok to make mistakes at the beginning but your students should know that you are trying.
- **If the student wants your support in sharing this information with others,** ask your student whether they are ok with the two of you having a discussion with the class where the request is made to peers to address the student by their pronouns. If the student is not comfortable with this public approach, simply continue modeling it yourself and asking individual questions when asked. If the student is comfortable announcing it, then do it together with them.
- **Remind the rest of your students** that this is an actual and serious request and that we will respect it. However, (in practice and in your thoughts) be very patient with your students, particularly younger grades, and do not make them feel bad for failing to use the correct pronouns, unless it is obvious to you that a peer is doing it just to be a bully. Give them some time, keep modeling and kindly remind them along the way.
- **If you are not confident** in your ability, or simply not comfortable honoring the student's request, please contact a school counselor to accompany you in this initial process. Still, keep in mind that while you may not play an active initial support role, policy still requires that you honor the student's stated pronouns and name and that you maintain proper oversight in regard to their safety and emotional wellbeing.

This document has been vetted for compliance with the WSD Policy #5148 and current Vermont Agency of Education guidance.

Reviewed and Updated:

1st Reading: April 19, 2023

2nd Reading: May 10, 2023

Approved by Board of School Trustees: May 10, 2023