

Non Discrimination on the Basis of Gender Identity

Introduction

The Wareham Public Schools has a commitment to maintaining an educational environment and workplace where bigotry and intolerance, including discrimination on the basis of gender identity, sex, sexual orientation or gender expression is not tolerated and where any form of intimidation, threat, coercion and/or harassment that insults the dignity of others and interferes with their freedom to learn or work is unacceptable.

The Wareham Public Schools strictly enforces a prohibition against harassment and discrimination, sexual or otherwise, of any of its students or employees by anyone including any fellow student, teacher, supervisor, co-worker, vendor, or other third party, as such conduct is contrary to the mission of the Wareham Public Schools and its commitment to equal opportunity in education and employment. The school district does not and will not discriminate on the basis of gender identity, sex, sexual orientation, or gender expression in the educational programs and activities of the public schools, and strives to create an environment where all students and staff feel safe, welcome, and included.

The Wareham Public Schools takes allegations of discrimination and harassment seriously and will respond promptly to complaints. Where it is determined that inappropriate conduct has occurred, the Wareham Public Schools will act promptly to eliminate the conduct and will impose corrective action as necessary including disciplinary action where appropriate, which may include termination of employment or school-related discipline. The provisions of the Wareham Public Schools' Non-Discrimination Policy and Prohibition Against Sexual Harassment, Non-Discrimination on the Basis of Sex, Anti-Bullying, Bullying Prevention and Intervention Plan policies and state and federal Equal Educational Opportunities and Equal Employment Opportunity regulations and laws are incorporated as if fully set forth herein.

Purpose

The purpose of this policy is to help create a safe and supportive environment for all students consistent with applicable laws and guidance with regard to gender identity.

Definitions

Understanding the terminology associated with gender identity is important to providing a safe and supportive school environment for students whose rights are protected under the law. Although these are the most commonly used terms, students may prefer other terms to describe their gender identity, appearance, or behavior. The term "gender identity" is specifically defined in the MA General Laws, as amended by *An Act Relative to Gender Identify* (the gender identity law).

Gender expression: the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.

Gender identity: as defined in part at G.L. c. 4, § 7, is a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth . . ."

Gender nonconforming: a term used to describe people whose gender expression differs from stereotypic expectations. The terms "gender variant" or "gender atypical" are also used.

Gender transition: describes the experience by which a person goes from living and identifying as one gender to living and identifying as another.

Transgender: an umbrella term used to describe a person whose gender identity or gender expression is different from that traditionally associated with the assigned sex at birth.

Names/Pronouns

A student has the right to choose a name and pronoun appropriate to the student's gender identity, regardless of the student's assigned birth sex and name that appears on the student's birth certificate. Schools should accurately record and use the student's chosen name and pronouns that are consistent with the student's gender identity. Court orders are not required to update student records to reflect changes in a student's name and gender markers. Schools will work with a student and the parents/guardians of the student if they are involved in the process, or in the case of a younger student with the student and the student's parents/guardians, to develop a plan for communicating any name and pronoun change within the school.

Gender Transition

School personnel will speak with the student first before discussing a student's gender nonconforming or transgender status with the student's parent or guardian. If the parents/guardians are involved in the process when a student transitions, the school shall hold a meeting with the student and the parents/guardians, or in the case of a younger student with the student and the student's parents/guardians, to develop a transition plan to provide a safe and supportive educational environment for the student and to address any concerns that may arise.

Privacy, Confidentiality, and Student Records

Under state law, information about a student's assigned birth name and sex, name change for gender identity purposes, gender transition, medical or mental health treatment related to gender identity, or any other information of a similar nature, regardless of its form, is part of the individual's student record, is confidential, and must be kept private and secure, except in limited circumstances. One circumstance is when authorized school personnel require the information to provide administrative, teaching, counseling, or other services to the student in the performance of their official duties. For transgender students, authorized school personnel could include

individuals such as the principal, school nurse, classroom teacher(s), or guidance or adjustment counselor.

When a student new to a school is using a chosen 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 or in school records by his or her birth name, the principal should direct school personnel to use the student's chosen name. Every effort should be made to update student records (for example, Individualized Education Programs) with the student's chosen name and not circulate records with the student's assigned birth name. Records with the student's assigned birth name should be kept in a separate, confidential file.

When determining which, if any, staff or students should be informed that a student's gender identity is different from the assigned birth name and sex, decisions should be made in consultation with the student, or in the case of a young student, the student's parent or guardian. The key question is whether and how sharing the information will benefit the student.

Transgender and gender nonconforming students may decide to discuss and express their gender identity openly and may decide when, with whom, and how much to share private information. A student who is 14 years of age or older, or who has entered the ninth grade, may consent to disclosure of information from his or her student record. If a student is under 14 and is not yet in the ninth grade, the student's parent (alone) has the authority to decide on disclosures and other student record matters.

Accessibility to Restrooms, Locker Rooms and Changing Facilities

All students are entitled to have access to restrooms, locker rooms and changing facilities that are sanitary, safe, and adequate, so they can comfortably and fully engage in their school program and activities. A transgender student (and parent) will meet with the principal to address the student's access to the restroom, locker room and changing facility. Each situation needs to be reviewed and addressed based on the particular circumstances of the student and the school facilities. In all cases, the principal will be clear with the student (and parent) that the student may access the restroom, locker room, and changing facility that corresponds to the student's gender identity.

Based upon the availability and the appropriateness to address privacy concerns, accommodations that may be offered to a student who desires increased privacy may include, but are not limited to: (a) use of a nearby private area (such as a gender neutral restroom, gender neutral changing room, nurse's restroom, or a nurse's office); (b) a separate changing schedule; or (c) use of a private area within a public area such as, an area separated by a curtain, or a bathroom or changing stall with a door.

Physical Education Classes and Athletic Activities

In those instances where there are gender-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. With respect to interscholastic athletics, the Massachusetts Interscholastic Athletic Association will rely on the gender determination made by the student's district; it will not make separate gender identity determinations.

Dress Codes

A student must be permitted to dress in compliance with the school district's dress code in a manner consistent with the student's gender identity.

Other Gender-Based Activities, Rules, Policies and Practices

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

Education and Training

The school district shall incorporate training about transgender and gender nonconforming students into its anti-bullying and non-discrimination curriculum, student leadership training and staff professional development in order to promote a safe and supportive environment for *all* students and staff.

Consistent with this policy and applicable laws and guidance, the Superintendent of Schools shall promulgate administrative procedures to address steps that the school staff should take to create a culture where transgender and gender nonconforming students feel safe, supported and fully included. The administrative guidelines should, at a minimum, address the following areas: gender transition names and pronouns, privacy, confidentiality and student records, gender markers on student records, restrooms, locker rooms and changing facilities, physical education classes, intramural and interscholastic athletic activities, dress codes, and other gender-based activities, rules, policies and practices, and education and training.

Legal References

- An Act Relative to Gender Identity*, Chapter 199 of the Acts of 2011
- M.G.L. c. 76 § 5
- Massachusetts Department of Elementary and Secondary Education "Guidance for Massachusetts Public Schools Creating a Safe and Supportive school Environment- Nondiscrimination on the Basis of Gender Identity"
- Gay, Lesbian & Straight Education Network "Model District Policy on Transgender And Gender Nonconforming Students"
- Cambridge Public Schools policy on Non Discrimination on the Basis of Gender Identity, 2015

ADOPTED: March 23, 2016

WAREHAM PUBLIC SCHOOLS, WAREHAM, MASSACHUSETTS