

TRANSGENDER AND GENDER NONCONFORMING POLICY

Purpose:

The Bristol Warren Regional School District (BWRSD) is committed to ensuring a safe and supportive learning environment that is free from discrimination for all students, regardless of sex, sexual orientation, gender identity or gender expression. The purpose of this policy is to ensure that the BWRSD provides transgender and gender nonconforming students with a school environment that: (1) is safe and supportive; (2) fosters social integration; (3) minimizes stigmatization; (4) respects each student's gender identity; and (5) protects and respects the confidentiality of each student's gender identity. Further, this policy sets forth protocols for BWRSD faculty and administration to assess and address each individual student's unique circumstances within the framework of this policy. Lastly, this policy is designed to comply with state and federal law and guidance, including but not limited to:

- The Rhode Island Department of Education's Guidance for Rhode Island Schools on Transgender and Gender Nonconforming students, as set forth in its June 2016 Guidance;
- The United States Department of Education Guidance on Transgender Students, as set forth in its May 13, 2016 Dear Colleague Letter pertaining to transgender students;
- The Family Educational Rights and Privacy Act (FERPA) of 1974, 20 U.S.C. § 1232g (1974), as it pertains to transgender, gender nonconforming and transitioning students; and
- Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, as each pertains to transgender, gender nonconforming and transitioning students.

Definitions:

1. "Bullying" means the use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof directed at a student that causes physical or emotional harm to the student or damage to the student's property; places the student in reasonable fear of harm to himself/herself or of damage to his/her property; creates an intimidating, threatening, hostile or abusive educational environment for the student; infringes on the right of the student to participate in school activities; or materially and substantially disrupts the education process or the orderly operation of the school. The expression, physical act or gesture may include, but is not limited to, an incident or incidents that may reasonably be perceived as being motivated by characteristics such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity, gender expression, mental, physical or

sensory disability, intellectual ability, or by any other distinguishing characteristic.

2. "Gender expression" is the manner in which a person represents or expresses his/her gender to others, often through behavior, clothing, hairstyles, activities, voice and mannerisms.
3. "Gender identity" is a person's deeply held sense or psychological knowledge of his/her own gender. One's gender identity can be the same or different than the gender assigned at birth. Most people have a gender identity that matches their assigned gender at birth. For some, however, their gender identity is different from their assigned gender. All people have gender identity, not just transgender people. Gender identity is an innate, largely inflexible characteristic of each individual's personality that is generally established at a very early age, although the age at which individuals come to understand and express their gender identity may vary.
4. "Gender nonconforming" is a term used to describe people whose gender expression differs from stereotypic expectations. This includes people who identify outside traditional gender categories or identify as both genders. Other terms that can have similar meaning include gender variant, gender expansive or gender atypical.
5. "Sexual orientation" is a person's romantic or sexual attraction to people of the same or opposite gender or multiple genders. Some common sexual orientations are straight, gay, lesbian, bisexual, pansexual, queer, etc. A transgender or gender nonconforming person can have a sexual orientation.
6. "Transgender" is an umbrella term used to describe a person whose gender identity or gender expression is different from that traditionally associated with their assigned sex at birth. A *transgender male* is someone who identifies as male but was assigned the sex of female at birth. A *transgender female* is someone who identifies as female, but was assigned the sex of male at birth.
7. "Transition" is the process in which a person goes from living and identifying as one gender to living and identifying as another. Transition is a process that is different for everyone, and it may or may not involve social, legal or physical changes. There is no one step or set of steps that an individual must undergo in order to have their gender identity affirmed and respected. Transgender

individuals may undergo transition at any stage of their lives, and gender transition can happen swiftly or over a long duration of time.

Protocols for Students Who Identify as Transitioning, Transgender and Gender Nonconforming:

1. All BWRSD administrators, faculty and staff shall accept a student's assertion of his/her gender identity. *Note that there are times when a student may not consistently and uniformly assert their gender identity because of the threat of discrimination or violence.*

If a student asserts a gender identity that presents the student as transgender, gender nonconforming, or in transition, the BWRSD administration, faculty and staff shall put in place measures to support the student and create a supportive school environment. The BWRSD administration, faculty, and staff shall address each student's gender identity, as needed, on a case-by-case basis and shall balance the goals of supporting the student, ensuring the student's safety, and keeping parent(s)/guardian(s) informed about their children. The Superintendent shall be consulted in every case. If the BWRSD administration, faculty, and staff, in consultation with the student, determine that notifying the student's parent(s)/guardian(s) of the student's gender identity carries risks to the student's physical or mental health, safety, or well-being, it shall not inform the parent(s)/guardian(s) of the student's gender identity without the student's consent.

2. When a student has expressed an intent to transition, the BWRSD shall develop a "Gender Transition Plan" for the student, which adheres to the following requirements:

A. Privacy:

Transgender and gender nonconforming students have the ability to decide when, with whom and how much of their private information to share with others, including their gender identity. The Gender Transition Plan shall ensure the privacy of students who are transitioning to the extent that the student desires.

BWRSD personnel shall not disclose information that may reveal a student's transgender status, gender nonconforming status, or gender identity to anyone other than the student's parent(s)/guardian(s), unless legally required to do so or unless the student has authorized

such disclosure. If the BWRSD administration, faculty, and staff, in consultation with the student, determine that notifying the student's parent(s)/guardian(s) of the student's transgender status, gender nonconforming status, or gender identity carries risks to the student's physical or mental health, safety, or well-being, it shall not inform the parent(s)/guardian(s) of the student's gender identity without the student's consent

Only those school employees with a legitimate educational need shall have access to a student's records or other information contained in those records. Therefore, only certified school nurse teachers and other licensed professionals shall be given access to all pertinent information to ensure that the student receives appropriate care and to enable them to coordinate care with other health care providers or licensed professionals, as well as to file health insurance claims.

B. Names/ Pronouns:

- If a student's name has been changed through legal means, then official school records shall reflect the change, and students should be addressed accordingly.
- Students who have not legally changed their name shall be privately asked how they would like to be addressed. This name should be referred to as their "preferred name." The school, student and parent(s)/guardian(s) (if they are involved) should be engaged and develop a plan for using the preferred name and pronoun within the school. The plan should include when and how this is communicated to staff, to students and to parents of other students, if desired. The focus of this plan shall be on how the sharing of information will benefit the student. The student shall then be addressed by school staff by the name and pronoun corresponding to his/her preferred gender identity. Students are not 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 with their gender identity. Requiring students to take these steps may be a violation of Title IX of the Education Amendments of 1972.

C. Official School Records:

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 shall use the student's preferred name and gender identity.

Records that legally require the use of a student's legal name and gender shall be changed to reflect a change in legal name or gender only upon receipt of a court order or federally issued document, such as a birth certificate or passport, demonstrating the student's new name and/or gender.

In situations where school staff or administrators are required by law to use or report a transgender student's legal name or gender, school staff and administrators shall take reasonable steps to avoid the inadvertent disclosure of such information.

Students shall be listed by their preferred name in the student directory, and the student directory shall not designate a student's sex or gender identity.

D. Dress Codes:

Students shall have the right to dress in accordance with their gender identity, within the parameters of the dress code adopted by the School Committee. BWRSD administration, faculty, and staff shall not enforce a dress code more strictly upon transgender or gender nonconforming students than other students.

E. Restroom, Locker room and Changing Facilities:

All students are entitled to have access to restrooms, locker rooms and changing facilities that are sanitary, safe and adequate, so that they can comfortably and fully engage in their school programs and activities. Transgender or gender nonconforming students shall be assured of their right to use the locker room or restroom that aligns with their gender identity. A transgender student shall not be required to use a locker room or restroom that conflicts with the student's gender identity, nor shall a transgender student be mandated to use a particular restroom or locker room.

Any student who is uncomfortable using the restrooms, locker rooms and changing facilities generally available to students shall be provided with reasonable alternative arrangements, which may

include the use of a private area, or a separate changing schedule, or use of a single stall restroom. Any reasonable alternative arrangement shall be provided in a way that protects the student's ability to keep his or her gender identity confidential if he or she so chooses.

F. Physical Education Classes and Intramural and Interscholastic Athletic Activities:

Students shall be allowed to participate in physical education classes and intramural athletics in a manner consistent with their gender identity.

Transgender, gender nonconforming and transitioning students shall be permitted to participate in interscholastic athletics according to the rules and regulations of the Rhode Island Interscholastic Athletic Association, and the BWRSD administrators, faculty and staff shall cooperate with the student to provide the supports necessary to permit the student's participation.

G. Other Gender-Based Activities

In any circumstances where students are separated by gender in school activities (i.e. overnight field trips), students shall be permitted to participate in accordance with their gender identity. Alternate accommodations shall be made available, to the extent possible, for transgender or gender nonconforming students, if requested by the student. Any alternate arrangement shall be provided in a way that protects the student's ability to keep his /her gender identity confidential if he /she so chooses.

H. Discipline:

Students shall not be disciplined or excluded from participating in activities for appearing or behaving in a manner that is consistent with their gender identity.

I. Safety:

In the event that a transgender or gender nonconforming student alleges that he/she has been the victim of bullying or any other form of harassment, then the allegation shall be addressed in accordance with the District's Rhode Island Statewide Bullying Policy (JFCK).

In addition, if bullying or any other form of harassment creates a hostile environment based on a student's gender identity, transgender status, gender nonconforming status or transition, the school shall take prompt steps to end the bullying and/or harassment, prevent its recurrence, and, as appropriate, remedy its effects.

Protocols for School Records of Former Students

Requests from former students to change their name and gender on school records shall be handled in the same manner as current students. To the extent that the BWRSD is not legally required to use a former student's legal name or gender on school records and other documents, the BWRSD shall use the name and gender preferred by the former student.

Records that legally require the use of a former student's legal name and gender shall be changed to reflect a change in legal name or gender, only upon receipt of a court order or federally issued document demonstrating the student's new name and/or gender.

Education and Training

The BWRSD shall incorporate education and training about transgender and gender nonconforming students into its anti-bullying curriculum, health curriculum, student leadership trainings, and faculty and staff professional development.

Faculty and staff professional development about transgender and gender nonconforming students shall include, but not be limited to:

- Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents;
- Developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy;
- Reinforcements of developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyber bullying;
- Access to resources on working with transgender and gender nonconforming students.

Rules, Policies and Practices:

The School Committee shall evaluate all gender-based policies, rules and practices and maintain only those that have a clear and sound pedagogical purpose. The School Committee shall consider alternatives to said policies, rules and practices.

Communication with School Community

Superintendents and principals shall review existing policies, handbooks and other written materials to ensure that they reflect the inclusion of gender identity and gender expression in the anti-discrimination policy statements, as appropriate, prior to the start of each school year. The BWRSD shall inform all members of the school community, including school personnel, students, and parent(s)/guardian(s), about the federal and state law concerning transgender and gender nonconforming youth, along with implications for school policy and practice.

The BWRSD shall make resources available to parents and students who have additional questions or seek additional information regarding gender identity, transgender individuals, gender nonconforming individuals, and/or transition.

REFERENCES:

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (1974).

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Dear Colleague Letter: Transgender Students (May 13, 2016), *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>

Guidance for Rhode Island Schools on Transgender and Gender Nonconforming Students, *Rhode Island Department of Education* (June 2016)

2016 Transgender Students in Schools, National School Boards Association

ADOPTED: April 24, 2017

Bristol Warren Regional School District, Bristol, Rhode Island