

POLICY ON THE TREATMENT OF TRANSGENDER AND GENDER-EXPANSIVE STUDENTS

Introduction

It is the policy of the Albemarle County Public Schools (“ACPS”) to maintain a safe and supportive school environment for all students free from harassment, intimidation, and/or bullying and free from discrimination because of actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, biological sex, gender identity, gender expression, sexual orientation, disability, age, marital status, pregnancy, childbirth or related medical conditions, or any other protected class outlined in policy AC, *Nondiscrimination*.

Educators play an essential role in creating a supportive school culture and advocating for the well-being of students. It is important for school staff, students, and parents/guardians to be aware that transgender and gender-expansive (collectively “gender-expansive”) students may be at a higher risk for being left out, victimized, and bullied because of bias and/or misunderstanding and lack of knowledge about their lives. Schools must be proactive in creating a culture that respects and values all students and fosters understanding of gender identity and expression within the school community.

This policy is intended to help schools ensure the educational and social integration of transgender and gender-expansive students and to keep their learning environments safe and free from discrimination and harassment. Each principal is responsible for ensuring that all staff are aware of this policy and for ensuring the training and professional development opportunities that support them.

Schools must assess the needs of each student on a case-by-case basis. School administrators should discuss the needs and concerns of gender-expansive students with them and their families and apply the experiences and expertise of their colleagues as well as external resources when they are useful.

Need for Policy

Many gender-expansive students report feeling unsafe and experiencing verbal and physical harassment or assault in school. Research has found that compared to their non-gender-expansive peers, gender-expansive youth are more likely to miss school, have lower grades, and view their school climate negatively.

A 2017 study by the Gay Lesbian and Straight Education Network found that nearly eighty-four (84%) percent of transgender students and seventy (70%) percent of gender-expansive students were bullied or harassed at school. When these students do not feel affirmed or safe, they cannot learn or participate in school activities effectively.

Goals

1. Support students so that they may participate in all aspects of school life consistent with their gender identity;
2. Respect the right of students to keep their gender identity or transgender status private and confidential to the extent permitted by applicable law;
3. Assist in eliminating ways in which gender-expansive students are stigmatized or marginalized;
4. Foster social and school-community integration and cultural inclusiveness of gender-expansive students; and
5. Provide consistent support and training to ACPS administration and staff to enable them to address matters of student gender identity and expression in a consistent and appropriate manner.

Definitions and Terminology

Agender: Refers to a person who identifies as without gender.

Assigned Sex at Birth: Refers to the sex designation recorded on an infant's birth certificate, if such birth certificate exists.

Cisgender: An adjective describing a person whose gender identity corresponds to their assigned sex at birth. For example, an individual who was assigned the sex designation of female at birth, has female reproductive organs, and whose gender identity is female.

Gender: A set of social, psychological, and emotional traits that classify an individual as typically masculine or feminine, although the social construct of a gender may be more diverse across a continuum rather than as a binary system.

Gender Dysphoria: A condition that is defined by strong, persistent feelings of identification with another gender and distress and discomfort with one's own assigned gender and sex.

Gender Expression: The way a person expresses gender to others in ways that are socially defined as either masculine, feminine, or other, such as through behavior, clothing, hairstyles, name, pronouns, activities, voice, or mannerisms. Gender expression can vary depending on one's culture as well as changes in social norms and expectations, such as shifts in clothing and hairstyles. Gender expression is not the same as gender identity.

Gender Identity: Gender Identity is a person's inner sense of being a man or a woman, some combination of both, or neither. A person's gender-related identity, may or may not be different from that which society generally associates with the person's physiology or assigned sex at birth. Everyone has a gender identity at a point within the gender spectrum.

Gender-Expansive: An adjective used to describe an individual whose gender expression and/or gender identity does not conform to the social or stereotypical norms or expectations for a person of that sex assigned at birth. Gender-Expansive individuals may identify as male, female, some combination of both, or neither. Other descriptions synonymous with gender-expansive include differently gendered, gender creative, gender variant, genderqueer, nonbinary, agender, genderfluid, gender neutral, bigender, two-spirit, trans male/boy, trans female/girl, androgynous, or gender diverse. The language used to describe gender-expansive individuals may differ based on factors such as geographic location, race, ethnicity, age, country of origin, etc. This terminology may also change over time.

Gender Transition: Refers to the process in which transgender individuals begin asserting their gender identity. During gender transition, individuals may begin to live and identify as the sex consistent with their gender identity and may dress differently, adopt a new name, and use pronouns consistent with their gender identity. Gender-expansive individuals may undergo transition of gender identity at any stage of their lives, and gender transition can happen swiftly or over a long period of time.

Intersex: A term used for individuals born with variations in sex characteristics – reproductive or sexual anatomy or chromosome pattern- that do not fit the typical binary notions of male or female bodies.

LGBTQ+: An acronym for “lesbian, gay, bisexual, transgender, queer/questioning, and others.”

Non-binary: Term often used to describe people whose gender is not exclusively male or female, including those who identify with a gender other than male or female, as more than one gender, or as no gender.

Sexual Orientation: A person's sexual orientation is the individual's continuing pattern of physical, romantic, emotional, aesthetic, or other attraction to another person. Sexual orientation can be towards persons of the opposite sex or gender; the same sex or gender; to both sexes; and more than one gender. Sexual orientation is not the same as gender identity.

Transgender: Describes a person whose gender identity or gender expression is different from their assigned sex at birth.

Transition: The process by which a person decides to live as the gender with which the person identifies, rather than the gender assigned at birth. The individual student is, likely, the best

person to determine their own identity. School staff should be sensitive to, and use, the terminology that supports and respects the wishes of the individual child and avoids references that may be perceived as derogatory.

Privacy and Confidentiality

In accordance with the Family Education Rights Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99, only those school or other ACPS employees with a legitimate educational interest are permitted to access a student's records. If there is no consent by the parent (or the student, if they are eighteen (18) years of age or older), schools may not disclose information contained in, learned from, or to be recorded in a student's records, including information regarding a student's gender-expansive status, except in very limited circumstances. Those circumstances are

- In a health or safety emergency;
- To employees with a legitimate educational interest in the information; or
- In various other circumstances explicitly permitted by FERPA.

Using a student's name and the corresponding pronoun that is preferred and consistently asserted at school by the student does not constitute a violation of a student's privacy or this policy. There is further guidance about this in the next section.

In some cases, gender-expansive students may not want their parents to know about their gender-expansive or transitioning status. These situations must be addressed on a case-by-case basis and will require schools to balance the goal of supporting the student with the requirement that parents be kept informed about their children. The most important consideration in such situations is the physical and mental health and safety of the student.

Schools have a unique and powerful opportunity to support gender-expansive students, including those undergoing a gender transition, while providing education to the entire school community. Regardless of how a student transitions or expresses their gender identity, all students have the right to have their gender identity recognized and respected by their school community. All school personnel shall adhere to legal standards of confidentiality relating to information about a student's gender-expansive status, legal name, or gender assigned at birth.

For many youth, the experience of gender transition is focused only on social transition, that is, when they begin to live as the gender consistent with their gender identity. Gender-expansive youth who are in the process of social gender transition often choose a new first name and the gender pronoun that better reflects their gender identity. They may or may not begin to dress and style their hair in ways that better reflect their gender identity and seek social affirmation of their gender identity from peers and other important figures in their lives. Transition can also include changing identity documents such as the person's social security record, passport, driver's license, etc. Not all transitions are binary, meaning male-to-female or female-to-male.

Some gender-expansive youth who are close to reaching puberty, or after starting puberty, may have medical treatments to reinforce their social transition. These treatments may include hormone suppressants, cross-gender hormone therapy, and, for a small number of young people, a range of gender-affirming surgeries. An individual's decision about whether and how to undergo gender transition is personal and it will depend on their unique circumstances.

It is not unusual for a child's desire to transition to first surface at school. In some cases, a parent will approach a school or district administrator about their child's transition. In other cases, the student is the person who informs the school about their transition.

The administrator or school official should:

- In collaboration with the student and the student's family (if the family is supportive of the student), develop a plan to ensure that the student has equal access and opportunity to participate in all programs and activities at school and is otherwise protected from gender-based discrimination at school.
- Discuss the school's role in supporting the student's transition;
- Identify school staff members who will be the key contact for the student and delineate their responsibilities in this regard;
- Make resources available to parents who have questions or concerns;
- Work with the family to prepare for a formal gender transition at school;
- Develop and implement measures for supporting the student and creating a sensitive supportive environment at school. These measures shall address preferred name and pronouns; physical education and intramural sports; bathrooms; locker rooms; safe spaces and zones and other safety supports; class trips and other school activities; and formal events, such as graduation. At the student's request, the plan may be written, in which case, it shall be retained in a secure location apart of the student's official school file. Despite these safeguards to preserve student confidentiality, the school should advise a minor student that it may be required by law to provide the written plan to parents under certain circumstances; and
- If school administrators or teachers suspect or become aware that a student is being harmed, abused, or at risk of harm or abuse at home, they should report these concerns to Child Protective Services immediately.

The meeting with the parents and student should include discussion of the student's plan for transitioning, responding to questions from school staff and students, changing the student's information in school records, and any other relevant matters.

School officials must keep in mind that gender-expansive youth often experience significant family challenges. Some gender-expansive students have not talked to their parents about their gender identity and/or do not want their parents to know about their gender-expansive status based on safety concerns or fear about a lack of acceptance. Therefore, prior to contacting a student's parents or guardian, the principal or designee should speak with the student to ascertain the level of support the student either receives or anticipates receiving from home. If the student

does not want the school to contact the student's parents, the school shall honor that request for privacy with the proviso that an underage student shall be advised that the school may not be able to implement certain aspects of the student's transitioning plan without parental approval.

The school principal or their designee should speak with the student first to find out concerns the student may have. As noted above, these situations must be addressed on a case-by-case basis.

Schools should be especially vigilant for any bullying or harassment issues that may arise. They must work to prevent bullying and harassment, and respond promptly when allegations of bullying and harassment arise.

Names and Pronouns

Every student is entitled to be addressed by the name and pronoun that corresponds to the student's gender identity that is consistently asserted at school. Students are not required to obtain parental consent or a court ordered name and/or gender change as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity. Teachers and other school staff should be made aware of and honor a student's request to be referred to by the name and gender that corresponds to their gender identity. School administration will not contact a student's parents in relation to such a request unless asked to do so by the student. However, should parents of an underage student become aware of the student's request and object to it, the school shall adhere to the parents' directions in this regard and offer resources to assist the parents and students in addressing issues pertaining to the student's gender identity.

It is important to note that students who are gender-expansive or who do not prescribe to the gender binary, may prefer gender - neutral pronouns such as they, ze, or other pronouns.

Student Records

Each school is required to maintain a permanent pupil record of each student (for example, transcript, report cards, attendance records), in the student's legal name and gender.

In those records which are not permanent pupil personnel records (such as guidance logs, anecdotal records, yearbooks, graduation programs), schools shall use the name and gender that is preferred and consistently asserted by the student at school.

Student IDs shall be issued in the name that reflects the student's gender identity that is preferred and consistently asserted at school.

How to Change a Student's Permanent Pupil Record

A student's permanent pupil record can be changed to reflect a change in legal name or gender only if the school receives documentation that such legal name and/or gender have been changed pursuant to applicable law, as described below.

Required Documents

- The documentation required for a legal change of name is a court order or birth certificate demonstrating the student's new name.
- For a legal change of gender, the student must provide a birth certificate indicating the student's legal gender, or a valid passport indicating the student's legal gender.

The following procedures should be followed if a school receives a request to change a student's record to reflect a change in legal name and/or gender.

- For a student who is currently enrolled in an ACPS public school, the school in which the student is enrolled should make the legal name and/or gender change upon receipt of the required documentation (see above).
- For a student who has graduated or been discharged, the individual should follow the procedures established in policy JO, *Student Records*.

In all cases, the former name and/or gender will be maintained in archived data in the ACPS's central database, in order to ensure that records accurately reflect circumstances in effect at the time each record was made, to enable records to be cross-referenced, and to maintain the confidentiality of the student's transgender status to the extent possible.

Medical Records

School nurses and other licensed professionals need accurate and reliable information to confirm a student's identity in order for the student to receive appropriate care and to enable them to coordinate care with other health care providers or licensed professionals. They also need reliable records to file health insurance claims with other organizations, such as Medicaid. In accordance with applicable law and regulations, nurses are required to keep patient records that contain all pertinent information which identifies a patient and that accurately document clinical information relating to their patients. They must keep such records confidential.

In the case of a gender-expansive student, a school nurse should use the student's preferred name, and should use the student's legal name only when necessary for the student to receive appropriate care and to enable the school nurse to coordinate care for the student with other health care providers or licensed professionals, as well as to file health insurance claims.

Sports and Physical Education

Sports and physical education programs, including physical education classes and school teams, are educational opportunities. Participation in these activities plays an integral role in developing a child's fitness and health, self-esteem, and general well-being. Gender-expansive students must be given the same opportunities to participate in physical education as all other students.

Students must be permitted to participate in physical education and intramural sports in accordance with the student's gender identity that is consistently asserted at school. Athletic participation regulated by the Virginia High School League (VHSL) or another organization, such as the Virginia Scholastic Rowing Association (VASRA), as well as middle school athletics, shall be in compliance with policies and rules outlined by those organizations.

Restroom and Locker Room Access

Gender-expansive students shall be provided access to facilities (restrooms, locker rooms or changing rooms) consistent with their gender identity consistently asserted at school. A gender-expansive student may not be required to use a facility that conflicts with the student's gender identity consistently asserted at school. A student whose gender identity is fluid should work with their school to facilitate restroom and locker room access that affirms their identity.

Schools shall provide reasonable alternative arrangements for any student who expresses a need or desire for increased privacy. Reasonable alternative arrangements may include a single occupancy restroom, use of a private area, or a separate changing schedule. Any alternative arrangement should be provided in a non-stigmatizing way and in a manner that protects a student's ability to keep their gender-expansive status confidential. Alternative accommodations must be made available to students who request them, but at no time should be forced upon students.

Although some students may feel uncomfortable with a gender-expansive student using the same sex-specific facility, that discomfort is not a reason to deny access to the gender-expansive student. Any student uncomfortable sharing a sleeping area, shower, bathroom, or any sex-segregated facility, shall, upon request, be provided with a designated safe, non-stigmatizing alternative.

Gender Segregation in Other Areas

Gender-based policies, rules, and practices can have the effect of marginalizing, stigmatizing, stereotyping and excluding students, whether or not they are gender-expansive. For these reasons, schools shall review such policies, rules and practices and eliminate any that do not serve a clear pedagogical purpose. Examples may include such practices as wearing gender-based graduation gowns or attire for yearbook photographs, lining up by biological gender, and/or assigning physical education activities exclusively by biological gender.

Students must be permitted to participate in all school activities (for example, overnight field trips) in accordance with their gender identity consistently asserted at school. With respect to overnight class trips, sleeping arrangements should be discussed with the student and family. Requests for accommodations to address privacy concerns will be addressed on a case-by-case basis. However, school staff shall not require a student to stay in a single-occupancy accommodation when such accommodations are not required of other students participating in the same event.

Notwithstanding the above, the school may be precluded by law from complying with the request of a minor student for such accommodation without parental permission or consent.

Students are eligible for admission to single-gender schools of higher learning on the basis of gender identity consistently asserted at school. If a student's gender has not been changed in school records, the student's school counselor should work with school administration to ensure that the records are revised accordingly.

Dress Code

The ACPS dress code may not be applied or enforced in a manner that would stereotype or require students to wear different articles of clothing based on gender, gender expression, or gender identity (for example, requiring girls to wear skirts). Students shall have the right to dress in a manner consistent with their gender identity or gender expression. Requirements for attire for school-related programs, activities, and events shall be gender-neutral.

Notification

Principals or designees are responsible for ensuring that school staff and students are familiar with this policy.

New Construction

To the extent feasible, the ACPS should incorporate gender neutral single occupancy restrooms where practicable on each floor into the design of new school buildings or renovations of existing facilities.

Bullying and Harassment

Complaints alleging discrimination or harassment directed at a student based on a student's actual or perceived gender identity or expression should be handled in the same manner as other discrimination or harassment complaints. Schools should be vigilant about bullying and harassment and address such complaints promptly and thoroughly.

Training and Professional Development

The ACPS shall conduct training for all staff members with respect to their responsibilities under applicable laws and this policy, including teachers, administrators, counselors, social workers, and health staff. Information regarding this policy shall be incorporated into training for new school employees. To the extent funding is available, the ACPS shall implement ongoing professional development to build the skills of all staff members to prevent, identify, and respond to bullying, harassment, and discrimination. The content of such professional development shall include, but not be limited to:

- (i) Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents;
- (ii) Developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy;
- (iii) Developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyberbullying;
- (iv) Federal and state laws and ACPS policies relating to the rights of all students to a safe educational environment and right to privacy and responsibilities of staff in this regard;
- (v) School planning guide for gender-expansive students;
- (vi) Equal access to facilities and activities that are consistent with a student's gender identity;
- (vii) Classroom-management practices, curriculum, and resources that educators can integrate into their classrooms to help foster a more gender-inclusive environment for all students; and
- (viii) Medical and physical considerations of safe transitioning for students, including adherence to a treatment plan provided by the student's medical professional to the extent consistent with the skills and experience of the school's health staff.

Adopted: August 12, 2021

Legal Refs: Code of Virginia, 1950, as amended, Section 22.1-23.3, 22.1-78.

Cross Refs.: AC, *Nondiscrimination*
ACB, *Sexual Harassment*
JB, *Equal Educational Opportunities*
JFC, *Student Conduct*
JFHA, *Prohibition Against Harassment and Retaliation*
JO, *Student Records*