



Santa Ana Unified School District

BOARD POLICY NO: 5145.31

EFFECTIVE: 5/9/2023

SUBJECT: **Transgender, Non-Binary, and Gender Nonconforming Students**

CATEGORY: Students

RESPONSIBLE OFFICE(S): School Performance and Culture

SCOPE:

The purpose of this Board Policy is to provide District staff guidelines regarding issues related to transgender, non-binary, and gender nonconforming students. The Governing Board is committed to addressing the safety needs of all students, including those needs related to a student's actual or perceived sexual orientation, gender identity, or gender expression. The Board recognizes that a safe and supportive environment is necessary for students to have equal access to all school programs and activities which is integral to student success. The Board acknowledges its role in providing students with an understanding of and respect for differences in the gender identity and gender expression of others.

POLICY:

This policy outlines the commitment and best practices to ensure the needs of transgender, non-binary, and gender nonconforming students are prioritized. This policy sets forth how schools should respond to the specific needs of these students including but not limited to protecting the legal rights or safety of such students. This policy does not anticipate every situation that might occur and, therefore, the needs of each student must be assessed on a case-by-case basis. In all cases, the goal is to ensure safety, equity, academic achievement, and healthy development of transgender, non-binary, or gender nonconforming students while maximizing students' social integration into the school setting and minimizing stigmatization related to gender identity and expression.

Definitions: The following definitions are intended to assist in the general understanding of this policy, the legal rights of students, and the legal obligations of school and District staff. Although students may or may not use these terms to describe themselves, these definitions may be used as functional descriptors.

1. **Gender:** "A person's actual sex or perceived sex and includes a person's perceived identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with a person's sex at birth." (5 CCR Section 4910(k))
2. **Assigned Sex at Birth or Assigned Sex:** The assignment of people at birth as "male" or "female" based upon external physical characteristics. Frequently referred to as "sex" or "biological sex" and often mistaken for gender.
3. **Gender Expression:** Gender expression means a student's gender-related appearance and behavior, whether stereotypically associated with the student's assigned sex at birth or gender identity. Includes but not limited to how individuals dress, groom, mannerisms, movement, speech patterns, social interactions, etc. (Education Code 210.7) Gender expression does not automatically imply gender identity.
4. **Gender Identity:** The student's internal sense of their gender, regardless of one's sex assigned at birth.
5. **Gender Nonconforming:** A student whose gender expression differs from societal expectation of gender expression. Often used as an umbrella term for non-binary gender identities. (Transgender identities are not always considered gender nonconforming.)
6. **Transgender:** A student whose gender identity is different from that traditionally associated with the assigned sex at birth.



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7. **Non-Binary:** Non-binary may be used as an umbrella term for genders that fall outside the gender binary (boy/man, girl/woman). Not all non-binary persons identify as transgender, and transgender persons do not necessarily identify as non-binary.
8. **Social Transition:** When a student begins to outwardly express themselves in a way that is more congruent with their gender identity; this may include the use of a new-affirmed name and pronouns, and other changes in the way the student presents themselves.

Names/Gender Markers/Pronouns

Transgender, non-binary, and gender nonconforming students have the right to be addressed by the name(s) and pronoun(s) that correspond to their gender identity as expressed by the student and asserted at school. Using students affirmed/requested name(s) and pronoun(s) promotes the safety and wellbeing of all students on campus. Students are not required to change their official school record, to obtain a court-ordered name, or gender change in order to be addressed at school by the name(s) and pronoun(s) which correspond to their gender identity, and parental consent is not required. Such a request may be made by the student or by the student's parent or guardian.

If a transgender, non-binary, or gender nonconforming student obtains a legal name and/or gender change, the student or student's parent/guardian should notify the District enrollment center and the student's official school records will be modified as appropriate in accordance with the court order. (83 Ops.Cal.Atty.Gen. 136 (2000)). In lieu of a legal name and/or gender change, students or their parent/legal guardian may request a change to the student's name and/or gender marker verbally or in written form to school administrator, school counselor, or other school official or District personnel.

The intentional or persistent refusal to respect a student's gender identity by referring to the student by a name or pronoun that does not correspond to the student's gender identity could be considered bullying, discrimination, and/or harassment and is a violation of this policy.

Restroom Access

California law provides that a student shall be permitted to use facilities consistent with his or her gender identity. Schools may maintain separate restroom facilities for male and female students (Education Code 231). Transgender and gender nonconforming students shall be allowed access to restroom facilities that align with their gender identity. Ensuring access to restroom facilities that match a student's gender identity allows transgender and gender nonconforming students to maintain their right to privacy. Transgender and gender nonconforming students shall not be forced to use the restroom corresponding to their assigned sex at birth or to use only staff and health office restrooms. If a transgender or gender nonconforming student or the student's parent/guardian provides notice verbally, or in written format, to school officials of a request for the student to use the restroom that matches the student's gender identity, school officials shall permit the student to use said restroom (Education Code 221.5(f), effective Jan. 1, 2014).



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In accordance with California law, all single stall/single person restrooms on school campuses and administrative buildings shall be labeled with appropriate signage as "all gender" restrooms (Health and Safety Code 118600, Article 5, effective 2016).

Determining A Student's Gender Identity

There is no medical, mental health, or legal threshold requirement that students must meet in order to have their gender identity recognized, supported, and respected by a school. Schools shall accept the student's assertion of gender identity and begin to treat the student consistent with that gender identity unless District personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose. In such cases, any decision to deny a student's asserted gender identity will be made in consultation with the District's Support Services/Executive Director or designee.

The District will work with transgender, non-binary, and gender nonconforming students to provide protections in the following areas:

Gender Transition Support

Schools shall be prepared to support transgender students who choose to transition while in school. Schools shall not discourage transgender students or their families from a public transition although it may require additional planning. Regardless of whether a student's transition is public or private, schools shall be prepared for a variety of contingencies that could occur. Schools should continue to support students beyond their transition to ensure that the school environment remains a safe and supportive place to learn. Consultation and resources are available within the District through Support Services and School Counseling to assist schools with development and coordination of appropriate supports for transgender students.

Identity Support Plan (IDSP)

Identity Support Plans will be developed by students in collaboration with support staff to specifically address the academic, extracurricular, safety, and social-emotional needs of transgender and gender nonconforming students. IDSP facilitators must complete trainings that provide a comprehensive overview of the strategies and safeguards that are critical for effective implementation of individualized IDSP planning before engaging in this process. All transgender and gender nonconforming students have a right to complete an IDSP plan to ensure equity and safety throughout their educational learning environments. Guidance for the development of the IDSP may be found in AR 5145.3.

Privacy and School Records/Student Information Systems

Transgender, non-binary, and gender nonconforming students have a right to privacy, including keeping their gender identity transition status or gender nonconforming presentation at school private. School personnel should not discuss information that may disclose a student's transgender or gender nonconforming status to others, including parents/legal guardians and other school personnel, unless legally required to do so or unless the student has authorized such disclosure. Transgender, non-binary, and gender nonconforming students have the right to discuss and express their gender identity and



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expression openly and to decide when, with whom, and how much personal information one wants to share about oneself to others.

The Governing Board recognizes the importance of keeping accurate, comprehensive student records as required by law. The District is required to maintain an official, permanent pupil record with the legal name and gender appearing on the student's birth certificate. In addition, the District is required to have procedures for maintaining the confidentiality of student records which shall be consistent with state and federal law. In terms of privacy for transgender and gender nonconforming students, it is important to note the distinction between school records and legal documents, as not all school records are legal documents.

Transgender, non-binary, and gender nonconforming students have the right to have their affirmed name and/or gender marker and/or gender pronoun(s) reflected on all (non-legal) school physical records and documents (e.g., yearbooks, school IDs, library cards, lunch cards, class rosters, diplomas, other certificates of advancement, etc.) and in after-school programs. Transgender and gender nonconforming students are also able to have their affirmed name and/or gender marker reflected in the District's electronic Student Information Systems (e.g., AERIES). Regardless of what is stated on the legal documents, all District staff should refer to students using their affirmed name and pronouns.

Locker Room Access

Schools may maintain separate locker room facilities for male and female students (Education Code 231). Transgender and gender nonconforming students should be allowed access to locker room facilities that align with their gender identity. Transgender and gender nonconforming students, however, shall not be forced to use the locker room corresponding to their assigned sex at birth. If a transgender or gender nonconforming student or the student's parent/guardian provides notice to school officials of a request for the student to use the locker room that matches the student's gender identity, school officials shall permit the student to use said locker room (Education Code 221.5(f), effective Jan. 1, 2014).

If a transgender or gender nonconforming student or the student's parent/guardian provides notice to school officials of a desire for an alternative to locker room use, without requiring disclosure of the underlying reason, the student shall be provided access to a reasonable alternative locker room, including but not limited to:

- Use of a private area in the locker room (such as a nearby restroom stall with a door, an area separated by a curtain, or a nearby gender neutral restroom).
- A separate changing schedule (either utilizing the locker room before or after other students).

Physical Education Class and Athletics

Transgender and gender nonconforming students shall be permitted to participate in physical education classes and intramural sports, in a manner that is consistent with their gender identity, pursuant to Title



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IX and the Code of Federal Regulations implementing Title IX and state law (34 CFR 106.34(c); Education Code 221.5(f), effective Jan. 1, 2014).

National Physical Fitness Testing in schools shall allow transgender and gender nonconforming students the option to choose to test under the fitness guidelines that align with either their assigned sex at birth or test under the guidelines that align with their gender identity.

Schools shall inform students prior to making this choice of the differential standards for fitness testing for each gender. Transgender and gender nonconforming students shall not be forced to be assessed under the standard corresponding to their assigned sex at birth.

Interscholastic Competitive Sports Teams

Transgender and gender nonconforming students shall be permitted to participate in interscholastic sports teams in a manner consistent with their gender identity, pursuant to Title IX, and any other applicable laws, rules, or bylaws (Education Code 221.5(f), effective Jan. 1, 2014).

Dress Code

Transgender and/or gender nonconforming students have the right to dress or select school uniforms in accordance with their gender identity and/or gender expression within the requirements of the school's dress code.

(cf. 5132 - Dress and Grooming)

Yearbooks

Students shall be permitted to dress in accordance with their gender identity and/or gender expression in all yearbook photos, including senior portraits. Schools may also adopt a standardized, gender-neutral picture uniform, such as a cap and gown.

Names in Yearbooks: Yearbooks are school records and are not legal documents. As such, transgender, non-binary, and gender nonconforming students are not required to use their legal names in school yearbooks and shall not be forced to do so. School administrators/school staff should honor requests from transgender and gender nonconforming students to confirm how student names will appear in the yearbook.

Transfers to Other Schools

School sites must ensure that transgender or gender nonconforming students are being provided a safe school environment which allows them equal access to all components of their education. The opportunity to transfer to another school site should not be a school's first response to harassment or bullying of a transgender or gender nonconforming student, and such a transfer shall only be considered when requested by a student and or parent/guardian and when necessary for the protection, personal welfare, or safety of the student. Schools shall not offer or propose a transfer to another school on the assumption that a



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transgender or gender nonconforming student should expect to be harassed or bullied as a result of being open about their gender identity or gender expression at their current school. Extensive effort and resources shall be applied to prevent, intervene, and eliminate bullying and harassment of transgender, non-binary, and gender nonconforming students.

Overnight Field Trips

Transgender and gender nonconforming students should be allowed access to sleeping quarters that align with their gender identity. Transgender and gender nonconforming students shall not be forced to use sleeping quarters corresponding to their assigned sex at birth. In these instances, the school has an obligation to maintain the transgender/gender nonconforming student's privacy and cannot disclose or require disclosure of the student's transgender/gender nonconforming status to other students or their parents, regardless of whether the student's roommates know about the student's gender status.

Showering facilities - If showering facilities are communal, the school should find out whether the venue has available a single stall or more private shower facilities that students may use. Recognizing that a number of students may prefer more privacy while showering, the school should consider creating a schedule to allow those students to use the shower facilities one at a time, with appropriate adult supervision.

Gender Separation in Other Activities

As a general rule, in any circumstances where students are separated by gender in school activities (e.g., classroom discussions, overnight field trips, school dances, and proms, etc.), transgender and gender nonconforming students shall be permitted to participate in accordance with their gender identity and/or gender expression as expressed by the student and asserted at school (Education Code 221.5(f), effective Jan. 1, 2014). Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case-by-case basis. In such circumstances, staff shall make a reasonable effort to provide an available accommodation that can address any such concerns.

The District encourages teachers, staff, and contractors (i.e., Community-Based Organizations, consultants, etc.) to eliminate gender segregation in classroom and program practices or activities that differentiate students based on gender as it appears arbitrarily or does not serve a legitimate educational purpose. For example, foregoing binary terms such as "girls and boys" for inclusive language such as "students" and "scholars."

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information) (cf. 5145.1 - Privacy) (cf. 5145.4 - Anti-bullying)

Complaints

A complaint of bullying based upon a student's transgender or gender nonconforming status or a student's actual or perceived sex, gender, sexual orientation, gender identity, or expression, may be submitted under the District's Anti-Bullying Board Policy 5145.4 and the procedures set forth therein. A student or a



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student's parent/guardian may also submit a formal written complaint of discrimination, harassment, intimidation, or bullying through the District's Uniform Complaint Procedures pursuant to District policy and regulation 1312.3. A student's actual or perceived characteristics as set forth in Penal Code 422.55 and Education Code sections 220 and 234.1, which includes disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics, are protected classes.

(5 CCR 4600-4671) (cf. 1312.3 - Uniform Complaint Procedures) (cf. 5145.3 - Nondiscrimination and harassment) (cf. 5145.4 - Anti-bullying) (cf. 5145.7 - Sexual Harassment)

LEGAL REFERENCE:

EDUCATION CODE

200-262.4	Prohibition of discrimination on the basis of sex
212.5	Sexual harassment
212.6	Sexual harassment policy
221.5	Prohibited sex discrimination
221.7	School sponsored athletic programs; prohibited sex discrimination
230	Particular practices prohibited
231	Toilet, locker room, or living facilities
35160	Authority of governing boards
35160.1	Broad authority of school districts
48900	Grounds for suspension or expulsion; bullying
48907	Student exercise of free expression
49602	Confidentiality of pupil information

GOVERNMENT CODE

11135	Nondiscrimination in programs or activities funded by state
11138	Rules and regulations

HEALTH AND SAFETY CODE

103425	Petition for change of gender
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PENAL CODE

243.5	Assault or battery on school property
403-420	Crimes against the public peace
415	Fighting; noise; offensive words
422.55	Definition of hate crime



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422.56 Definitions, hate crimes

422.6 Interference with constitutional right or privilege

UNITED STATES CODE, TITLE 20

1681-1688 Title IX, 1972 Education Act Amendments

UNITED STATES CODE, TITLE 42

2000d-20000d-7 Title VI Civil Rights Act of 1964 as amended

CALIFORNIA CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

CODE OF FEDERAL REGULATIONS, TITLE 34

103.34 Access to classes and schools

ADOPTION AND REVISION HISTORY:

Adopted: 5-23

Santa Ana, CA