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From: Association of Alaska School Boards <ragular@asab.org>
Sent: Friday, January 15, 2016 3:46 PM
To: skgschoff@skagwayschool.org
Subject: Sample Transgender Policies

Association of Alaska School Boards

To all subscribers of AASB's Annual Update Service, we want to advise you that the new transgender sample guidance documents (BP 5145.3 Nondiscrimination and the accompanying AR) are available on our Policy Service web page. The new documents are listed in the 2015 Policy Manual updates.

Password to access the 2015 policy manual updates is: Pol2015

<http://asab.org/services/policy/>

Please let us know if you need any assistance accessing the site or with the sample policy.

- Bob Whicker, AASB Staff

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Visit the Association's website at www.asab.org for more information about these policies.



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Note: AS 14.18.010 prohibits discrimination on the basis of sex against an employee or a student in public education. Under Title IX, all students in schools receiving any federal funding are protected from discrimination based on sex. Sex includes male, female, straight, gay, lesbian, bisexual, and transgender. In 2014, the United States Department of Education issued its *Questions and Answers on Title IX and Sexual violence*. This guidance provides that “Title IX’s sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation.” *U.S. Dept. of Educ., Office for Civil Rights (Apr. 29, 2014). Questions and Answers on Title IX and Sexual Violence, accessible at <http://www2.ed.gov/about/offices/list/ocr/>*

District programs and activities shall be free from discrimination with respect to sex, race, color, religion, national origin, ethnic group, sexual orientation, gender identity, marital or parental status, and physical or mental disability. The School Board shall ensure equal opportunities for all students in admission and access to academic courses, guidance and counseling programs, athletic programs, testing procedures, career and technical education and other activities.

(cf. 0410 – Nondiscrimination)
(cf. 1312.3 – Uniform Complaint Procedures)
(cf. 5145.7 – Sexual Harassment)

Separate arrangements may be made for students according to sex during sex education programs and physical education activities involving bodily contact.

School staff and volunteers must guard against sex discrimination and stereotyping in instruction, guidance and supervision.

(cf. 6164.2- Guidance Services)

Legal Reference:

ALASKA STATUTES

14.18.010-14.18.100 Prohibition Against Sex and Race Discrimination

ALASKA ADMINISTRATIVE CODE

4 AAC 06.500 – 4 AAC 06.600 Prohibition of Gender or Race Discrimination

4 AAC 51.270 Equal opportunities

UNITED STATES CODE

Title VI, Civil Rights Act of 1964, 42 U.S.C. §§ 2000d-2000d-7

Title IX, Education Amendments of 1972, 20 U.S.C. §§ 1681-1688

Vocational Rehabilitation Act of 1973, Sections 503 and 504, 29 U.S.C. § 794

Individuals With Disabilities Education Act, 20 U.S.C. §§ 1401-1491

Americans With Disabilities Act, 42 U.S.C. §§ 12101-12213

Age Discrimination In Employment Act, 29 U.S.C. §§ 621-634

Revised 10/2015

TRANSGENDER STUDENTS AND EMPLOYEES

Note: The following language was adapted from Anchorage School District's Guidelines for Working with Transgender Students and Employees.

The purpose of these guidelines is: 1) to foster inclusive and welcoming learning and working environments that are free from discrimination, harassment, and bullying regardless of sex, sexual orientation, gender identity, or gender expression; 2) to facilitate compliance with local, state and federal laws that prohibit discrimination, harassment and bullying; 3) to provide professional information to school staff on transgender issues; and 4) to create safe and supportive learning and working environments.

For purposes of these guidelines, a transgender individual is an individual that consistently asserts a gender identity or gender expression at school or work that is different from the gender assigned at birth. This involves a consistent declaration of gender identity or expression over time, but does not require proof of a formal evaluation and diagnosis. Since individual circumstances, needs, programs, facilities and resources may differ, administrators and school staff are expected to consider the needs of the individual on a case-by-case basis.

The Process

The following process should be used to address the needs of transgender and gender nonconforming students and employees. In addition, this process is available for any student or employee personally *impacted* by the accommodation of a transgender student or colleague. For example, a student who is uncomfortable about sharing a restroom with a transgender student can request access to an alternative restroom.

- a. A transgender or gender nonconforming student or employee is encouraged to contact the site administrator to address any concerns or requests. Students may also contact their counselor, who will immediately notify and work with the principal. Parents/guardians of transgender students may also initiate contact with the principal.
- b. The principal or administrator will schedule a meeting to discuss the individual's needs and to develop a plan to address these needs. The plan should address, as appropriate, the name and pronoun desired by the student/employee, restroom and locker room use, participation in athletics, dress code, student/employee transition plans, if any, and other needs or requests of the student/employee.
- c. The plan should be developed by the principal or administrator, in consultation with the student or employee, and with others as deemed appropriate by the administrator and approved by the student or employee.

Note: If the student has an IEP or 504 Plan, or the employee has an accommodation plan, the provisions in these plans should be taken into consideration in developing a plan for addressing transgender issues.

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- d. While medical documentation is not required, the school may request such documentation if helpful to develop an appropriate plan for the student or employee.
- e. If the parties are uncertain or disagree regarding elements to be included in the plan, the site administrator should consult with the appropriate district administration.
- f. Students may also use the Student Grievance Process, set forth in BP 1312.3, to address any transgender issue at school.
- g. A copy of the final plan should be maintained in the student's health file or the employee's unit file.
- h. District staff shall protect the privacy of transgender and gender nonconforming students and employees. All student and personnel information shall be kept strictly confidential as required by district policy and local, state or federal privacy laws.

Official Records

Mandatory permanent student and employee records will include the legal/birth name and legal/birth gender. On other school records or documents, the school will use the name and gender preferred by the student or employee. For example, student ID cards could use the student's preferred name.

Only upon receipt of a court order or other legal documentation should a student's or employee's official record be changed to reflect a change in legal/birth name or gender.

Names and Pronouns

Administrators and staff should respect the right of an individual to be addressed by a name and pronoun that corresponds to their gender identity. A court-ordered name or gender change is not required.

Transgender and gender nonconforming students/employees are encouraged to discuss how they want to be addressed in class, in the workplace, in correspondence to the home, or at conferences with the student's parent/guardian.

When contacting the parent or guardian of a transgender student, school staff should use the student's legal name and the pronoun corresponding to the student's gender assigned at birth, unless the student, parent, or guardian has specified otherwise.

Access to Gender-Segregated Activities and Areas

Note: On June 1, 2015, the U.S. Department of Labor, Occupational Safety and Health Administration, issued "A Guide to Restroom Access for Transgender Workers." The core principle of this guidance is that "[a]ll employees, including transgender employees, should have access to restrooms that correspond to their gender identity."
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TRANSGENDER STUDENTS AND EMPLOYEES (continued)

Schools may maintain separate restrooms and locker rooms for male and female students/employees. Where available, schools are encouraged to designate facilities designed for use by one person at a time as accessible to all students regardless of gender. However, no student should be required to use such facilities because the student is transgender or gender nonconforming.

Note: Following are optional provisions providing alternative language for school districts as to access to sex-segregated school facilities. Option 1 does not define specific requirements or limitations for bathroom and locker room access. While providing for flexibility, Option 1 lacks specific requirements that may be useful to school staff. Option 2 utilizes OCR's best practices position that schools should not require transgender individuals to use sex-segregated facilities inconsistent with the individual's gender identity.

[Option 1] Upon request, the District will work with transgender students and parents to determine appropriate accommodations in regard to bathrooms and locker rooms. If a student is uncomfortable using a shared restroom or locker room, regardless of the reason, considerations can include safe and non-stigmatizing alternatives such as the addition of a privacy partition or curtain, use of a nearby private restroom or office, or a separate changing schedule.

[Option 2] Access should be allowed to restrooms and locker rooms based on the gender identity consistently expressed by the student or employee. Transgender individuals should not be required to use facilities that are inconsistent with their gender identity, nor should they be required to use single-user facilities. Upon request, the District will work with transgender students and parents to determine appropriate accommodations in regard to bathrooms and locker rooms. If a student is uncomfortable using a shared restroom or locker room, regardless of the reason, considerations can include safe and non-stigmatizing alternatives such as the addition of a privacy partition or curtain, use of a nearby private restroom or office, or a separate changing schedule.

Student Intramural and Interscholastic Athletics

All students will be permitted to participate in intramural sports in a manner consistent with their gender identity consistently expressed at school. Furthermore, all students will be permitted to participate in District-sponsored interscholastic athletics in a manner consistent with their gender identity. ASAA determines its own rules for interscholastic competitions.

- a. Notice to the School: The student and/or parents shall contact the school administrator or athletic director indicating that the student has a consistent gender identity different than the gender listed on the student's school registration records or state birth record, and that the student desires to participate in activities in a manner consistent with his/her gender identity.
- b. Eligibility to participate in a manner consistent with the student's gender identity will remain applicable for the duration of the student's participation and does not need to be renewed every sports season or school year. Throughout high school, a student may only assert a single gender or gender identity for athletic or intramural participation and may not switch between male and female activities. An exception

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to this rule may be granted by the Superintendent in cases where the student's gender identity only becomes known or consistently asserted at some point during high school.

- c. All communication among involved parties and any documentation shall be kept confidential, unless the student and family choose to reveal discussion or documentation.
- d. Should eligibility be denied because of concerns about whether a student's request to participate in a sports activity consistent with his or her gender identity is bona fide, a student may seek review of his or her eligibility for participation through the Student Grievance Process, set forth in BP 1312.3.

Other Gender-Based Activities, Rules, Policies and Practices

Schools should regularly evaluate all gender-based activities, rules, policies, and practices and maintain only those that have a clear and sound pedagogical purpose.

Students shall be permitted to participate in any such activities or conform to any such rule, policy, or practice consistent with their gender identity.

Dress Code

Students and staff shall have the right to dress in accordance with their gender identity, within the constraints of the dress codes adopted by the district. School staff shall not enforce a school's dress code more strictly against transgender and gender nonconforming students than other students.

Student Transitions

Transition is the process in which a person goes from living and identifying as one gender to living and identifying as another. When a student transitions during the school year, the principal or designee will hold a meeting with the student and parent(s) to discuss their desires and concerns. The principal or designee should discuss the student's timeline for the transition process in order to support a safe and accepting environment at the school.

The principal will train other administrators and any staff that interact directly with the student on the transition plan, timelines for transition, and any relevant legal requirements.

Training and Professional Development

District administration should provide training to appropriate staff on their responsibilities under applicable laws and this regulation. Training should include the responsibility to prevent, identify and respond to bullying, harassment and discrimination. This includes treating

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transgender students and employees respectfully to foster a spirit of inclusion and to refrain from making disparaging comments or comments seeking gender conformity.

Added 11/2015