

# DRAFT

Mountain View-Los Altos Union HSD |

## Gender Identity and Access

AR \_\_\_\_\_

Students

### PURPOSE

The Board strives to create and maintain a safe learning environment for all students and to ensure that every student has equal access to the District's educational programs and activities. This regulation specifically advises Mountain View - Los Altos Union High School District's staff regarding issues related to transgender and gender-expansive students.

The Board shall promote the healthy development and safety of all students, including transgender and gender-expansive students by maximizing inclusion and social integration while minimizing exclusion and stigmatization. The Board shall also ensure that non-discrimination laws are applied in situations where questions may arise about how to protect the legal rights of students, on a case-by-case basis, using the following guidelines.

### DEFINITIONS

Language and definitions associated with sexual orientation and gender continues to evolve, and there is not universal agreement about the definitions of many terms. The definitions below are intended as functional descriptors rather than labels for any student, and students may or may not use these terms to describe themselves. A best practice is to ask people how they describe themselves and how they would like you to use language when talking with or about them.

**Gender:** Socially determined characteristics, roles, behaviors, and attributes a society expects from and considers appropriate for males and females; these characteristics are often referred to as "feminine" and "masculine." Under California law, "gender" is defined to include a person's gender identity. ([Cal. Ed. Code § 210.7](#))

**Gender Identity:** A persons' internal sense or psychological knowledge of their own gender, regardless of the gender they were assigned at birth. Everyone has a gender. Understanding of gender has expanded beyond the binary to recognition of gender fluidity, inclusive of: gender-expansive, agender, genderqueer, pangender, transgender, etc.

**Gender expression:** An individuals' gender-related appearance and behavior (such as clothing, hairstyles, activities, or mannerisms), whether or not stereotypically associated with the individuals' assigned sex at birth. ([Cal. Ed. Code § 210.7](#))

**Gender Expansive:** An umbrella term sometimes used to describe people who expand notions of gender expression and identity beyond perceived or expected societal gender norms. Some gender-expansive individuals identify as a mix of genders, some identify more binarily as a man or a woman, and some identify as no gender (see agender). Gender-expansive people might feel that they exist among genders, as on a spectrum, or beyond the notion of the man/woman binary paradigm.

**Non-binary:** An individual whose gender identity or gender expression falls outside or in between the category of male or female. Non-binary and gender expansive are umbrella terms that include gender-fluid, genderqueer, and agender, among other gender identities.

**Cisgender:** An individual whose gender identity aligns with their assigned sex at birth.

**Transgender:** An individual whose gender identity differs from the person's sex assigned at birth. A transgender person may or may not have a gender expression that is different from the social expectations of the sex assigned at birth. A transgender person may or may not identify as "transsexual" (CCR § 11030(e))

**Transsexual:** An individual whose sex assigned at birth is male or female, but whose gender identity is woman or man, respectively.

**Genderqueer:** An individual who does not subscribe to conventional gender distinctions but identifies with neither, both, or a combination of male and female genders.

**Agender:** An individual who does not have a felt sense of gender identity or has a gender identity that is neutral.

**Pangender:** An individual whose gender identity is not limited to one gender.

**LGBTQ+:** An acronym that collectively refers to individuals who are lesbian, gay, bisexual, transgender, queer, or consider themselves otherwise to be neither cisgender male nor cisgender female.

**Intersex:** The term assigned to persons having a discrepancy between their external genitalia and their internal genitalia (the testes and ovaries); a term formerly used for such persons is “hermaphrodite.”

**Sex:** The term assigned to a person at birth (male, female, or intersex), most often based on the external anatomy genitalia.

**Sexual Orientation:** An individual’s romantic or sexual attraction to people of another and/or same gender. Common terms used to describe sexual orientation include, but are not limited to, heterosexual, lesbian, gay, bisexual and asexual. Sexual orientation and gender identity are different. Transgender and gender-expansive students may identify as gay, lesbian, bisexual, heterosexual, or asexual.

**Gender-based Harassment:** Includes but is not limited to unwelcome or demeaning conduct or comments directed at or about an individual on the basis of actual or perceived gender, gender identity and gender expression, sex, sexual orientation, or other related personal characteristics, or on the basis of association with a person or group with one or more of these actual or perceived characteristics.

## SCOPE

Gender-based harassment is a form of harassment on the basis of sex and shall be handled pursuant to the provisions in AR 5145.71 – Title IX Sexual Harassment Complaint Procedures. Alternatively, when applicable, the provisions in either [BP 5145.7](#) and [AR 5145.7](#) - Sexual Harassment or [BP 5145.3](#) and [AR 5145.3](#) Nondiscrimination/Harassment shall apply.

This regulation prohibits invidious discrimination, including discriminatory harassment, based on actual or perceived gender-identity, gender expression, or sexual orientation. This regulation applies to the entire school community, including but not limited to educators, school and District staff, students, parents and volunteers (Cal. Ed. Code § 48900 (r)).

Though an incident of alleged unlawful discrimination, including discriminatory harassment, intimidation, retaliation or bullying as defined within this regulation may occur off campus, if the effects of the off-campus incident result in unlawful discrimination, including discriminatory harassment, intimidation, retaliation or bullying at school that is sufficiently serious to interfere with or limit the targeted student’s ability to participate in or benefit from the education program, the school must respond promptly and effectively to eliminate the harassment that occurs at school, prevent its recurrence, and address its effects. Such response shall take the form of corrective action that may include discipline of the alleged harasser in accordance with applicable law and as provided in [BP 5144.1](#) and [AR 5144.1](#).

This regulation also pertains to electronic acts or the creation or transmission originated on or off the school site, by means of an electronic device. “Electronic act” means the transmission, by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager, of a communication including, but not limited to, any of the following:

(i) A message, text, sound, video, or image.

(ii) A post on a social network internet website, including, but not limited to:

(I) Posting to or creating a burn page. “Burn page” means an internet website created for the purpose of writing negative or derogatory comments about another student.

(II) Creating a credible impersonation of another actual pupil. “Credible impersonation” means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile. “False profile” means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

Cal Ed Code 220, 234.1

Cal Ed Code 48900(r)

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

[BP1312.3](#) and [AR 1312.3](#) - Uniform Complaint Procedures

[BP 5145.7](#) and [AR 5145.7](#) - Sexual Harassment

[BP 5145.3](#) and [AR 5145.3](#) - Nondiscrimination/Harassment

[AR 5147.7](#) - Title IX Sexual Harassment Complaint Procedure

## **PRIVACY**

All individuals, including students, have a right to privacy: the right to decide when, with whom, and how much highly personal information to share about oneself to others. This includes the right to control dissemination of highly personal and private information such as gender identity and sexual orientation.

District and school personnel shall not disclose a student’s gender identity or sexual orientation to others, including, but not limited to, other students, parents, and/or other school personnel, unless they are legally required to, or the student has authorized such disclosure, or there is a specific and compelling “need to know” in order to protect the student’s interests. In those rare circumstances where disclosure is deemed to be absolutely necessary, before making any disclosure, school officials, to the extent possible, shall inform the student of the need to disclose and provide them with the opportunity and District resources they may need to make the disclosure themselves.

District and school personnel may encounter situations where a transgender or gender-expansive student has not disclosed their gender identity to their parents. Whenever possible, school administrators shall speak with the student to confirm the manner in which the student will be referred to in conversation with the parent/guardian. Generally, when contacting the parent or guardian of a transgender or gender-expansive student, school personnel shall use the student’s legal name and the gender pronoun that corresponds to their legal sex, unless the student, parent, or guardian has specified otherwise.

All students, including transgender students, have the right to openly discuss and express their gender identity or transgender status and to decide when, with whom, and how much to share that private information. In sharing this information, a student does not give up the right to privacy and at no time may the school use a student’s self-disclosure as grounds for sharing information about the student’s gender identity or transgender status without the student’s permission. Care must be taken to protect student privacy. School personnel shall not assume that a student who expresses gender identity in some contexts (e.g. within a classroom), expresses that same-gender identity everywhere (e.g. on a sports team).

## **DETERMINING A STUDENT’S GENDER IDENTITY**

Determining a student’s gender identity rests with the student. A school shall accept a student’s asserted gender identity. A school may not question or disregard the student’s assertion of their gender identity unless school personnel have a

credible basis for believing that the student is asserting a particular gender identity for some improper purpose.

A school may not request a medical or mental health diagnosis or require a treatment plan to have a student's gender identity recognized and respected by a school.

Similarly, a student is not required to have obtained a court-ordered name or gender change in order to have their requested name and gender identity recognized and respected by a school.

## **GENDER SUPPORT PLAN**

The term “gender transition” describes the experience by which a transgender or gender-expansive individual goes from living as one gender to living and identifying as another. For most transgender and gender-expansive youth, the experience of gender transition involves no medical intervention. Rather, most transgender and gender-expansive youth will undergo gender transition through a process commonly referred to as “social transition,” whereby they begin to live and identify as the gender consistent with their gender identity.

To support a transgender or gender-expansive student’s transition, Gender Support Plans and meetings are available for students (and, if appropriate, the student’s guardians) to identify the student’s needs. The Gender Support Plan can address issues related to facilities (restrooms, locker rooms, etc.), academic or educational support programs, names and pronouns, educational records, extracurricular events such as field trips, and/or co-curricular activities such as sports. All students have a right to privacy: the right to decide when, with whom, and how much personal information to share about oneself to others. Administrators will work with students in determining the most appropriate support.

## **NAMES/PRONOUNS**

Should a student or parent/legal guardian request to have the student addressed by a name and pronoun different from those associated with the student’s sex assigned at birth, the school shall honor that request and set expectations for their consistent use. District and school officials may not require proof of a court-ordered name or gender change before honoring such a request. Districts and schools shall also endeavor to proactively adapt student information systems to accommodate student names and pronouns to prevent inadvertently revealing information that would violate the student’s privacy.

While inadvertent slips or honest mistakes in the use of names or pronouns may occur, staff or students intentionally refusing to respect a student’s gender identity by using the wrong name and gender pronoun may be considered discriminatory and a violation of this regulation.

## **SCHOOL RECORDS**

The District is required to maintain a mandatory official, permanent pupil record with the legal name and gender appearing on the student’s birth certificate. On all other school-related records or documents, however, at the request of or with the consent of the student’s parent/legal guardian as appropriate (unless the student is over 18), schools shall use a transgender or gender-expansive student’s requested name, gender marker, or gender pronoun. This would include physical records and documents, diplomas and other certificates of advancement, electronic records and documents, and school IDs. Every effort shall be made to update student records with the student’s requested name or gender pronoun or gender marker, and not to circulate records with the student’s assigned birth name or gender marker. Schools shall also identify routine areas where a transgender or gender-expansive student’s privacy could be violated by the improper usage of the legal name and gender marker such as pre-printed labels, standardized tests, etc., and school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information. In order to protect the student’s privacy, and to prevent accidental disclosure of a student’s transgender status, the school shall maintain the official, permanent pupil record in a secure location, separate from the student’s other records. If the official record is maintained electronically, similar security measures shall be implemented to protect student privacy.

In the event that a student identifies as transgender, but is unable to obtain consent from a parent or legal guardian, a school administrator shall meet with the student to discuss how the student would like to be addressed at school and implement a plan to ensure that the student's privacy is protected.

When a student or parent/legal guardian presents the school with documentation of a court-ordered legal name and/or gender change, the school must then change the official, permanent pupil record, to reflect the student's new legal name and gender, in a timely manner.

Transgender and gender-expansive students who transition after having graduated may ask their previous schools to amend school records or a diploma or transcript that includes the student's birth name and gender. When requested, schools shall amend the student's record, including reissuing a high school diploma or transcript, to reflect the student's name and gender.

## **RESTROOM AVAILABILITY**

Schools may maintain separate restroom facilities for male and female students. However, students shall have access to the restroom that corresponds to their gender identity.

A single stall, "gender-neutral" restroom may be used by any student who desires increased privacy, for any lawful purpose consistent with District policies and regulations, and school rules. The use of such a "gender-neutral" restroom shall be a matter of choice for a student and no student shall be compelled to use such a restroom.

While students have the right to use the restroom that corresponds to their gender identity, some students might only feel safe using a gender-neutral restroom.

## **LOCKER ROOM ACCESSIBILITY**

Schools may maintain separate locker room facilities for male and female students. However, students shall have access to the locker room facility that corresponds to their gender identity.

The use of locker rooms by transgender and gender-expansive students shall be assessed on a case-by-case basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports, ensuring the student's safety and comfort, and minimizing stigmatization of the student.

If any student has a need or desire for increased privacy or safety, reason for any lawful purpose consistent with District policies and regulations and school rules, they may be provided access to a reasonable alternative changing area or locker room such as:

- Use of a private area in the public area of the locker room facility (i.e., a nearby restroom stall, an area separated by a wall, or near a P.E. instructor's office in the locker room).
- A separate changing schedule (either utilizing the locker room before or after other students).
- Use of a nearby private area (i.e., a nearby restroom).

However, use of such an alternative changing space shall be a matter of choice for a student and no student shall be compelled to use such an alternative. School administrators shall also work to de-stigmatize the use of such options, as

well as to establish clear guidelines and expectations with regard to respecting privacy and boundaries in changing areas and other close quarters.

## **SCHOOL ACTIVITIES AND CLASSES**

Transgender and gender-expansive students shall be permitted to participate in all activities in a manner consistent with their gender identity.

To the extent possible, schools shall reduce or eliminate the practice of segregating students by gender. In situations where students are segregated by gender, students shall be included in the group that corresponds to their gender identity.

It is noted that gender segregation is a source of undue stress for transgender, non-binary, agender and gender-expansive students. Segregating by gender also draws attention to the gender identity of these students, which can lead to harassment.

Gender-inclusive language shall also be adopted to the extent possible to avoid stigmatizing students. Instead of using terms such as “boys and girls” teachers should strive to use terms such as “individuals”, “people” or “class.”

## **OVERNIGHT FIELD TRIPS**

Students shall be assigned accommodations in a manner consistent with their gender identity. If a student does not feel safe with such an arrangement, school staff shall work with the student to arrange alternative accommodations. However, the use of an alternative arrangement shall be a matter of choice for a student and no student shall be compelled to use such an alternative.

## **SPORTS AND PHYSICAL EDUCATION CLASSES**

As required by Ed Code 221.5(e), transgender students shall be permitted to participate in physical education classes, intramural sports, and competitive athletic activities in a manner consistent with their gender identity. This is consistent with California and federal law as well as the policies established by the California Interscholastic Federation. (Education Code 221.5(f); CIF Bylaws § 300(D)).

## **DRESS CODES/SCHOOL UNIFORM POLICIES**

All students have the right to dress in accordance with their gender identity and gender expression.

## **HARASSMENT AND BULLYING**

Complaints and reports, whether made orally or in writing alleging unlawful discrimination, including discriminatory harassment, intimidation, retaliation or bullying based on a student’s actual or perceived gender identity, gender expression, or sexual orientation shall be addressed pursuant to the Uniform Complaint Procedure. ([AR 1312.3](#))

The following position is designated Compliance Officer for Nondiscrimination to handle complaints regarding unlawful discrimination, including discriminatory harassment, intimidation, retaliation or bullying and to answer inquiries regarding the district's nondiscrimination policies: ([Education Code 234.1](#); 5 CCR 4621)

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[BP1312.3](#) and [AR 1312.3](#) - Uniform Complaint Procedures