



July 17, 2025

**VIA EMAIL**

Mr. Craig Trainor  
Acting Assistant Secretary  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

The Honorable Harmeet Dhillon  
Assistant Attorney General  
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Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

**RE: The Transgender Bathroom and Locker Room Policies Implemented by School Districts in Northern Virginia are Unconstitutional under the Supreme Court's Ruling in *Mahmoud v. Taylor***

Dear Acting Assistant Secretary Trainor and Assistant Attorney General Dhillon:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to promote the rule of law, ensuring due process and equal protection for all Americans, and combating invidious discrimination on the basis of race, color, national origin, and sex in America’s schools.

We write today to provide more information relating to the Department of Education’s ongoing Title IX investigations into Alexandria City Public Schools (Case No. 11-25-1305), Arlington Public Schools (Case No. 11-25-1306), Fairfax County Public Schools (Case No. 11-25-1307), Loudoun County Public School (Case No. 11-25-1308), and Prince William County Public Schools (Case No. 11-25-1309).

Specifically, there are two significant points that merit consideration and attention from the Department of Education and the Department of Justice. First, the school districts have steadfastly maintained that their transgender bathroom and locker room policies are *required* by the Fourth Circuit’s decision in *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020).<sup>1</sup> This is simply not the case—the transgender bathroom and locker room policies in place at these school districts go

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<sup>1</sup> For example, on Loudoun County Public Schools’ “Misinformation and Disinformation” webpage, it states that its transgender bathroom and locker room policy is “grounded in and guided by . . . the legal precedent established in *Grimm v. Gloucester County School Board* in the Fourth Circuit, which is applicable case law and governs decisions made in Virginia.” *Communications and Community Engagement, Misinformation and Disinformation*, LOUDOUN CNTY. PUB. SCHS. <https://perma.cc/9FHT-8EZQ>.

well beyond the *Grimm* ruling and the court’s considerations in the facts presented in that case. Second, each of these school districts allows a student to determine their own “gender identity” and use the bathroom and/or locker room that matches that “gender identity.” Those same school districts require the student’s consent to share their gender identity with others, including their parents. This is an even more egregious interference with parental rights than what the Supreme Court recently considered in *Mahmoud v. Taylor*, No. 24-297 (June 27, 2025), 606 U.S. \_\_\_\_ (2025), and *Grimm* has no bearing on such a policy.

AFL respectfully submits this analysis for your consideration.

## **I. The Relevant Policies and Regulations Go Far Beyond What *Grimm* Requires.**

*Grimm*’s key holding, which many school districts in the Fourth Circuit cling to, is that “transgender persons constitute a quasi-suspect class.” *Grimm*, 972 F.3d at 611. Thus, the school district’s policy requiring bathrooms to be segregated on the basis of biological sex must pass intermediate scrutiny to survive a challenge under the equal protection clause. *Id.* at 609.

As a threshold matter, AFL asserts that *Grimm* was wrongly decided, as did Judge Niemeyer in his *Grimm* dissent, 972 F.3d at 627 (Niemeyer, J., dissenting), the Eleventh Circuit in *Adams v. Sch. Bd. of St. Johns Cty.*, 57 F.4th 791 (11th Cir. 2022), and Justices Barrett, Thomas, and Alito in *United States v. Skrmetti*, No. 23-477 (June 18, 2025), 605 U.S. \_\_\_\_ (2025).<sup>2</sup> It is further possible, even likely, that the Supreme Court will decide in *West Virginia v. B.P.J.* that transgender persons do not constitute a quasi-suspect class and that schools that have been basing their policies on *Grimm*’s flawed decision will be out of excuses as to the necessity of their reality-defying bathroom and locker room policies.

### *A. Even the Grimm Court acknowledged it was a highly fact-specific case.*

Assuming *arguendo* that *Grimm* is good law, even an elementary understanding of that decision demonstrates that school districts are applying it in an absurdly overbroad manner. The schools are providing quasi-suspect class status in an arbitrary and capricious manner that also deprives the rights of students who are legitimately part of a quasi-suspect class status based on biological sex.

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<sup>2</sup> *Skrmetti*, slip op. at 1 (Barrett, J., joined by Thomas, J., concurring) (“Because the Court concludes that Tennessee’s Senate Bill 1 does not classify on the basis of transgender status, it does not resolve whether transgender status constitutes a suspect class. I write separately to explain why, in my view, it does not.” (citations omitted)); *Id.* at 4 (“The Sixth Circuit held that transgender individuals do not constitute a suspect class, and it was right to do so.”); *Skrmetti*, slip op. at 8–9 (Alito, J., concurring) (“I am uneasy with that analysis and would reject the plaintiffs’ argument for a different reason: because neither transgender status nor gender identity should be treated as a suspect or ‘quasi-suspect’ class.”).

Take, for example, the definition of “transgender” articulated in *Grimm*. The court stated that “there have always been people who ‘consistently, persistently, and insistentlly’ express a gender that, on a binary, we would think of as *opposite to their assigned sex*.” *Grimm*, 972 F.3d at 594 (emphasis added) (citation omitted). The court further noted that transgender people “represent approximately 0.6% of the United States adult population . . . [and that] [j]ust like being cisgender, being transgender is natural and *is not a choice*.” *Id.* (emphasis added). The court also noted that “there are other gender-expansive youth who may identify as nonbinary, youth born intersex who do or do not identify with their sex-assigned-at-birth, and others whose identities belie gender norms.” *Id.* at 596. However, the court explicitly stated that the question at issue in *Grimm* was “limited to how school bathroom policies implicate the rights of transgender students who ‘*consistently, persistently, and insistentlly*’ express a binary gender.” *Id.* (emphasis added).

With those limitations fully set forth, the court found that the student was sufficiently part of the quasi-suspect class of “transgender persons.” Specifically, the court found that “[a]t around the age of 12, [Grimm] started presenting [herself] as a boy . . . [and] [a]round the time of [her] 15th birthday, in the spring of 2014, Grimm came out to [her] parents as a transgender boy.” *Id.* at 628 (Niemeyer J., dissenting). Further, “[Grimm’s] psychologist diagnosed [her] with ‘gender dysphoria’ . . . [and] [s]oon thereafter, Grimm obtained a court order legally changing [her] name from the female name [she] was given at birth to Gavin Elliot Grimm.” *Id.* at 629. The court also noted that Grimm’s mother was fully involved in requesting accommodations from the school in order to “socially transition at school” which was “part of [her] treatment for gender dysphoria.” *Id.* Finally, as part of her “transition,” Grimm began taking cross-sex hormones in 10th grade, underwent surgery to remove her breasts in 11th grade, and was permitted to amend her birth certificate in 12th grade. *Id.* at 629–30.

The result of *Grimm* is that, in the Fourth Circuit, for one to be categorized as “transgender” for equal protection purposes, that individual must “consistently, persistently, and insistentlly” expresses themselves as the sex opposite from their biological sex and significant evidence must demonstrate the individual’s consistent, persistent, and insistent expression as the opposite sex, including medical treatment, parental involvement, and legal efforts to recognize the individual’s expressed sex. *See id.* at 596. However, the policies of the school districts in Northern Virginia (and elsewhere in the Fourth Circuit) cite to *Grimm* as requiring them to adopt policies that effectively allow students to walk into school, claim to be “gender expansive,” and, with no questions asked, achieve the quasi-suspect class status that *Grimm* narrowly defined.

*B. FCPS Policies Outpace the Facts of Grimm in several ways.*

Consider the bathroom and locker room policy in effect at Fairfax County Public Schools (“FCPS”). Regulation 2603.2 states that “[s]chools shall accept a student or parent’s . . . assertion of a student’s gender-expansive or transgender status.” *Exhibit A*, at p. 1. Further, Regulation 2603.2 states that “[g]ender expansive and transgender students shall be provided with the option of using a locker room or restroom consistent with the student’s gender identity.” *Id.* at p. 4. Note that there is no requirement whatsoever that one must “consistently, persistently, and insistentl” identify as the opposite sex for the school to accept a student’s “gender-expansive or transgender status.”<sup>3</sup> In fact, FCPS’s Regulation 2602-Gender-Expansive and Transgender Students Guidance Document defines transgender as “an individual whose gender identity is different from that associated with the individual’s sex assigned at birth. An individual can express or assert a transgender identity in a variety of ways, such as pronoun usage, mannerisms, and clothing. Medical treatments or procedures are not considered a prerequisite for identifying students as transgender.” *Exhibit B*, at p. 6. Again, there is no requirement that the student “consistently, persistently, and insistentl” identify as the opposite sex, nor is there a requirement of medical treatment or procedures. FCPS’s criteria to be transgender are certainly a far cry from the criteria cited by the court in *Grimm*.

Additionally, the court in *Grimm* repeatedly noted the active involvement of the student’s mother in working with the school for accommodations. FCPS, on the other hand, shuts parents out if that is what the student desires. While FCPS “encourage[s] and support[s] communication between gender-expansive or transgender students and the student’s parents,” Regulation 2603.2 explicitly states that “school personnel should not disclose information about a student’s gender-expansive or transgender status . . . unless the student has authorized such disclosure.” *Exhibit A*, at p. 1. In other words, according to FCPS policies, a student can come to school one day, suddenly declare himself transgender, have use of the female restroom and locker rooms, and the school cannot involve that student’s parents unless the student consents. FCPS’s policy is wholly untethered from the requirements in *Grimm*.

Even more absurdly, FCPS confers the protections of *Grimm* on “gender-expansive” students. FCPS does not independently define “gender-expansive,” but instead defines “[g]ender expansive/gender non-conforming/gender-diverse/gender-fluid/gender-nonbinary/agender/genderqueer” as “[t]erms that convey a wider, more flexible range of gender identity and expression than typically associated with the social construct of a binary (two discreet and opposite categories of ‘male and female’) gender system.” *Exhibit B*, at 5. The court in *Grimm* explicitly stated that its decision did not apply to “gender-expansive youth,” but FCPS nevertheless mandates that

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<sup>3</sup> Additionally, court in *Grimm* did not decide on anything related to locker room access based on a student’s transgender status. But extending *Grimm*’s analysis to locker rooms would still require the same consistent, persistent, and insistent requirement.

such students have all the protections that come with being a quasi-suspect class under the equal protection clause.

*C. FCPS cannot meet any standard of review, much less intermediate scrutiny, as the facts here would be unrecognizable to the Grimm Court.*

The result of FCPS's overbroad and arbitrary policy is that it burdens the sex-based equal protection rights of students who do not fall into FCPS's definition of "transgender or gender-expansive." As AFL noted in its letter of February 3, 2025, if a biological female feels unsafe or uncomfortable using a common restroom or locker room with a biological male who claims to be "transgender or gender-expansive," FCPS policy dictates that the biological male cannot be required to use a male restroom or locker room (or a private one); it falls upon the biological female—the student feeling unsafe or uncomfortable—to find an alternative. This treats the similarly situated male, who claims to be "transgender or gender-expansive," more favorably than the female who does not claim to be "transgender or gender-expansive." For FCPS's policy to survive a challenge under the equal protection clause, FCPS must show that its policy passes intermediate scrutiny in that the "classification serves important government objectives and that the discriminatory means employed are substantially related to the achievement of those objectives." *Skrmetti*, 605 U.S., slip op. at 9 (quoting *United States v. Virginia*, 518 U.S. 515, 533 (1996)).

It is difficult to see what the "important government objective" is with respect to FCPS's overbroad and arbitrary bathroom and locker room policy. But based on FCPS's talking points given to the media and the public, there are two possible "important government objectives" that FCPS, and other Northern Virginia schools,<sup>4</sup> claim. *First*, FCPS asserts the policy is necessary to comply with the ruling in *Grimm*. *Second*, is the school's obligation to provide students with a so-called "safe, supportive and inclusive school environment." *Exhibit A*, at p. 1.

The FCPS policy does not even attempt to relate to the ruling in *Grimm*. In Fairfax, a student is not required to present a "consistent, persistent, and insistent" gender identity. Instead, a student can simply declare, on a whim, a new gender identity and obtain access to opposite-sex bathrooms and locker rooms forthwith. *Exhibit B*, at 5 ("[g]ender expression may change over time and from day-to-day").

Further, and cutting against both possible "important government objectives," the court in *Grimm* found persuasive the student's medical treatment and diagnosis, but FCPS *explicitly dismisses* such evidence as unnecessary for a student to be able to use a bathroom or locker room of the opposite sex. And whereas the court in *Grimm*

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<sup>4</sup> Although this letter focuses on FCPS, the other Northern Virginia schools currently under investigation maintain nearly identical overbroad and arbitrary policies and have justified them by pointing to *Grimm*.

noted that the student’s mother was fully involved in the process by which the school would provide accommodations in line with the student’s medical diagnosis and treatment, FCPS puts all the power in the student’s hands and will proceed without parental involvement if the student chooses. In other words, FCPS declares through its policy that it knows what is more “safe, supportive, and inclusive” for a student than the student’s parents and medical providers.<sup>5</sup>

The FCPS policy is also inconsistent. It chooses to provide a “safe, supportive, and inclusive” environment, but only for its favored groups. That is, it will provide whatever accommodation a transgender or gender expansive student demands, to the clear detriment of other students. Meanwhile, the female who feels unsafe with, or has a religious objection to, a male in her restroom and locker room (especially males who identified as such up until potentially that same day) is provided with less than nothing. Instead, she must suffer an unsafe, unsupportive environment at school.

Lastly, the *Grimm* court’s decision that Title IX prohibits discrimination based on an individual’s claimed sex, even when different than birth sex, has been effectively overruled by the Supreme Court in *U.S. Dep’t of Educ. v. Louisiana*, 603 U.S. 866 (2024). In this case, all nine justices unanimously “accept[ed] that the plaintiffs were entitled to preliminary injunctive relief as to three provisions of the rule, including the central provision that newly defines sex discrimination to include discrimination on the basis of sexual orientation and *gender identity*.” *Id.* at 867 (emphasis added).

Consequently, FCPS’s bathroom and locker room policies facially discriminate on the basis of sex, the policy is divorced from the ruling in *Grimm*, and it fails to even provide a “safe, supportive and inclusive environment” for students. It is fatally overbroad and arbitrary.

## **II. The Relevant Policies and Regulations are Unconstitutional Deprivations of Parental Rights under *Mahmoud v. Taylor*.**

Last month, the Supreme Court issued a monumental decision in *Mahmoud v. Taylor*. In that case, the court found that a school district’s introduction of “LGBTQ+ inclusive,” books to children, including books normalizing transgenderism and the use of opposite sex bathrooms, where such concepts “explicitly contradict their parents’ religious views,” represented “precisely the kind of objective danger to free exercise of religion that the First Amendment was designed to prevent.” *Mahmoud*, 606 U.S., slip op. at 26–27. The court determined that the introduction of those books “combined with [the school district’s] decision to withhold notice to parents and to

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<sup>5</sup> The FCPS policy is a usurpation of parental rights and denies parents the due process they are owed. Parents are presumed fit and to act in the best interests of their children. *Troxel v. Granville*, 530 U.S. 57, 68 (2000) (citing *Parham v. J. R.*, 442 U.S. 584, 602 (1979)). Here, FCPS’s policy has decided that the state is better positioned to determine the child’s best interests without providing any due process to the parents.

forbid opt outs – substantially interferes with the religious development of [the petitioners’] children and imposes the kind of burden on religious exercise that *Yoder* found unacceptable.” *Id.* at 22.

Certainly, if the introduction of “LGBTQ+ inclusive” books about transgenderism and the use of opposite sex bathrooms, without notice and the opportunity to opt-out, is a constitutional violation, then so must be a school policy that allows a student to declare himself or herself “transgender,” use the restroom and locker room of the opposite sex, all while leaving notice to, and involvement of, the student’s parents solely in the hands of the student. This is undoubtedly the policy in FCPS, as set forth above, but it is also explicitly the policy in Loudoun County Public Schools (*Exhibit C*, at p. 2–3) and Prince William County Public Schools (*Exhibit D*, at p. 2–3). These practices are likely in effect at Alexandria City Public Schools and Arlington Public Schools as well.

Thus, following the *Mahmoud* decision, each of the five Northern Virginia school districts currently under investigation for Title IX violations may now also be applying a bathroom and locker room policy that is an unconstitutional deprivation of the rights of religious parents to raise their children according to their religious beliefs. Notably, this would be the case even if these school districts’ policies were more narrowly tailored to the court’s decision in *Grimm*—even if a transgender individual were considered to be a quasi-suspect class subject to the intermediate scrutiny protections of the equal protection clause, the rights of the parents to notice and opt-out are fundamental rights under the Constitution and any deprivation of those rights would have to survive strict scrutiny. Policies that wholesale deprive parents of the right to notice and to be involved with a decision to allow their children to use opposite sex bathrooms and locker rooms would be extremely unlikely to pass the high threshold of strict scrutiny. That is exactly what the policies of Northern Virginia’s public schools do, and any investigation should extend to such intentionally unconstitutional action.

### III. Conclusion

The school districts in Northern Virginia that are currently under investigation have enacted massively overbroad and arbitrary bathroom and locker room policies that go far beyond what the court addressed in *Grimm*. Nevertheless, these school districts continue to mislead the public by claiming their policies are mandated by *Grimm*. Furthermore, given the Supreme Court’s decision in *Mahmoud*, these policies, even to the extent *Grimm* mandated them, unconstitutionally deny parents the right to notice and involvement in decisions that impact their parental and religious rights.

These policies teach students no differently than the LGBTQ+ curriculum at issue in *Mahmoud*. Further, they allow children to socially transition to a different sex and use bathrooms and locker rooms of the opposite sex without parental notice or

decision. The Northern Virginia School Districts' policies violate the Constitution, fail to comply with *Grimm*, and violate Title IX.

Sincerely,

/s/ Ian D. Prior

Ian D. Prior

Senior Advisor

America First Legal Foundation



# Exhibit A

## **SPECIAL SERVICES**

### **Health and Welfare**

#### **Gender-expansive and Transgender Students**

This regulation supersedes Regulation 2603.1

### **I. PURPOSE**

To establish procedures and guidelines for schools to ensure that all students, including gender-expansive and transgender students experience a safe, supportive, and inclusive school environment.

All students have a right to privacy in Fairfax County Public School (FCPS) facilities or while participating in FCPS sponsored events. Any student who has a need or desire for increased privacy, regardless of the underlying reason, shall be provided with reasonable, non-stigmatizing accommodations. Students shall not disclose private information about another student's reason for seeking privacy. Additionally, school personnel should not disclose information about a student's gender-expansive or transgender status, legal name, or sex assigned at birth, including to other school personnel who do not have a need to know, unless the student has authorized such disclosure, or unless legally required to do so as further outlined below.

### **II. DEFINITIONS**

Official Transcript: to include legal name at the time of the awarded credit. Documents are signed by the school official with name and title or transmitted and verified through a verified electronic method.

### **III. SUMMARY OF CHANGES SINCE LAST PUBLICATION**

- A. Section II., removed the definition of parent and added the definition of official transcript.
- B. Section IV., added definition of parent.
- C. Section VI.B., added language to reflect that a student can request an alternate and/or unofficial diploma or transcript.
- D. Section VI.D., added "and transcript assistants."
- E. Legal References., added the proposed Virginia Code 8VAC20-160-3D

#### IV. IDENTIFICATION OF GENDER-EXPANSIVE AND TRANSGENDER STUDENTS

Schools shall accept a student or parent's (use of this term herein includes parent, guardian, legal custodian, or other person having control or charge of a child) assertion of a student's gender-expansive or transgender status.

- A. When a school is made aware of a student's gender-expansive or transgender status, the school shall offer to convene a support team for the student or the parents. The support team shall be a multidisciplinary team that may consist of the student, parents if the student is willing, classroom teacher(s), administrator, school counselor, school psychologist, school social worker, and/or other staff members as appropriate for this collaboration. The student or the student's parents may have input into the composition of the team and also may invite any representatives of their choosing to include physical and mental health professionals or advocates.
- B. Support teams shall develop a student-specific support plan to provide the gender-expansive or transgender student with safe and equitable access to all school and school division facilities and activities, addressing any particular issues raised by the student or the student's parents. The support team shall consider the student's needs, protection of student privacy, maximization of social integration, minimization of stigmatization, student age, and any perceived safety risks as they contemplate appropriate supports and arrangements. The plan may include, but is not limited to:
  1. Annual conferences with a student support team, the student, and/or the student's parents to discuss any necessary accommodations for the school year.
  2. Regular check-ins with the student and/or the student's parents by the school counselor, administrator, school psychologist, school social worker, or other designated staff member deemed appropriate.
  3. Meetings to support the student from academic year to academic year.
  4. Information about community resources.
  5. School staff should provide information and referral to resources to support a student in coping with a lack of support at home and seek opportunities to foster a better relationship between the student and their family.
  6. A timeline to support student transition from one gender to another, if applicable.
  7. Decisions regarding use of student name and pronouns, restroom and locker room access, gender specific courses, sports, student activities, and extended instructional field trips or athletic events. School staff will address the student using the asserted name and gender as communicated by the student. This plan should be maintained in the school file (i.e., school counselor office) to be accessible to the members of the support team. This plan is subject to the same privacy guidelines as are other student records.
- C. In situations where a student may be transitioning from one gender to another, either prior to the beginning of or during the current school year, school teams shall consider

- providing staff training on gender diversity to include responsibilities to support gender-expansive and transgender students under Title IX and [Policy 1450, Nondiscrimination](#). This training should be generalized to honor the privacy and confidentiality of the student.
- D. A student or parent may request that the support team be reconvened at any time.
  - E. Every effort shall be made to encourage and support communication between gender-expansive or transgender students and the student's parents. Schools may offer to meet jointly with the parents and the student at school.

## V. STUDENT NAMES AND PRONOUNS

Students who identify as gender-expansive or transgender should be called by their chosen name and pronouns, regardless of the name and gender recorded in the student's permanent pupil record. School counselors, administrators, or other designated school personnel should work with the student and/or the student's parents to determine the best course of action to inform teachers, coaches, and other school personnel of this request. Every effort should be made by the student's teachers to reasonably inform substitute teachers of the student's chosen name and pronouns.

## VI. PERMANENT STUDENT RECORDS

- A. Each school is required to maintain a permanent pupil record of each student. The student's legal name, birth date, sex assigned at birth, and parent(s) name as they appear on the birth certificate shall be considered the student's official identification and shall be entered in the FCPS student scholastic record. A court order or an official government document, such as an updated birth certificate or passport attesting to any changes in student identification, to include legal name and sex, is required before any changes will be made to the student scholastic record.
- B. If a gender-expansive or transgender student and the student's parents request a diploma and/or transcript with the student's chosen name, schools will provide a student with both a diploma and/or transcript reflecting the student's legal name as well as an alternate diploma and/or alternate, unofficial transcript with the student's chosen name that reflects the student's gender identity. Students who are 18 or older may request an additional diploma and/or unofficial transcript with their chosen name, without parent permission being received by FCPS.
- C. For current FCPS students, legal name and/or gender marker changes will be reflected throughout the time of enrollment.
- D. Staff access to permanent student records that contain a gender-expansive or transgender student's legal name and/or sex assigned at birth will be limited to the following staff members: administrators, directors of student services, counselors, school psychologists, school social workers, SIAs/SSAs, and transcript assistants based on their legitimate educational interest in this information.
- E. In situations where school staff is required to use or to report a transgender student's legal name or sex assigned at birth, such as for purposes of standardized testing,

school staff and administrators will adopt practices to avoid the inadvertent disclosure of such information to individuals outside of the reporting requirement.

- F. FCPS graduates may change their permanent records under the same requirements as current FCPS students.

## **VII. CLASSROOM RECORDS**

- A. Internally generated and shared school lists of students (e.g., honor roll, graduation programs) shall identify gender-expansive or transgender students by their chosen names and genders. Additionally, school documents such as yearbooks, school newspapers, and communications to outside media shall identify gender-expansive or transgender students by their chosen names and appropriate gender markers.
- B. FCPS electronic systems which will be seen by staff (including teachers and substitutes) should reflect the student's chosen name and pronoun (when possible) as designated by the student or parents.

## **VIII. PRIVACY AND EDUCATIONAL RECORDS**

Information about students' transgender status, legal name, or sex assigned at birth constitutes confidential personally identifiable and medical information. Such information should not be disclosed unless required by law.

## **IX. ACCESS TO FACILITIES**

- A. Gender-expansive and transgender students shall be provided with the option of using a locker room or restroom consistent with the student's gender identity.
- B. When an instructional or extra-curricular event requires students to be accommodated overnight, students may be assigned to a room consistent with the student's gender identity.
- C. Any student who has a need or desire for increased privacy, regardless of the underlying reason including gender identity, shall be provided with a reasonable, non-stigmatizing alternative such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, or a nearby health or single-use/unisex bathroom), or with a separate changing schedule (e.g., using the locker room that corresponds to the student's gender identity before or after other students). Such alternative options will minimize impact to instructional time to the extent possible.
- D. Any alternative arrangement should be provided in a way that protects the ability of students to keep their gender-expansive or transgender status or other underlying reason for the request confidential. FCPS will maintain confidentiality of nonpublic information about students, releasing this information to third parties only when authorized by a student or parent.
- E. In no case shall a gender-expansive or transgender student be required to use a locker room or restroom that conflicts with the student's gender identity or be limited to using

only a private area, single-occupancy accommodation, or other single-use facility as described in this section.

- F. Gender-expansive and transgender students may also be provided with the option of using the facilities that correspond to the student's sex assigned at birth.

#### **X. STUDENT ACTIVITIES AND ATHLETICS**

- A. Student participation in Virginia High School League (VHSL) sponsored programs, or another organization such as the Virginia Scholastic Rowing Association (VASRA), as well as middle school athletics, are governed by policies and rules of those organizations. Gender-expansive and transgender students shall participate in such sponsored activities in accordance with these policies.
- B. Student participation in school-sponsored programs, clubs, activities, and sports (other than those sponsored by VHSL) shall allow gender-expansive and transgender students to participate in accordance with the student's gender identity.

#### **XI. GENDER SPECIFIC COURSES**

- A. Schools should eliminate or reduce the segregation of students by gender to the extent possible.
- B. When schools offer a gender specific course or a course with a gender specific section, gender-expansive and transgender students shall be allowed to enroll in the course corresponding with the student's gender identity.
- C. In courses where specific units are taught in a way that divides students into groups by gender (e.g., Family Life Education), gender-expansive and transgender students, shall be allowed to participate with the gender group corresponding to the student's gender identity.

#### **XII. GENDER SEGREGATION IN OTHER AREAS**

As a general rule, in any other circumstances where students are separated by gender in school activities, gender-expansive and transgender students shall be permitted to participate in accordance with the student's gender identity consistently asserted at schools. Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case-by-case basis.

#### **XIII. DRESS CODES**

All students are required to dress in clothing that follow the guidelines as listed in [Policy 2613, Student Dress Code](#) as well as [Regulation 2601, Student Rights and Responsibilities Booklet](#) (SR&R), regardless of gender identity. There are no separate categories of clothing requirements for either males or females, therefore, gender-expansive and transgender students shall be allowed to dress in any clothing that meets the guidelines in the policies referenced above. Requirements for attire for school-related

programs, activities, and events shall be gender-neutral. These guidelines shall be enforced impartially regardless of a student's gender identity or expression.

#### **XIV. TRAINING FOR EMPLOYEES**

All school staff will be trained annually on topics relating to transgender students, including procedures for preventing and responding to harassment and bullying based on gender identity and expression. This includes that a persistent refusal to use a student's chosen name and pronouns constitutes discrimination. School mental health professionals shall be trained annually on topics relating to safety and support of these students.

#### **XV. COMPLAINTS**

Parents and students may direct complaints to the school principal, the Region Office, or to the Office of Equity and Employee Relations.

#### Legal References:

Family Educational Rights & Privacy Act, 20 U.S.C. § 1232g;  
34 C.F.R. Part 99; Virginia Code Sections 22.1-23.3, 2.2-3901,  
Virginia Administrative Code 8VAC20-160-3D Proposed

#### See also the current versions of:

[Policy 1450](#), Nondiscrimination  
[Policy 2613](#), Student Dress Code  
[Policy 2730](#), Confidentiality of Student Information  
[Regulation 2202](#), Required Admission Credentials for Students  
[Regulation 2601](#), Student Rights and Responsibilities Booklet  
[Regulation 2701](#), Student Personal Data  
[Regulation 4952](#), Discrimination and Harassment on a Protected Class  
[Management of the Student Scholastic Records Manual](#), Virginia High School League, Inc. Handbook and Policy Manual

# Exhibit B



**Regulation 2603-Gender-Expansive and Transgender Students  
Guidance Document**



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## Guidance Overview

FCPS is pleased to support gender-expansive and transgender students through the development of [Regulation 2603](#). This regulation provides our students, families, staff, and community with a way forward, providing youth with an equitable, safe and supportive school environment. The journey to this point has been a long one for our community and for the country. Virginia has been clear; it is time to recognize and support youth as they express their identities. All who have been part of these discussions know that there are differing levels of understanding and acceptance, so, now the work begins to operationalize the ideal for all students.

The Virginia Assembly passed House Bill 145 and Senate Bill 161 during the spring 2020 session. With the passage of this bill the Code of VA 22.1-23.3 was amended to address common issues regarding the treatment of transgender students in public schools. The Virginia Department of Education (VDOE) immediately started to work on a model policy which is currently in draft status.

Upon passage of the bill, it was determined that FCPS would develop a regulation addressing the need to provide our gender-expansive and transgender students with a safe, supportive and inclusive environment.

The FCPS Gender-Expansive and Transgender Guidance is intended to be a tool for schools, parents and students to effectively navigate existing laws, regulations and policies that support gender-expansive and transgender students. This guidance ensures that all students are treated equitably and with dignity while attending school. This resource includes the following:

- Direction to schools on meeting our federal, state and local obligations to ensure equitable treatment of gender-expansive and transgender students;
- Insight for families, students and staff who may have questions; and
- Tools and resources for administrators, staff, families and students.

For further assistance please contact:

Director of Intervention and Prevention Services  
Fairfax County Public Schools

Mental Wellness Specialist  
Fairfax County Public Schools

## The Need

Fairfax County Public Schools are committed to promoting a welcoming and inclusive culture where all students feel valued and supported. As outlined in the Strategic Plan Goal 2, FCPS is committed to fostering a responsive, caring and inclusive culture. The implementation of Regulation 2603 supports FCPS in promoting inclusivity for all students.

Members of the LGBTQIA+ community face disproportionate challenges in schools. Although the Fairfax County Youth Survey does not currently request information related to transgender or gender-expansive status, data collected from the 2019 Fairfax County Youth Survey indicate that of the students in 8th, 10th and 12th grade who identify as lesbian, gay, bisexual, queer or questioning:

- 25% had been sexually harassed.
- 50% experienced depressive symptoms.
- 16% had been victims of emotional abuse by dating partners.
- 32% have seriously considered suicide.
- LGBQ youth are 70% more likely than non-LGBQ youth to report being bullied.

The Centers for Disease Control and Prevention released data consistent with the Fairfax County Youth Survey data indicating that LGBTQIA+ students are more likely to experience victimization, violence and suicidality. In fact, the data from the CDC show that 43% of transgender youth have been bullied on school property while 29% of transgender youth have attempted suicide. Students are less engaged when they are ostracized and isolated, which creates barriers to academic achievement.

Many LGBTQIA+ youth report involvement and support in their families, schools, and community as they overcome these challenges. Implementation of Regulation 2603 promotes further support from caring adults and schools. Furthermore, putting systems and structures in place to support LGBTQIA+ youth is of vital importance.

## Terms and Definitions

*Terms and definitions developed from [genderspectrum.org](http://genderspectrum.org) and [welcomingschools.org](http://welcomingschools.org)*

These definitions are intended to assist in understanding the regulation and guidelines. Knowledge of these terms will support FCPS staff understanding of the diverse spectrum of identities.

**Asexual:** A term that describes a person who lacks sexual attraction or desire for other people.

**Bisexual/Bi+:** A term that describes a person who is emotionally, romantically, or sexually attracted to people of more than one gender, sex, or gender identity.

**Chosen Name:** Refers to a name requested by a student or the student's parents or guardians by which the student would like to be known, which may be different than a student's official name in the FCPS student record. Pronoun usage also should reflect how the student would like to be called.

**Cisgender:** A person whose gender identity and gender expression align with the sex assigned at birth

**Deadnaming:** When someone, intentionally, or not, refers to a person who is transgender or gender-expansive by a name other than their chosen name.

**Gender:** A socially constructed system of classification that ascribes qualities of masculinity and femininity to people. Gender characteristics can change over time and are different between cultures.

**Gender Binary:** The idea that there are two distinct and opposite genders-female and male. This model is limiting and doesn't account for the full spectrum of gender identities and gender expressions.

**Gender-expansive/gender non-conforming/gender-diverse/gender-fluid/gender-nonbinary/agender/genderqueer:** Terms that convey a wider, more flexible range of gender identity and expression than typically associated with the social construct of a binary (two discreet and opposite categories of male and female) gender system.

**Gender Expression:** The manner in which a person represents or expresses their gender identity or role to others, often through appearance, clothing, hairstyles, behavior, activities, voice or mannerisms. Gender expression may change over time and from day-to-day and is not necessarily related to the person's gender identity.

**Gender Fluidity:** Gender fluidity conveys a wider, more flexible range of gender expression, with interests and behaviors that may change, even from day-to-day. Gender fluid individuals do not feel confined by restrictive boundaries of stereotypical expectation of girls or boys. In other words, a person may feel they are a girl some days and a boy on others, or a combination or possibly feel that neither term describes them accurately.

**Gender identity:** A person's sense of their own identity as a boy/man, girl/woman, something in between, or outside the male/female binary. Gender identity is an innate part of a person's identity and can be the same or different than the sex assigned at birth.

**Gender Role:** This is the set of roles, activities, expectations, and behaviors assigned to females and males by society. In the United States, typically two basic gender roles are recognized: Masculine (having the qualities attributed to males) and feminine (having the qualities attributed to females). People who step out of their socially assigned gender roles are sometimes referred to as transgender. Other cultures have three or more gender roles.

**Heteronormative:** The assumption of heterosexuality as the given or default sexual orientation instead of one of many possibilities, and that the preferred or default relationship is between two people of "opposite" genders.

**Legal Name:** Refers to the student's official name entered in the Fairfax County Public Schools (FCPS) student record following the procedure set forth in the current version of [Regulation 2202](#).

**Lesbian:** A woman who is emotionally, romantically and/or sexually attracted to women. This includes cis, trans and other people who are women.

**LGBTQIA+:** An acronym for Lesbian, Gay, Bisexual, Transgender, Queer, and/or Questioning, Intersex, and Asexual and/or Ally Community. A "+" is added to include the range of identities.

**Pansexual/Pan:** Describes someone who has the potential for emotional, romantic or sexual attraction to people of any gender though not necessarily simultaneously, in the same way, or to the same degree.

**Pronouns -** The pronoun a person uses when referred to in conversation (i.e., a person with traditionally male gender identity likely uses the pronouns he, him, his). Please note that young people may choose to go by they, ze, or no pronouns.

**QTPOC:** Queer, Trans, People of Color.

**Queer:** Deemed an offensive term historically and still by some people today, queer has been reclaimed by many members of the LGBT community as a term of empowerment. The term can have different meanings to different people, but in this context, it generally refers to a member of the lesbian, gay, bisexual, or transgender community. This term may be used by a member of the LGBT community, who may not identify themselves by any of the other letters in that acronym. Since this term has a negative history, it should only be used to describe those individuals who identify themselves as queer and give permission for others to use that term to describe them.

**Sex Assigned at Birth:** A label, generally "male" or "female," that is typically assigned at birth and recorded on a birth certificate, if that document exists. This term is also referred to as birth assignment or biological or anatomical sex.

**Sexual Orientation:** Term that refers to being romantically or sexually attracted to people of a specific gender or sex. Our sexual orientation and our gender identity are separate, distinct parts of our overall identity. Although a child may not yet be aware of their sexual orientation, they usually have a strong sense of their gender identity.

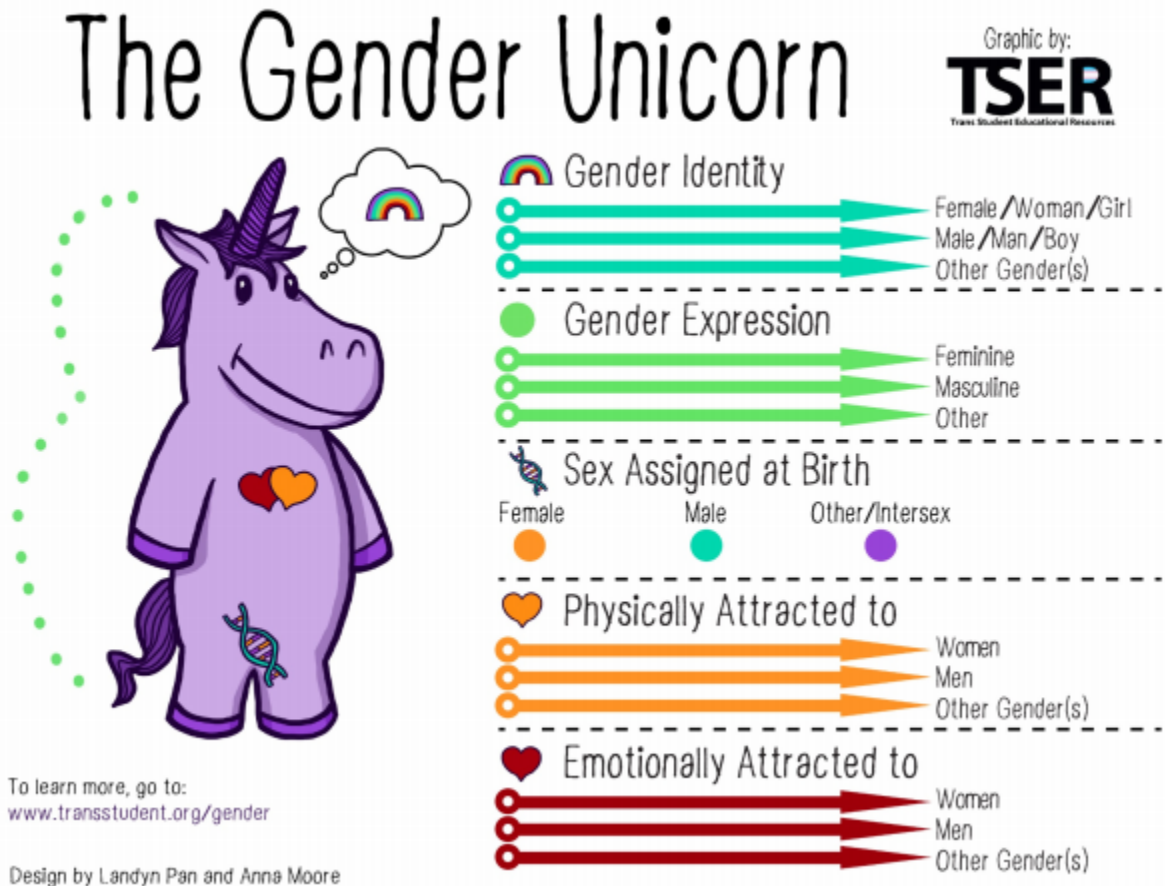
**Transgender:** Describes an individual whose gender identity is different from that associated with the individual's sex assigned at birth. An individual can express or assert a transgender identity in a variety of ways such as pronoun usage, mannerisms, and clothing. Medical treatments or procedures are not considered a prerequisite for identifying students as transgender.

**Transition:** Refers to the experience by which a transgender person goes from living and identifying as the gender associated with the sex assigned at one's birth to living and identifying as the gender consistent with one's gender identity. A gender transition often includes a "social

transition,” during which an individual begins to live and identify as the gender consistent with the individual’s gender identity, with or without certain medical treatments or procedures.

**Transphobia:** Fear or hatred of transgender people; transphobia is manifested in several ways, including violence, harassment, and discrimination.

The Gender Unicorn provides a visual aid to support in the understanding of some of the terms noted above.



## Student Transitions

Not all gender expansive students identify as being transgender, so transition may look very different for each student and not all people who undergo a transition desire the same outcome.

The regulation states, “When a school is made aware of a student’s gender-expansive or transgender status, the school shall offer to convene a support team for the student or the parents...The support team shall consider the student’s needs, protection of student privacy, maximization of protection of social integration, minimization of stigmatization, student age, and any perceived safety risks as they contemplate appropriate supports and arrangements.”

In most cases, transitioning is a very private matter. Students may choose to have their parents participate in this process; however, parental participation is not required. When appropriate,

schools should work closely with the student and family in devising a plan regarding the confidentiality of the student's transgender status. A member of the Student Support Team should be consulted to begin conversations to identify the student's needs. A sample school planning tool is included in Appendix 4. This planning tool provides a list of suggested topics for a transitioning student to review with the student services team member and/or the Student Support Team. Please note that the student's team should be comprised of an administrator (when available), a member of the student services team, any other staff that the student chooses. When this meeting is scheduled, the team lead should ensure that the student and/or parents are informed of the team members who will be participating in the team meeting. The contents of this plan should be discussed only with the persons who are responsible for implementing the plan. For example, the current teachers will be updated with the student's chosen name, as to avoid deadnaming.

### **Parent Engagement**

Regulation 2603 states, "Every effort shall be made to encourage and support communication between gender expansive or transgender students and the student's parents or guardians. Schools may offer to meet jointly with the parents or guardians and the student at school." However, if a student has not shared information with the parents, the school shall not disclose confidential information related to the student's transition with the parents or guardians..

The Virginia Department of Education *Model Policies for the Treatment of Transgender Students in Virginia Public Schools* states the following:

*"Privacy and confidentiality are critical for transgender students who do not have supportive families. Disclosing a student's transgender status can pose imminent safety risks, such as losing family support or housing. According to a recent study, LGBT youth have a 120 percent increased risk of experiencing homelessness compared to youth who identified as heterosexual and cisgender (Morton, Dworsky, & Samuels, 2017). School divisions will need to consider the health and safety of the student in situations where students may not want their parents to know about their transgender status, and schools should address this on a case-by-case basis. If a student is not ready or able to safely share with their family about their transgender status, this should be respected. There are no regulations requiring school staff to notify a parent or guardian of a student's request to affirm their gender identity, and school staff should work with students to help them share the information with their family when they are ready to do so."*

### **Developmental Considerations**

In order to maintain privacy and confidentiality regarding their transition and gender identity, transgender students may wish, but are not required, to transition over a summer break or between grades. Regardless of the timing of a student's transition, the school shall act in accordance with the following developmental considerations. These are considerations, but each student situation should be handled according to the maturity of each individual student, while still respecting the student's rights.

Generally, notification from the student's parents or guardians about their gender identity, gender expression, or transition is unnecessary, as they may already be aware and supporting. In some cases, however, notifying parents or guardians carries risks for the student, such as being kicked



out of the home. Prior to notification of any parent or guardian regarding the transition process, school staff should work closely with the student to assess the degree to which, if any, the parent or guardian will be involved in the process and must consider the health, wellbeing, and safety of the transitioning student.

Since students are likely to be more comfortable in some areas of a school than others, their transition, particularly in the early phases, may be “site-specific,” meaning they choose to go by one name or have one pronoun used in one place and another name or another pronoun used in another. For example, a student may feel more comfortable expressing their gender identity in a student club or small group, but not to the larger school community or at home. Whatever the student prefers should be acknowledged and respected. Be aware of the preference of the student and always use their chosen reference when you are speaking to the student and about the student to another person. Awareness and sensitivity about where the student is open about their identity is crucial to be an effective ally.

## **Names and Pronouns**

Students who identify as gender-expansive or transgender should be called by their chosen name and pronouns, regardless of the name and gender recorded in the student’s permanent pupil record. School counselors, administrators, or other designated school personnel should work with the student and/or the student’s parents or guardians to determine the best course of action to inform teachers, coaches, and other school personnel of this request. Every effort should be made by the student’s teachers to reasonably inform substitute teachers of the student’s chosen name and pronouns. Staff are encouraged to review [this document](#) for additional considerations related to student pronouns.

## **Student Name in the Student Information System (SIS)**

### **Protected Information**

The Student Information System (SIS) contains a tab for entering protected student information. The use of the Protected Information feature will maintain a student’s legal identity, as required by law, while allowing the school counselors, administrators or other designated school personnel to modify the SIS Student Information as requested by the family/student chosen information. Examples are the student’s first name and/or gender. The modified data will be used to populate all instructional and administrative applications that receive student information as part of automated provisioning and rostering processes. Use of the modified data in SIS must be discussed with the student(s) to ensure that the implications are fully understood. For example, use of modified information in SIS will result in this data being displayed to parents in ParentVUE and for those students with IEP/504 documentation in the SEA STARS system.

Changing the student’s name in the Student Information tab of SIS and storing the legal name in the Protected Information tab is not appropriate if the student’s parent/guardian is unaware of the student’s transition since this may unintentionally out the student and potentially compromise their safety and well-being. Additional information about considerations for use of the protected information area is posted in [this section of the Employee Hub](#). Use of the Protected Information area will also be addressed during SIS training sessions.

## **Legal Name on Records**

Each school is required to maintain a permanent pupil record of each student. For those students who choose to change name and/or gender in SIS, the legal information will be stored in the Protected Information tab of SIS. The student's legal name, birth date, sex assigned at birth, and parent(s) name as they appear on the birth certificate shall be considered the student's official identification and shall be entered in the FCPS student scholastic record. A court order or an official government document, such as an updated birth certificate or passport attesting to any changes in student identification, to include legal name and gender, is required before any changes will be made to the student's legal information.

Please note that the name in the database is part of an official educational record and is therefore covered by the Family Educational Rights and Privacy Act (FERPA), meaning that if a parent or guardian requests access to see their student's records, they will have access to the student's chosen name and legal name. If a student transitioning at school is not ready to share with their family about their transgender status, this should be respected. In this scenario, school staff should make a change socially, calling the student by the chosen name, while their official SIS information remains the same.

Internally generated and shared school lists of students (e.g., honor roll, graduation programs) shall identify gender-expansive or transgender students by their chosen names and genders. Additionally, school documents such as yearbooks, school newspapers, and communications to outside media shall identify gender-expansive or transgender students by their chosen names and appropriate gender.

FCPS electronic systems which will be seen by staff (including teachers and substitutes) should reflect the student's chosen name and pronoun (when possible) as designated by the student or parents or guardians.

### **Use of "Nickname"**

If a student wishes to go by another name, please respect the student's wishes and call them by the student designated name/pronoun. Regulation 2603 does not require parental permission for students to be called a chosen name/pronoun.

Caution should be utilized in using the nickname field in SIS. The Nickname field in SIS is not the best option for supporting students in making their chosen name known to all staff. This field appears on limited reports and does not transfer to teacher class rosters. When using the Nickname field in Teacher Vue, the nickname for the class will appear, but every teacher will be required to make this change in Teacher Vue in their own section views.

If teachers utilize the nickname on the class view, the nickname will appear for substitutes, but not the student's last name.

### **Gender Identity**

Effective December 17, 2020, SIS includes the option to identify a student's gender as Non-Binary in the drop-down for Gender identification. This selection will display as an X in the students' demographic information.

## **Schools/Facilities Requirements and Gender Based Activities**

### **Bathrooms**

Having safe access to restroom facilities is important to the health and wellbeing of all people, including those who identify as transgender and gender expansive. Students can use the same bathrooms as their peers, unless they request alternate accommodations. This means that transgender and gender-expansive students are entitled to use the bathroom that matches their gender identity. This does not require parental permission. Any student, transgender or otherwise, who has a need or desire for increased privacy, regardless of underlying reasons, also has the right to access a single-user restroom, such as a staff bathroom or the bathroom in the health office. To promote an inclusive environment for all, the single-user bathroom may not be given as the only option for transgender or gender-expansive students.

### **Physical Education/Locker Rooms**

All students must be permitted to participate in physical education classes in a manner consistent with their gender identity.

Schools may maintain separate locker room facilities for male and female students. However, all students must have access to the locker room facility that corresponds to their gender identity. If there is a request for increased privacy, any student, regardless of the underlying reason, should be offered access to reasonable accommodations such as:

- A separate changing schedule
- Use of a private area in the facility (e.g., a restroom stall with a door or an area separated by a curtain)
- Use of a nearby private area (i.e., nearby restroom or health suite)
- Assignment of student locker in close proximity to staff office or a supportive peer group.

Gender-expansive and transgender students may also be provided with the option of using the facilities that correspond to the student's sex assigned at birth.

Any alternative arrangement should be provided in a way that protects the ability of students to keep their gender-expansive or transgender status confidential.

In no case shall a gender-expansive or transgender student be required to use a locker room or restroom that conflicts with the student's gender identity or be limited to using only a private area or single-use facility as described in this section.

Ultimately, if a student expresses discomfort to any member of the school staff, that staff member should review these options with the student and ask the student permission to talk to their identified trusted adult.

## **Gender-based Activities**

### **Interscholastic Athletics**

Student participation in Virginia High School League (VHSL) sponsored programs is governed by current [VHSL policies](#). Gender expansive and transgender students shall participate in VHSL sponsored activities in accordance with these policies.

**Intramurals/Clubs**

Student participation in school-sponsored clubs, activities, and sports (other than those sponsored by VHSL) shall allow gender-expansive and transgender students to participate in accordance with the student's gender identity.

**Field Trips**

FCPS is committed to providing a safe, welcoming school environment where students are engaged in learning because they feel accepted and valued. Additionally, FCPS respects the privacy rights of its students and parents and will maintain confidentiality of nonpublic information about students, releasing this information to third parties only when authorized by a parent or student as required by law. As part of this commitment to inclusion and equity, when an instructional or extra-curricular or athletic event requires students to be accommodated overnight, students may be assigned to a room consistent with the student's gender identity.

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. Fairfax County Public Schools 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.

**Gender Specific Courses**

Schools should evaluate all gender-based policies, rules, and practices, and maintain only those that have a clear and sound pedagogical purpose. By eliminating gender-specific courses, the potential for discrimination is reduced. Whenever students are separated by gender in school activities or are subject to an otherwise lawful gender-specific rule, policy, or practice, students must be permitted to participate consistent with their gender identity.

In courses where specific units are taught in a way that divides students into groups by gender (e.g., Family Life Education), gender non-conforming and transgender students shall be allowed to participate with the gender group corresponding to the student's gender identity.

**A Note to School Staff**

Wherever arbitrary gender dividers can be avoided, they should be eliminated to promote inclusivity. For example, when dividing the class into two lines based on male and female, perhaps the students could be divided by the first letters of their last names, type of shoe, color clothing, etc. Lunch divisions can be handled similarly, by dividing the students in half by last name as opposed to gender. Simple things, such as calling students "students" or "scholars" instead of "boys and girls," may seem insignificant but actually make a notable difference to students who feel alienated because they may not identify as being part of either of the two binary categories.

**Privacy and Confidentiality/Records**

## **Privacy and Disclosure of Information**

All students have the right to privacy within the legal limits of that term. This includes the right to keep private one's transgender status or gender-expansive presentation at school. Information about a student's transgender status, transition status, legal name, or sex assigned at birth may constitute confidential personally identifiable and medical information. Disclosing this information to other students, their parents/guardians, or third parties may violate privacy laws such as the Federal Family Educational Rights and Privacy Act (FERPA). School staff members must ensure that all medical information including that relating to transgender or gender expansive students is kept confidential in accordance to federal, state and local privacy laws. School staff may not disclose information that may reveal a student's transgender, gender-expansive, or transition status to others, including parents/guardians and other school staff, unless legally required to do so or unless the student has authorized such disclosure. A medical diagnosis, treatment and/or other documentation is not required for school staff to accommodate a request for gender presentation, identity and diversity.

Transgender and gender expansive students have the right to discuss and express their gender identity and expression openly and decide when to share information, with whom and how much to share. The fact that students may choose to share their status with others does not authorize school staff to disclose the students' status to others.

When contacting the parent/guardian of a transgender or gender-expansive 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/guardian has specified otherwise.

## **FAQs**

### **What name and pronouns should I use to address a student?**

Students who identify as gender-expansive or transgender should be addressed by their chosen name and gender pronouns, regardless of the name and gender recorded in the student's permanent pupil record. Members of the Student Support Team should work with the student and/or the student's parents or guardians to determine the best course of action to inform teachers, coaches, and other school personnel of this request. If you are unsure about a student's chosen name or pronoun, it is appropriate to privately ask the student what they have chosen to be called. When speaking about a student, it is rarely necessary to label them as being transgender, since they should be treated the same as their peers.

### **How do we address restroom use?**

Transgender and gender-expansive students have the right to utilize the restroom that corresponds with their gender identity. The use of a single use bathroom or the nurse's office cannot be required. The Virginia Human Rights Act protects students and they cannot be denied access to school facilities for a discriminatory reason.

[Learn more about school restroom use.](#)

**If I have a student requesting to go by a new name, or new pronouns, am I required to contact the parent/guardian?**

Typically, it will be the parent or guardian who informs the school of the impending transition. However, it is not unusual for a student's desire to transition to be shared at school. If the family is aware of the student's transition, the family can work with the student and the student's support team to develop steps that will provide the student with the necessary support. School staff will not disclose gender identity or pronouns to anyone without the student's permission since this can pose a serious safety concern for some students.

**What happens with locker room use?**

Gender-expansive and transgender students should be provided with the option to use the locker room or restroom consistent with the student's gender identity. Any student who has a need or desire for increased privacy, regardless of the underlying reason, shall be provided with a non-stigmatizing alternative such as the use of a private area (e.g., nearby restroom stall with a door, nearby health room or single-use/unisex bathroom). A gender-expansive or transgender student should never be required to use a locker room or restroom that conflicts with the student's gender identity or be limited to using only a private area or single-use facility.

**A student has asked that their name be changed in our virtual learning platform, do I change the name even though the name in SIS won't match?**

Always use the chosen name identified by the student.[11] The Student Support Team will work with the student to ensure that they are aware of the implications of changing their name on virtual platforms. If an issue arises from the school or family, this can be negotiated, but the best course of action for the safety and support of the student is to use the student's chosen name.

**One of my students has started to wear short skirts, makeup and heels to school. It is a distraction to the other students. We don't allow girls to wear short skirts, why is this student allowed to do so?**

All students are required to dress in clothing that follows the guidelines as listed in Policy 2613 as well as Regulation 2601 (Student Rights and Responsibilities), regardless of gender identity. Clothing requirements in SR&R do not delineate separate categories of clothing requirements for either males or females, therefore, gender-expansive and transgender students shall be allowed to dress in any clothing that meets the guidelines in the policies referenced above.

**I have a student who would like to change their name and pronouns on their IEP. How does this process work?**

If the student has changed their name and gender in SIS, the information will populate in Sea-Stars and can be used on special education forms. If a student has not changed their name or gender in SIS, the team can make note of and utilize the chosen names and pronouns on the Present Levels of Performance (PLOP) page and use these throughout the document.

**What do I call a student if they prefer to use their chosen name, but the parents are opposed to the use of the chosen name?**

If the student's chosen name has not yet been shared with parents, the legal name will be utilized when staff members engage with the parent/guardian. When working directly with the student, it is appropriate to use their chosen name.

**If a student is being bullied or harassed by others, is there a different procedure as it relates to discipline?**

FCPS is committed to responding to all complaints of discrimination in a manner that stops the discrimination, prevents it from happening again, and helps support the person who was discriminated against. Discrimination is treating someone unequally based on protected category in a way that interferes with a person's education and/or academic performance.

For more information about discrimination, the FCPS Title IX response, the FCPS discrimination and sexual harassment regulations, contact the Title IX Coordinator at [titleixcoordinator@fcps.edu](mailto:titleixcoordinator@fcps.edu) or 571-423-3070

**Guidance and Contacts****FCPS Office of Intervention and Prevention**

Phone: 571-423-1300

Website: <https://www.fcps.edu/departments/departments-special-services>

**FCPS Title IX Coordinator**

Phone: 571-423-3070

**US Department of Education: Office of Civil Rights**

Email: [ocr@ed.gov](mailto:ocr@ed.gov)

Phone: (800) 421-3481

Website: <http://www2.ed.gov/about/offices/list/ocr/qa-complaints.html>

**Virginia High School League**

Phone: 434-977-8475

**Policies and Laws****Applicable and Related Laws**

A brief summary of federal and state laws is included for informational purposes and to aid in the development of model policies for the treatment of transgender students. Given the changing legal landscape, including on-going litigations and different interpretations, the summary provided in this section does not constitute legal interpretation nor advice.

**First Amendment:** The First Amendment protects freedom of speech and expression. Schools may not prevent students from expressing their identity.

**Equal Protection Clause of the 14th Amendment:** This clause guarantees every citizen equal protection under the law. It protects LGBTQ+ youth in schools from unfair or discriminatory school actions.

**Title VII of the Civil Rights Act of 1964:** The US Supreme Court ruled in June 2020 that this clause includes protection based on sexual orientation and gender identity. The decision also clarifies the meaning of "sex" in other federal antidiscrimination laws and includes transgender students.

**Title IX of the Education Amendments of 1972:** Title IX is a federal law that prohibits schools that receive federal financial assistance from limiting or denying a student's participation in any school program on the basis of sex. This may be understood to prohibit discrimination, including sexual harassment, based on sex stereotypes, sexual orientation, and gender identity or transgender status.

**Family Educational Rights and Privacy Act (FERPA):** This is a federal law that protects the privacy of student educational records. It prohibits the improper disclosure of personally identifiable information from students' records. Information relating to gender identity or sexual orientation may constitute personally identifiable information.

**Virginia Values Act:** This state law expands the Virginia Human Rights Act to prohibit discrimination in employment and housing on the basis of sexual orientation and gender identity.

**Virginia Anti-Bullying legislation:** Virginia school boards are required to include bullying prevention as a part of character education (§ 22.1-208.01 of the *Code of Virginia*). In addition, school boards are expected to include bullying as a prohibited behavior in their student codes of conduct (§ 22.1-279.6.D of the *Code of Virginia*) and to implement policies and procedures to educate school board employees about bullying and the need to create a bully-free environment (§ 22.1- 291.4 of the *Code of Virginia*).

**Virginia Identification Documents legislation:** Senate Bill 246 requires the Department of Motor Vehicles to offer any applicant the option to mark "male," "female," or "non-binary" when designating the applicant's sex on an application for a driver's license or special identification card. Senate Bill 657 and House Bill 1041 requires the State Registrar to issue a new certificate of birth to show a change of sex upon request and, if a certified copy of a court order changing the person's name is submitted, to include the person's new name.

## **FCPS Policies and Regulations**

[Policy 1450.6-Nondiscrimination](#)

[Policy 2613.5-Student Dress Code](#)

[Regulation 2613.8-Student Dress Code](#)

[Regulation 2601.6-Rights and Responsibilities of Students](#)

[Regulation 2202.11-Required Admission Credentials for Students](#)

## **Resources**

### **Family Support**

**2nd Fridays Trans Community-**Groups for children, teens, parents and adults.

7:00-9:00 pm

MCC Nova

10383 Democracy Lane

Fairfax, Virginia

Contact: [info@mccnova.com](mailto:info@mccnova.com)



**CDC Guidance**

[https://www.cdc.gov/healthyyouth/protective/pdf/parents\\_influence\\_lgb.pdf](https://www.cdc.gov/healthyyouth/protective/pdf/parents_influence_lgb.pdf)

**Family Acceptance Project**

<http://familyproject.sfsu.edu>

**Family Pride Coalition**

[www.familypride.org](http://www.familypride.org)

**Healthy Children**

<https://www.healthychildren.org/English/ages-stages/gradeschool/Pages/Gender-Diverse-Transgender-Children.aspx>

**Milpride**-specifically for LGBTQ military children and their families. Provides resources and support groups to help meet the needs of each family.

Contact: [amanda@milpride.org](mailto:amanda@milpride.org)

**PFLAG**-The first and largest organization for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) people, their parents and families, and allies.

Alexandria Location  
Third Tuesday 7:00-9:30  
St. Luke's Episcopal Church  
8009 Fort Hunt Road  
Alexandria, VA 22308

Fairfax Location  
First Tuesday 7:30-9:00  
Unitarian Universalist Congregation of Fairfax  
2709 Hunter Mill Road  
Oakton, VA 22124  
Contact: [wf.pflag@gmail.com](mailto:wf.pflag@gmail.com)

**Rainbow Families**

[www.rainbowfamilies.org](http://www.rainbowfamilies.org)

**SAMHSA Resource for Families**

<https://store.samhsa.gov/sites/default/files/d7/priv/pep14-lgbtkids.pdf>

**TransParent**-Support group; welcoming all parents and caregivers of transgender, non-binary, and gender independent children of any age.

Contact: [arlington.va@transparentusa.org](mailto:arlington.va@transparentusa.org)

**True Child**

[www.truechild.org](http://www.truechild.org)

**School Support****FCPS Parent Resource Center**

Email: [prc@fcps.edu](mailto:prc@fcps.edu)

Phone: 703-204-3941

**FCPS Pride**

Fcpspride.org

Email: [president@fcpspride.org](mailto:president@fcpspride.org)

Phone: 202-295-7939

**Gay Straight Alliance Network**

[www.gsanetwork.org](http://www.gsanetwork.org)

**GLSEN Northern Virginia**

[glsen.org/nova](http://glsen.org/nova)

Email: [northernva@chapters.glsen.org](mailto:northernva@chapters.glsen.org)

Phone: 571-208-2424

**Human Rights Campaign-Welcoming Schools**

[www.welcomingschools.org](http://www.welcomingschools.org)

**Student Support**

**GLSEN Northern Virginia**

[glsen.org/nova](http://glsen.org/nova)

Email: [northernva@chapters.glsen.org](mailto:northernva@chapters.glsen.org)

Phone: 571-208-2424

**Gay Straight Alliance Network**

[www.gsanetwork.org](http://www.gsanetwork.org)

**The Trevor Project**

[www.thetrevorproject.org](http://www.thetrevorproject.org)

**Crisis Resources for LGBTQ Youth**

**National Suicide Prevention Lifeline:** 1-800-273-TALK (8255)

**PRS Crisis Link:**

- Text: "CONNECT" to 85511
- Phone: 703-527-4077

**Trans Lifeline:** 877-565-8860

**Trevor Hotline:** 866-488-7386

**Trevor Chat:** [www.thetrevorproject.org](http://www.thetrevorproject.org)

**Additional Helpful Organizations**

**Gay and Lesbian Advocations and Defenders**

[www.glad.org](http://www.glad.org)

**Gender Spectrum**

[www.genderspectrum.org](http://www.genderspectrum.org)

**Lambda Legal**

[www.lambdalegal.org](http://www.lambdalegal.org)

**National Center for Lesbian Rights**

[www.nclrights.org](http://www.nclrights.org)

**National Center for Transgender Equality**

[www.transequality.org](http://www.transequality.org)

**National LGBTQ Task Force**

[www.thetaskforce.org](http://www.thetaskforce.org)

**Transgender Law Center**

<http://transgenderlawcenter.org>

**Transgender Law and Policy Institute**

[www.transgenderlaw.org](http://www.transgenderlaw.org)

## **Appendix I: Administrator Guidance**

### **Introduction:**

This document has been developed to support the implementation of [Regulation 2603](#) Gender-Expansive and Transgender Students. Teams should review this regulation and guidance documents when providing support to students.

Not all gender-expansive individuals identify as being transgender. Transition may differ for each student and the support provided should be guided by the individual strengths and needs of the student. Not all people who undergo a transition desire the same outcome. We have students and staff in our buildings who have already transitioned. ALL FCPS students and staff are protected by FCPS [Policy 1450 Nondiscrimination](#).

### **Procedures:**

If a student's transition is brought to your attention, a student services team should be developed to create an individualized plan of support. Additional guidance documents are available to support teams in implementing a plan of support.

If a parent or student requests a change to student records, the administrator will notify members of the student services team. After consulting with the team, the administrator will follow through with the agreed upon request. Each student outcome will be unique. Prior to making any of the following changes, please ensure that a student services staff member has discussed with the student and/or family any implications when making a change to student records.

### **Name Changes in Google Meet**

- When Google Meet is being used for virtual instruction, a student's G Suite display name will be shown. This is the same name that is displayed in G Suite shared documents. This name can be permanently changed through the process shared below.
- Making the request for a student name change will now change the name in both FCPS 24-7 Blackboard (but not Blackboard Collaborate) and in FCPS G Suite. Principals will follow the existing request process, outlined below. Teachers will need to understand how they should alert their administrators if they receive a request for name change from

a student or parent. The principal will ultimately need the official request from the enrolling parent of that student, or from the student (parental consent is not required). Once the principal receives the request, here is the process:

1. Principal receives a request to change the display name
2. Principal submits RequestIT Ticket via IT Service catalog by selecting Fix My > FCPS G Suite for Edu. The request should include
  - that a student wishes to have a name change, and should include Student First name, Last Name, Student ID and Chosen Name
3. IT Service Desk will receive the request and update FCPS 24-7 Learning and FCPS G Suite name display.

**Name Changes to the SIS:**

Principals or their designee have access to make name changes in the Student Information System (SIS). Principals will also designate additional staff who will have access to protected view information with a memorandum of understanding.

- [This step-by-step process can be viewed here.](#)

**Parent Complaints:**

Administrators will follow the current protocol when addressing any parent complaint. Parents, guardians or students may direct complaints to the school principal, the Region Office, or to the Office of Equity and Employee Relations.

**Permanent Records:**

Transcripts and Diplomas are considered a part of the student's permanent record. Please see section 5 of Regulation 2603 for clarification related to documents that require legal and chosen names.

## **Appendix II: Student Services Team Guidance**

### **Introduction:**

This document has been developed to support the implementation of [Regulation 2603](#) Gender-Expansive and Transgender Students. Teams should review this regulation and guidance documents when providing support to students.

Not all gender-expansive individuals identify as being transgender. Transition may differ for each student and the support provided should be guided by the individual strengths and needs of the student. Not all people who undergo a transition desire the same outcome. We have students and staff in our buildings who have already transitioned. ALL FCPS students and staff are protected by FCPS [Policy 1450 Nondiscrimination](#).

### **Procedures:**

When you are informed of a student's transition, do not assume that the student is experiencing challenges in school, with family or in connection with their mental wellness.

- Share limits of confidentiality with the student, including confidentiality related to the student's transition.
- Review the optional Student Support Team planning tool for relevant information/questions to consider. Remember completing this tool is optional and if completed is subject to FERPA.
  - Identify who knows about the student's transition
  - Bathroom and locker room use
  - Use of chosen name and pronouns
  - Student Support Plans will be reviewed and updated annually, at a minimum.
  - If a formalized plan is completed, the form should be kept with the student's designated point of contact for follow-up. The planning tool will not be stored in the student's cumulative file.
  - The counselor or identified trusted adult will be the point of contact for staff and the student if concerns arise regarding plan implementation.

- If members outside of the school team wish to participate, be sure to gain a signed release of information.
- School Transitions: When a student is moving to middle or high school, the student's point of contact will consider convening a Student Support Team meeting[SDE16]. This will allow the student to determine which information should be shared with the new school, to allow for a smooth transition to a new building.

### **Things to Consider:**

- When a student wishes to keep information within the school team, avoid sharing student information through email.
  - Consider scheduling a brief touch base meeting with an email stating "I need to speak with you briefly to share information about one of your students."
  - During this meeting, discuss the importance of using chosen name and pronouns
- When a student requests changing information in SIS and Seastars:
  - Parent permission is not required, but advise that changing this information will "out" a student to parents/guardians since records will reflect the name change
  - Inform student that unless the student has legally changed their name, the information on the birth certificate will be maintained by the school.
  - Inform the student that the name on permanent student records will be printed with the legal name and chosen name only if requested by a parent/guardian or by a student who is 18 years or older.
    - Students should be informed that college and/or job applications should utilize consistent names. There are likely situations requiring that the student use the legal name (FAFSFA, Job Applications etc.). For this reason, schools will provide diplomas and transcripts with both the chosen and legal names if requested by a parent/guardian or by a student who is 18 years or older.
- When a student requests name changes through other virtual platforms (ex: Google Suite, BBCU, Schoology):
  - Parent permission is not required
  - Advise student that changing the name on these platforms may result in the parent/guardian seeing the change

### **Appendix III: Teacher Guidance**

#### **Introduction:**

This document has been developed to support the implementation of [Regulation 2603](#) Gender-Expansive and Transgender Students. Teams should review this regulation and guidance documents when providing support to students.

Not all gender-expansive individuals identify as being transgender. Transition may differ for each student and the support provided should be guided by the individual strengths and needs of the student. Not all people who undergo a transition desire the same outcome. We have students and staff in our buildings who have already transitioned. ALL FCPS students and staff are protected by FCPS [Policy 1450 Nondiscrimination](#).

#### **Tips for creating an inclusive classroom:**

- Create a classroom culture where you and the students speak out against bullying behavior and show respect and acceptance for marginalized individuals and groups. This is an ongoing process that requires bravery and commitment from both students and staff.
- Avoid forming groups based on “Male or Female”.
- Respond to biased or homophobic behavior as if there is an LGBTQIA+ student in the room at all times.
- At the beginning of the school year, consider including questions that ask students to provide their chosen name and pronoun to be used in the classroom.
- Model inclusive pronoun use. By sharing your pronouns, you are creating a welcoming environment for others.
- Avoid dead-naming. If you inadvertently make a mistake, apologize. You will be modeling respectful communication.
- Do not out a student, there can be significant negative consequences in intentionally or unintentionally outing a student to peers or family.



- Use visual aids such as quotations or posters on your wall to serve as constant reminders to students that they are fully welcome. Consider the use of safe space emblems.
- Incorporate student voice in your classroom and give space for all voices to be heard.
- Evaluate gender norms in your classroom practice by conducting a visual audit of your classroom; refer to a group of kids as students, scholars, class, friends and avoid the binary term “boys and girls”; do not separate students according to gender; don’t make assumptions based on gender;
- Evaluate classroom texts for their inclusion of voices of LGBTQIA+ people.
- Things to keep in mind for substitute teachers
  - Ensure that your class roster, within the substitute folder, contains all student chosen names and pronouns (if identified).
  - Ask that the substitute teacher not group students by male and female.

**Tips for when a student confides in you:**

- Listen and allow the student to confide in you. Having someone to listen to is powerful.
  - Ask clarifying and open-ended questions
- Be mindful of your biases, we all hold bias.
- Take the student’s lead on language that they use and prefer.
- Consider sharing the following: There are now protections for you as a student related to confidentiality. I am happy to be a part of your supportive team, but I am not the expert on the regulations and practices. To support you further, I would like to loop in someone from student services.
  - Ask the student if they have a connection with an adult in student services.
  - If they do not, please introduce them to someone.
- Ensure the student that you will not share their personal information related to their transition with anyone other than the identified member of the student services team.
  - If the student indicated concerns with abuse, neglect, or suicidal ideation we cannot keep this confidential.
- If a student requests to be called something other than their legal name, but does not want to adjust any formal records, please respect the student's wishes and call them by the student designated name/pronoun. Regulation 2603 does not require parental permission for students to be called a chosen name/pronoun.

### **Appendix IV Student Support Team Planning Guide Supporting Gender-Expansive and Transgender Students**

*A fillable version of this form is located in the Forms Cabinet and can be located using [this link](#).*

This planning tool provides a list of suggested topics for a transitioning student and is to be reviewed with the student services team member and/or the Student Support Team. Please note that the Student Support Team should be composed of an administrator (when available), a member of the student services team, any other staff that the student chooses. The content of this plan should be discussed only with the persons who are responsible for implementing the plan. For example, the current teachers will be updated with the student's chosen name, as to avoid deadnaming.

*While completing this document is optional, a conversation with the student and a member of the school-based mental health team should occur any time a student shares that they are transitioning. The conversation should include, at a minimum, the factors below. Once completed, this form becomes a part of the student's scholastic record and is subject to FERPA.*

School: \_\_\_\_\_

Date: \_\_\_\_\_

Meeting Participants and Position:

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

#### **Initial Information**

Consider gathering the following information:

Student's chosen name	
Student's gender identification	

Student's legal name on record	
Student's current gender marker on record	
<p>Is the student requesting a name change in SIS?</p> <p>Is the student requesting a name change on virtual platforms other than SIS?</p> <p>Is the student requesting a name change only during instruction?</p>	<p>Yes or No</p> <p>Yes or No</p> <p>If yes, identify the platforms: _____</p> <p>Yes or No</p> <p>If yes, identify classes: _____</p>
<p>Has a Student Support Team member talked to the student about the various options for name changes in school and the implications of each?</p> <p>If no, teams should identify the staff member who will have the conversation with the student.</p>	<p>Yes or No</p>

Parent/guardian name(s) and contact information	
Is the parent/guardian aware of the student's chosen name and gender identification?	Yes or No
If yes, is the parent/guardian participating in this meeting/process?	Yes or No
Who is the student's school point of contact? (Please include name and role, ex. Ms. ABC, School Counselor)	
Please include any additional relevant information in the space provided:	
<b>Student Support Plan</b>	

<p>Who has been identified as part of the student's support team?</p> <p><i>Administrator?</i></p> <p><i>Parent/Guardian? School Counselor? School Psychologist? School Social Worker? Teacher? Public Health Nurse? Community Provider? Other?</i></p>	<p>(perhaps make this a checklist with the options listed to the right?)</p>
<p>Of those in attendance, who is the student's main point of contact?</p>	
<p>What is the plan for bathroom use (<i>identify location, which will be used</i>)? <i>It is recommended to do a walk through with the student, so they know where facilities are located.</i></p>	
<p>What is the plan for PE/locker rooms?</p>	
<p>What is the plan for field trips?</p>	

What is the plan for gendered activities ( <i>such as sports or clubs</i> )?	
<p>If Family Life Education (FLE) is separated by gender, in which class will the student participate?</p> <p>Be sure to provide access to both curriculums as appropriate.</p>	
Is staff training required ( <i>for all staff or selected few</i> )?	
Is a follow up meeting required?	Yes or No
If yes, what is the meeting date and who will be invited to attend?	

<p>Be sure to share any relevant resources with the student and/or parent/guardian.</p>	
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# Exhibit C



RIGHTS OF TRANSGENDER AND GENDER-EXPANSIVE STUDENTS

The purpose of this regulation is to establish procedures for LCPS employees in their efforts to support transgender and gender-expansive students as required by School Board [Policy 8040](#), the Code of Virginia [22.1-23.3](#), and other applicable federal and state laws. All LCPS employees shall treat all students with respect and dignity. In accepting employment with LCPS, staff members agree to abide by and uphold LCPS policies and procedures, as well as federal and state laws. Staff members are responsible for taking prompt and effective steps to prevent and respond to reports of discrimination and harassment of any kind in accordance with LCPS policy.

A. Definitions. Transgender and nonbinary students may use different terms to describe their lives and gender experiences. While terminology and language differ and evolve based on region, language, race or ethnicity, age, culture, and other factors, for purposes of this document, the following terms are used:

1. **Cisgender**: An adjective describing a person whose gender identity corresponds with the gender society typically associates with the sex they were assigned at birth.

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

3. **Gender-expansive/gender-diverse/gender-fluid/gender nonbinary/agender**: Terms that convey a wider, more inclusive range of gender identity and/or expression than typically associated with the social construct of a binary (two discrete and opposite categories of male and female) gender system.

4. **Gender Expression**: The manner in which a person represents or expresses their gender identity or role to others, often through appearance, clothing, hairstyles, behavior, activities, voice, or mannerisms. Gender expression may change over time and from day-to-day and is not necessarily related to the person's gender identity.

5. **Gender Identity**: A person's internal sense of their own identity as a boy/man, girl/woman, another gender, no gender, or outside the male/female binary. Gender identity is an innate part of a person's identity and can be the same or different from the sex they were assigned at birth.

6. **Gender Nonconformity**: A person who does not conform to gender stereotypes. Their gender expression differs from society's expectations associated with the sex assigned at birth. Being gender nonconforming is distinct from being transgender, though some transgender people may consider themselves to be gender nonconforming.

RIGHTS OF TRANSGENDER AND GENDER-EXPANSIVE STUDENTS

7. Gender Transition: The process of shifting toward living according to their gender identity, rather than the sex assigned at birth. Transitions can be at different levels, including social transition, such as new names, pronouns, appearance, and clothing. Some people may undergo medical transitions, such as hormone therapy or surgery.

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

9. Nonbinary: a term used to refer to people whose gender identity is not exclusively male or female, including those who identify with a different gender, a combination of genders, or no gender. Nonbinary may be considered a subset of transgender or a distinct identity. Other similar terms may include genderqueer, gender fluid, agender, or Two-Spirit (for Native American Indian, Alaska Native, First Nation, or Indigenous communities).

10. Sex Assignment: A label, generally “male” or “female,” that is typically assigned at birth on the basis of a cluster of physical and anatomical features. Intersex refers to someone whose combination of chromosomes, gonads, hormones, internal sex organs, and genitals differs from the two expected patterns of male or female.

11. Transgender: A self-identifying term that describes a person whose gender identity is different from their sex assigned at birth. A transgender girl is a girl who was presumed to be male when she was born, and a transgender boy is a boy who was presumed to be female when he was born. Note that there is a wide range of gender identities in addition to transgender male and transgender female, such as nonbinary. A transgender student is a student who consistently and sincerely asserts a gender identity different from the gender associated with the student’s sex assigned at birth.

B. Student Identification - Names and Pronouns. Transgender and gender-expansive students have the right to affirming learning environments. School staff shall, at the request of a student or parent/legal guardian, use a student’s chosen name and gender pronouns. However, in the situation when a parent/legal guardian of a minor student does not agree with a student’s request to use their chosen name and gender pronouns that reflect their consistently asserted gender identity, staff will discuss and may develop an alternative that respects both the student and the parent/legal guardian. This process will require consideration of solutions to address the student’s emotional needs to be affirmed at school as well as the goal of assisting the family in developing solutions in their student’s best interest.

RIGHTS OF TRANSGENDER AND GENDER-EXPANSIVE STUDENTS

C. Student Privacy and Confidentiality. Staff shall follow and adhere to legal standards of confidentiality relating to information about a student's gender identity, transgender status, legal name, or sex assigned at birth. Staff must support student privacy and safety and not disclose a student's gender identity or transgender status to other students or other parents. A student's gender identity or transgender status should not be shared without the student's consent, even internally among school personnel except to those with a legitimate educational interest or need to know.

To ensure consistency, staff will update student classroom records (class rosters for substitutes, etc.) with the student's consistently asserted chosen name and, where applicable, appropriate gender marker.

D. Non-Binary Gender Marker. The Virginia Department of Education has established a third gender code of "Non-Binary" for students. Parents/legal guardians, or students 18 years or older, may complete the Gender Marker Change Request form to request an update from their current gender marker ("female" or "male") to "Non-Binary." The link to the "Non-Binary" Gender Marker Change Request Form is located online on the LCPS webpage. Once the form is completed, LCPS will review and update the gender marker request accordingly. Questions can be directed to the Supervisor for Student Assistance Services within the Department of Student Services.

E. School Records. School staff shall adhere to legal standards of confidentiality to protect the student's privacy, and to prevent accidental disclosure of the student's transgender status.

1. Permanent educational records shall be maintained in accordance with [Policy 8610](#), Student Records. The educational record includes the student's legal name and sex assigned at birth. LCPS staff may be required to report the student's legal name and sex assigned at birth in some situations. In situations where school staff is required to use or to report a transgender student's legal name or sex assigned at birth, such as for purposes of standardized testing or data reporting to the Virginia Department of Education, school staff shall adhere to legal standards of confidentiality to avoid the inadvertent disclosure of such information.

LCPS shall change a student's name and gender designation upon verification or submission of a legal document such as a birth certificate, state or federal issued identification, passport, or court order. Records of former students may also be re-issued with the submission of legal documents substantiating the amended name and gender.

2. Classroom records shall, upon the request of the student or parent/legal guardian, use the name and gender marker/gender consistent with the student's consistently asserted gender identity.

RIGHTS OF TRANSGENDER AND GENDER-EXPANSIVE STUDENTS

F. Access to Activities. Transgender and gender-expansive students have the right to equitable access to school sponsored events, after-school programs, and overnight field trips and shall be permitted to participate in accordance with the student's consistently asserted gender identity. Staff shall not require the student to stay in a single-occupancy accommodation when such accommodation is not required of other students participating in the same event. Students may be assigned to a room related to their consistently asserted gender identity. Any student uncomfortable sharing a sleeping area, shower, restroom, or any sex-segregated facility, shall, upon request, be provided with a designated safe, non-stigmatizing alternative.

Student participation in Virginia High School League (VHSL) sponsored programs is governed by current VHSL policies. Gender-expansive and transgender students shall participate in VHSL sponsored activities in accordance with these policies.

G. Access to Facilities. When schools have available gender-inclusive or single-user restrooms or private changing areas, these restrooms or areas should be accessible to all students without special codes or keys.

The Code of Virginia [22.1-6.1](#) requires that menstrual supplies be available at no cost to students in accessible locations in each elementary school, and in the bathrooms at the middle and high school. Such supplies should be available in gender-inclusive bathrooms.

If there is a request for increased privacy, the student should communicate with their school administrator or counselor and will be offered access to a reasonable accommodation such as a separate changing schedule, use of a nearby private restroom or clinic/health office.

Issued: 9/13/21

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Leg Ref: Code of Virginia [22.1-23.3](#)

# Exhibit D



Book	Policies and Regulations
Section	700 - Students
Title	REGULATION - Treatment of Transgender and Gender Nonconforming Students
Code	738-5
Status	Active
Adopted	June 9, 2021
Last Revised	October 28, 2021
Prior Revised Dates	August 31, 2021

## Students

### REGULATION 738-5

#### TREATMENT OF TRANSGENDER AND GENDER NONCONFORMING STUDENTS

School Board Policy 738 prohibits discrimination against, or harassment of, students on any basis prohibited by law, including gender identity. All Prince William County Public School (PWCS) staff members are expected to recognize and respect matters of gender identity; make reasonable accommodations in response to student requests regarding gender identity in accordance with the procedures set forth below; and protect student privacy and confidentiality. This regulation, which is aligned with the "Model Policies for the Treatment of Transgender Students in Virginia's Public Schools," addresses common issues affecting transgender and gender nonconforming students and sets forth procedures, as well as available accommodations designed to ensure equal access to PWCS education programs and activities.

#### I. Definitions

- A. Gender: A set of social, psychological, and emotional traits that classify an individual as typically masculine or feminine, although the social construct of gender may be more diverse across a continuum rather than as a binary system.
- B. Gender Expression: The manner in which a person's gender identity or role is represented or expressed to others, often through appearance, clothing, hairstyles, behavior, activities, voice, or mannerisms. Gender expression may change over time and from day-to-day and is not necessarily related to the person's gender identity.
- C. Gender Identity: An internal sense of one's own identity as a boy/man, girl/woman, something in between, or something outside the male/female binary. Gender identity is an innate part of a person's identity and can be the same as, or different from, the sex assigned at birth.
- D. Gender Nonconforming: A person who does not conform to gender stereotypes. A person whose gender expression differs from expectations associated with the sex assigned at birth.
- E. Gender Transition: The process of shifting toward living according to an individual's gender identity, rather than the sex assigned at birth. Gender transitions can occur at different levels, including social transition, such as new names, pronouns, appearance, and clothing. Some individuals may undergo medical transitions, such as hormone therapy or surgery.
- F. Legal Sex: A label, generally "male" or "female," that is typically assigned at birth and recorded on a person's original birth certificate. The sex originally recorded on a person's birth certificate can be

changed by court order or by the issuance of an amended birth certificate.

- G. Transgender: A self-identifying term that describes a person whose gender identity is different from the sex assigned at birth. A transgender girl is a girl who was presumed to be male at birth, and a transgender boy is a boy who was presumed to be female at birth. There is a wide range of gender identities in addition to transgender male and transgender female, such as nonbinary.
- H. Legitimate Educational Interest: A need to know information in a student record in order to perform a professional duty.

## **II. Identification and Support of Transgender and Gender Nonconforming Students**

- A. School staff shall accept a student's or the student's parent's or guardian's assertion of the student's transgender or gender nonconforming status.
- B. Requests for accommodations shall be directed to the student's school counselor or a school administrator. When a request for accommodations is received, the counselor or administrator shall offer to convene a multidisciplinary support team that may consist of the student, parent or guardian, school administrator or administrative designee, and a school-based mental health professional familiar with the student; classroom teacher(s) and other staff members may also serve on the multidisciplinary team as needed or at the request of the student or the student's parent or guardian. The student or the student's parent or guardian shall have input into the composition of the team and may request that additional PWCS employees participate.
- C. The multidisciplinary support team shall develop an individualized student support plan that provides the student with accommodations designed to ensure equal access to PWCS education programs, activities, and facilities. When developing the individualized student support plan, the multidisciplinary team shall consider the student's age and needs, protection of student privacy, maximization of social integration, minimization of stigmatization, and any perceived safety risks. The individualized student support plan shall include, but is not limited to, the following provisions:
1. A timeline for reconvening the multidisciplinary support team;
  2. A timeline for a designated school staff member to check-in with the student and/or the student's parent or guardian;
  3. Decisions regarding the accommodations that will be provided to the student (e.g., use of preferred name and pronouns; access to school facilities; and participation in gender-specific courses, school activities, and athletics); and
  4. If applicable, a timeline to support the student's gender transition.
- D. The student or the student's parent or guardian may request that the multidisciplinary support team be reconvened at any time.

## **III. Student Name and Pronouns**

Schools shall, at the request of a student or the student's parent or guardian, allow the student to use a name and gender pronoun that reflect their gender identity. Students are not required to present substantiating evidence, obtain court-ordered name changes, or to change their student records as a prerequisite to being addressed by their preferred names and pronouns at school. The intentional or persistent refusal by a staff member to respect a student's gender identity (for example, by intentionally referring to the student by a name and/or gender pronouns that do not correspond to a student's gender identity) is a violation of this regulation and is grounds for disciplinary action. Similar conduct by students may be a violation of the bullying and harassment provisions of the PWCS "Code of Behavior."

## **IV. School Records**

- A. PWCS uses all students' preferred name and gender, not legal name or legal sex, on school-generated documents, unless use of students' legal name and legal sex is specifically required. Unless a student or the student's parent or guardian informs the school otherwise, PWCS presumes that a student's legal name and legal sex are the same as the student's preferred name and gender. School-generated documents include, but are not limited to, classroom rosters, identification

badges, announcements, certificates, newspapers, newsletters, and yearbooks.

- B. PWCS is required to maintain an official record that includes a student's legal name and legal sex and may be required to use or report the student's legal name and legal sex in some situations, such as for standardized testing. In situations where a student who is transgender or gender nonconforming has requested or the student's parent or guardian has requested that a preferred name and gender be used other than the student's legal name and legal sex be used as described in subsection A above, documentation of the student's legal name and legal sex shall be accessible only to school officials with a legitimate educational interest in the record and may be disclosed outside of PWCS only as permitted by the Family Educational Rights and Privacy Act.
- C. The director of the Student Services Department (or designee), shall change a student's legal name and/or legal sex in the student's official record upon verification or submission of a legal document substantiating the change in legal name and/or legal sex (such as a birth certificate, a passport, Virginia driver's license, or court order). Student transcripts and diplomas of former PWCS students may be re-issued upon the verification or submission of such legal documents.

#### **V. Student Privacy/Confidentiality**

All school personnel shall adhere to legal standards of confidentiality relating to information about a student's gender identity, legal name, or legal sex. In addition to adhering to all legal standards of confidentiality, school personnel shall treat information relating to a student's transgender status as being particularly sensitive; shall not disclose it to other students and other parents or guardians; and shall only disclose to other school personnel with a legitimate educational interest.

#### **VI. Dress Code**

- A. All students, regardless of their gender identity, are expected to dress in accordance with the dress and appearance guidelines set forth in the PWCS "Code of Behavior," which does not establish separate clothing requirements for students based on gender. Therefore, as long as they are meeting the dress and appearance guidelines set forth in the PWCS "Code of Behavior," transgender and gender nonconforming students shall be permitted to dress in a manner consistent with their gender identity or gender expression, including when wearing uniforms or other clothing required for school-related programs, activities, and events.
- B. School staff shall enforce the dress and appearance guidelines set forth in the PWCS "Code of Behavior" consistently, regardless of any student's actual or perceived gender identity or gender expression.

#### **VII. Access to Facilities**

- A. All students shall have access to facilities (e.g., restrooms and locker rooms) that correspond to their gender identity.
- B. Upon request, single-user, gender-inclusive facilities or other reasonable alternatives shall be made available to any student who seeks additional privacy. Any alternative option that is offered shall be non-stigmatizing and minimize the loss of instructional time.

#### **VIII. Access to Academic Courses**

- A. Schools should avoid the practice of segregating students by gender in situations where there is no legitimate educational purpose.
- B. When schools offer a gender-specific course or a course with a gender-specific section, transgender and gender nonconforming students shall be allowed to enroll in the course corresponding with their gender identity.
- C. In courses where specific units are taught in a way that divides students into groups by gender (e.g., Family Life Education), transgender and gender nonconforming students shall be allowed to participate with the group corresponding to their gender identity.
- D. Junior Reserve Officers' Training Corps (JROTC) courses are regulated by the applicable military commands and shall be in compliance with the policies and rules outlined by those military



commands.

## IX. Participation in School Activities and Athletics

- A. Except as set forth in subsections B and C below, transgender and gender nonconforming students shall be allowed to participate in school activities and athletics in a manner consistent with their gender identity. As provided in Section VII above, all students shall be given access to school facilities that correspond to their gender identity. In the case of overnight school trips, an administrator shall work with the student or the student's parent or guardian to determine the accommodations that will be provided, including hotel and room sharing arrangements, based on the particular circumstances of the trip. Accommodations for overnight school trips shall be made clear to the student prior to the student's departure for the trip and shall remain confidential.
- B. Athletic participation regulated by the "Virginia High School League" (VHSL) or another organization such as the "Virginia Scholastic Rowing Association" (VASRA) shall be in compliance with the policies and rules outlined by those organizations.
- C. In the absence of an independent regulating organization, participation in middle school athletics shall be in compliance with the policies and rules outlined by VHSL.
- D. For activities and athletics not regulated by the VHSL or another organization such as the VASRA, schools should eliminate or reduce the practice of segregating students by gender to the extent possible.

## X. Bullying, Harassment, and Discrimination

- A. PWCS prohibits any discrimination against, or harassment, or bullying of, any student on any basis prohibited by law, including gender identity.
- B. Reports or complaints alleging discrimination, harassment, or bullying based on a student's actual or perceived gender identity or transgender status shall be handled in the same manner as other bullying, discrimination, or harassment complaints. Accordingly, any such report or complaint shall be given prompt attention, investigated, and resolved under PWCS Regulations 738-1, "Resolution of Allegations against Students of Sexual Misconduct," or 738-3, "Resolution of Allegations Against Students of Discrimination or Harassment," or other PWCS complaint resolution mechanism, as applicable.
- C. The Title IX and Student Equity Officer shall be available to hear concerns from a student or the student's parent or guardian.

## XI. Professional Development and Training

All school administrators and school-based mental health professionals shall be trained on topics relating to transgender and gender nonconforming students, including how to provide for the safety and support of transgender and gender nonconforming students in PWCS education programs and activities.

The Associate Superintendent for Special Education and Student Services (or designee) is responsible for implementing and monitoring this regulation.

This regulation and related policy shall be reviewed at least every five years and revised as needed.

### Cross References

[Arabic - معاملة الطلاب مغايري الهوية الجنسية وغير المحددين لجنسهم](#)

[Chinese - 对待跨性别和性别错乱学生](#)

[Korean - 성전환 및 성별 비순응 학생에 대한 처우](#)

[Pashto - د نرېنځۍ او جنس غیر مطابقت لرونکي زده کوونکو درملنه](#)

[Spanish - TRATAMIENTO DE ESTUDIANTES TRANSGÉNERO Y DE GÉNERO NO CONFORME](#)

[Urdu - ٹرانس جینڈر اور جنس کا تعین نہ ہونے والے طلباء کے ساتھ برتاؤ](#)

[Vietnamese - ĐỐI XỬ VỚI HỌC SINH CHUYỂN GIỚI VÀ KHÔNG PHÙ HỢP GIỚI TÍNH](#)

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