

Campbell Union ESD

Administrative Regulation Gender Identity and Access

AR

Students

PURPOSE

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

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

DEFINITIONS

These definitions are intended as functional descriptors rather than labels for any student. Students may or may not use these terms to describe themselves.

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

Gender Identity: A persons' internal sense of their own gender. Though western society traditionally recognized only two genders (male and female), understanding of gender has expanded beyond the binary to recognition of gender fluidity, inclusive of: agender, genderqueer, pangender, transgender, etc. All people have a gender identity.

Gender expression: An individuals' gender-related appearance and behavior, whether or not stereotypically associated with the individuals' assigned sex at birth. ([Education Code 210.7](#))

Gender Nonconforming: Displaying gender traits that are not consistent with stereotypical characteristics associated with one's sex assigned at birth, or others' perceptions of that sex. This term can be used to describe people whose gender expression differs from stereotypical expectations about how boys and girls are "supposed to" look or act.

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

Gender-fluid (also bigender): An individual whose gender identity shifts between male, female and mixed gender states.

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

Transgender: An individual whose gender identity is different from that traditionally associated with the assigned sex at birth.

Agender (also genderless, non-gender and neutrois): An individual who does not have a felt sense of gender identity or has a gender identity that is neutral.

LGBTQQ: An umbrella term that stands for "lesbian, gay, bisexual, transgender, queer and questioning."

Sex: The biological condition or quality of being female, male or intersex.

Sexual Orientation: An individual's romantic or sexual attraction to people of the other and/or same gender. (Cal. Ed. Code § 212.6) Common terms used to describe sexual orientation include, but are not limited to, heterosexual, lesbian, gay, bisexual and asexual.

Sexual orientation and gender identity are different. Transgender students may identify as gay, lesbian, bisexual, or heterosexual.

Gender -based Harassment: Includes but is not limited to unwelcome or demeaning conduct or comments directed at or about an individual on the basis of actual or perceived gender, gender identity and gender expression, sex, sexual orientation, or other related personal characteristics, or on the basis of association with a person or group with one or more of these actual or perceived characteristics. Gender-based Harassment is a form of harassment on the basis of sex and shall be handled pursuant to the provisions in BP 5145.7 and AR 1312.3.

*Title IX of the Higher Education Act Amendments of 1972, 20 U.S.C. § 1681 et seq.
Cal Ed Code 220, 234.1*

*BP 5415.3 Nondiscrimination/Harassment
AR 1312.3-Uniform Complaint Procedures)*

SCOPE

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

Though an incident of alleged unlawful discrimination, including discriminatory harassment, intimidation, retaliation or bullying as defined within this regulation may occur off campus, if the effects of the off-campus incident result in unlawful discrimination, including discriminatory harassment, intimidation, retaliation or bullying at school that is sufficiently serious to interfere with or limit the targeted student's ability to participate in or benefit from the education program, the school must respond promptly and effectively to eliminate the harassment that occurs at school, prevent its recurrence, and address its effects. Such response may include discipline of the alleged harasser in accordance with applicable law and as provided in Board Policy (BP) and Administrative Regulation (AR). Other possible responses include, but are not limited to, those listed in ~~AR 1312.3 Section G – Remedial Action.~~

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

- (i) A message, text, sound, or image.
- (ii) A post on a social network internet web site including, but not limited to:
 1. Posting to or creating a burn page. "Burn page" means an Internet web site created for the purpose of having one or more of the effects listed above

2. Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed above. "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.
3. Creating a false profile for the purpose of having one or more of the effects listed above. "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile. (AR 5131.2)

Cal Ed Code 220, 234.1

Cal Ed Code 48900(r)

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

BP 5145.7-Sexual Harassment

AR 1312.3-Uniform Complaint Procedure

AR 5131.2 Bullying Prevention

DETERMINING A STUDENT'S GENDER IDENTITY

The responsibility for determining a student's gender identity rests with the student or, in the case of young students not yet able to advocate for themselves, with the parent or guardian.

A school shall accept a student's asserted gender identity. A school may not question or disregard the student's assertion of their gender identity unless school personnel have a credible basis for believing that the student is asserting a particular gender identity for some improper purpose.

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

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

PRIVACY

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

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

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

All students, including transgender students, have the right to openly discuss and express their gender identity or transgender status and to decide when, with whom, and how much to share that private information. In sharing this information, a student does not give up the right to privacy and at no time may the school use a student's self-disclosure as grounds for sharing information about the student's gender identity or transgender status without the student's permission.

Care must be taken to protect student privacy. School personnel should not assume that a student who is "out" in some contexts (e.g. within a classroom) is "out" everywhere (e.g. on a sports team). School personnel should also not assume that a student who is "out" now (e.g. in middle school) would still want to be "out" in the future (e.g. high school).

NAMES/PRONOUNS

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

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

SCHOOL RECORDS

The District shall maintain an official, permanent pupil record with the legal name and gender appearing on the student's birth certificate. On all other school-related records or documents, however, at the request of or with the consent of the student's parent/legal guardian as appropriate (unless the student is over 18), schools should use a transgender student's requested name and gender pronoun. This would include physical records and documents, diplomas and other certificates of advancement, electronic records and documents, and school IDs. Every effort should be made to update student records with the student's requested name and gender pronoun or gender marker, and not to circulate records with the student's assigned birth name or gender marker. Schools should also identify routine areas where a transgender student's privacy could be violated by the improper usage of the legal name and gender marker. These include but are not limited to pre-printed labels, standardized tests, student IDs or library cards, lunch tickets, school photos, notices from the main office, attendance slips, grade books, posted lists of student names, lesson plans, seating charts and roll sheets used by substitute teachers, and any other places where students' names are commonly written.

In order to protect the student's privacy, and to prevent accidental disclosure of a student's transgender status, the school should maintain the official, permanent pupil record in a secure location, separate from the student's other records. If the official record is maintained electronically, similar security measures shall be implemented to protect student privacy.

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

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

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

RESTROOM AVAILABILITY

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

A single stall, “gender neutral” restroom (such as in the health office) may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such a “gender neutral” restroom shall be a matter of choice for a student and no student shall be compelled to use such a restroom.

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

As a proactive measure, administrators should take steps to identify private gender-neutral restrooms on their campus, as well as to de-stigmatize the use of such private options. Establishing clear guidelines and expectations with regards to students’ physical privacy and boundaries is also important. Both can be reinforced through language in student handbooks, posted expectations, and through orientation and other processes for familiarizing students and guardians to the school and its facilities.

LOCKER ROOM ACCESSIBILITY

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

If any student has a need or desire for increased privacy or safety, regardless of the underlying reason, they may be provided access to a reasonable alternative changing area or locker room such as:

1. Use of a private area in the public area of the locker room facility (i.e., a nearby restroom stall with a door, an area separated by a curtain, or a P.E. instructor’s office in the locker room).
2. A separate changing schedule (either utilizing the locker room before or after other students).
3. Use of a nearby private area (i.e., a nearby restroom or a health office restroom).

However, use of such an alternative changing space shall be a matter of choice for a student and no student shall be compelled to use such an alternative. School administrators should also work to de-stigmatize the use of such options, as well as to establish clear guidelines and expectations with regard to respecting privacy and boundaries in changing areas and other close quarters.

SCHOOL ACTIVITIES AND CLASSES

School sites shall avoid segregating students by gender. Gender segregation is a source of undue stress for transgender, non-binary, agender and gender non-conforming students. Segregating by gender also draws attention to the gender identity of these students, which can lead to harassment.

Gender-neutral language should be adopted to describe traditionally male or female roles (e.g. lead/follow for dance partners) to avoid stigmatizing students.

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

OVERNIGHT FIELD TRIPS

Students should be assigned accommodations in a manner consistent with their gender identity. If a student does not feel safe with such an arrangement, school staff shall work with the student to arrange alternative accommodations.

SPORTS AND PHYSICAL EDUCATION CLASSES

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

Co-ed sports and physical education classes should not segregate students by gender for the formation of teams, dance partners, etc. Such segregation promotes sexist gender stereotypes in addition to being a source of undue stress for transgender, non-binary, agender and gender non-conforming students.

DRESS CODES/SCHOOL UNIFORM POLICIES

All students have the right to dress in accordance with their gender identity and gender expression. School dress code and uniform policies shall be gender-neutral, and shall not restrict students' clothing choices on the basis of gender or traditional stereotypes about what males and females "should" wear.

HARASSMENT AND BULLYING

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