

San Rafael City Schools

Administrative Regulation

Sexual Orientation/Gender Identity Harassment

AR 5145.71
Students

This regulation is designed to assist administrators in following these mandates to create a safe learning environment for all students and to ensure that every student has equal access to all school programs, facilities, and activities.

California and federal law (Cal. Ed. Code § 220 and Title IX, 20 U.S.C. § 1681) require schools to treat all students equally and fairly. State and federal law and District policy require that all programs, activities, and employment practices be conducted without discrimination based on, among other things, actual or perceived gender identity, gender expression, or gender. California Education Code § 201 further provides that public schools have an affirmative obligation to combat bias, and a responsibility to provide equal educational opportunities to all pupils.

The San Rafael School District is committed to providing a safe, supportive, and inclusive learning environment for all students, including transgender students, and to ensuring that every student has equal educational opportunities and equal access to the District's educational programs and activities.

This regulation will assist school and District staff to address the needs of transgender and gender non-conforming students and explains how these nondiscrimination laws should be implemented in situations where questions may arise about how to protect the legal rights or safety of students. This regulation does not anticipate every situation that might occur with respect to transgender or gender non-conforming students, and the needs of each student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of all students, including transgender students, maximizing inclusion and social integration while minimizing exclusion and stigmatization.

~~This regulation is meant to advise school site staff and administration regarding transgender and gender non-conforming student concerns in order to create a safe learning environment for all students, and to ensure that every student has equal access to all components of their educational program.~~

~~California Law Prohibits Gender-Based Discrimination in Public Schools~~

~~The California Education Code states that "all pupils have the right to participate fully in the educational process, free from discrimination and harassment." (Education Code 201(a)) Section 220 of the Education Code provides that no person shall be subject to discrimination on the basis of gender in any program or activity conducted by an educational institution that receives or benefits from state financial assistance. The Code further provides that public schools have an affirmative obligation to combat sexism and other forms of bias, and a responsibility to provide~~

~~equal educational opportunity to all students. (Education Code 201(b)).~~

~~The California Code of Regulations similarly provides that "No person shall be excluded from participation in or denied the benefits of any local agency's program or activity on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability in any program or activity conducted by an 'educational institution' or any other 'local agency' . . . that receives or benefits from any state financial assistance." 5 CCR Section 4900(a).~~

~~The California Code of Regulations defines "gender" as: "a person's actual sex or perceived sex and includes a person's perceived identity, appearance or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with a person's sex at birth." 5 CCR Section 49 10(k).~~

~~San Rafael City Schools Board Policy Prohibits Gender Based Harassment~~

~~San Rafael City Schools Board Policy 5145.3(a) prohibits discrimination in district programs and activities on the basis of gender, gender identity, sex, and sexual orientation, among other things. Board Policy 5145.71 requires the district to maintain "a safe and supportive school environment in which all members of the school community are treated with dignity and respect."~~

~~Therefore, transgender and gender non-conforming students must be protected from discrimination and harassment in the public school system. Staff must respond appropriately to ensure that schools are free from any such discrimination or harassment.~~

DEFINITIONS

These definitions are not meant to label any student, but rather to assist in understanding this policy and the legal obligations of District staff. Students may or may not use these terms to describe themselves.

Gender Identity: A person's internal, deeply-rooted identification as male, female, or another gender, regardless of the gender they were assigned at birth.

Gender Expression: The manner in which a person represents or expresses their gender to others, such as through their clothing, hairstyles, activities, or mannerisms.

Gender Non-conforming: Describes people whose gender expression differs from stereotypical expectations about how boys and girls are "supposed to" look or act.

Gender Fluid: Persons who do not identify as, or who do not express themselves as, solely male or female.

Transgender: A person whose gender identity is different from their gender assigned at birth.
LGBTQ: An umbrella term that stands for "lesbian, gay, bisexual, transgender and questioning."

Sex: Biological, internal and external reproductive organs and sex chromosomes.

Sexual Orientation: A person's romantic, physical or emotional attraction to people of the other and/or same gender. Common terms used to describe sexual orientation include, but are not limited to, heterosexual, lesbian, gay, and bisexual.

DETERMINING A STUDENT'S GENDER IDENTITY

The responsibility for determining a student's gender identity rests with the student and their parent or guardian (if student is a minor).

A school should accept a student's asserted gender identity when the student consistently, asserts such an identity at school. A school may not question or disregard the student's assertion of his or her 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 student's gender identity shall be uniformly applied by the District and school site as set forth in these guidelines.

A student is not required to have obtained a court-ordered name or gender change or medical proof in order to have his or her requested name and gender identity recognized and respected by a school.

A transition plan may be developed on an individual student basis, to include input from the student, parent/guardian, and school/district administration. This transition team could identify other staff to be involved as appropriate, while respecting the privacy rights of the student.

PRIVACY

All persons, including students, have a right to privacy. This includes the right to keep private one's transgender status or gender nonconforming presentation at school. Information about a student's transgender status, legal name, or gender assigned at birth may also constitute confidential medical information.

District and school personnel should not disclose a student's transgender status to others, including parents, and other school personnel, unless they are legally required or authorized to do so, or the student has authorized such disclosure or there is a specific, compelling and legitimate reason to do so.

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.

When a request is made by a student that concerns privacy issues, facilities use, or participation in athletic events, it should be considered regardless of the form or manner it is presented. Each request should be made on a case-by-case basis, so the unique needs of each student can be met.

When a request is made, the school personnel should first attempt to meet with the student, and if appropriate, the student's family. This is to enable the student and the school personnel to raise, discuss and address the issue or privacy as well as other student needs.

NAMES/PRONOUNS

A student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity. A court-ordered name or gender change is not required, and the student need not change their official records.

The intentional or persistent refusal to respect a student's gender identity by using the wrong name and gender pronoun is a violation of this policy.

~~Students shall have the right to be addressed by a name and pronoun corresponding to their gender identity that is exclusively and consistently asserted at school. Students are not required to obtain a court ordered name and/or gender change or to change their official records as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity. This directive does not prohibit inadvertent slips or honest mistakes, but it does apply to an intentional and persistent refusal to respect a student's gender identity. The requested name shall be included in AERIES in addition to the student's legal name, in order to inform teachers of the name and pronoun to use when addressing the student.~~

~~Official Records~~ **SCHOOL RECORDS**

The District is required to maintain a mandatory permanent pupil record which includes the legal name of the pupil, as well as the pupil's gender. 5 Cal. Code Reg. 432(b)(1)(A), (D). The District shall change a student's official records to reflect a change in legal name or gender upon receipt of documentation that such legal name and/or gender have been changed pursuant to California legal requirements. In situations where school staff or administrators are required by law to use or to report a transgender student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

RESTROOM ~~Accessibility~~ **AVAILABILITY**

Students shall have access to the restroom that corresponds to their gender identity ~~exclusively and consistently asserted at school.~~ Where available, a single stall "gender neutral" restroom (such as in the health office) ~~bathroom~~ may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such a "gender neutral" restroom ~~single stall bathroom~~ shall be a matter of choice for a student, and no student shall be compelled to use such bathroom.

LOCKER ROOM ACCESSIBILITY

Transgender students shall not be forced to use the locker room corresponding to their gender assigned at birth. In locker rooms that involve undressing in front of others, transgender students who want to use the locker room corresponding to their gender identity ~~exclusively and~~ consistently asserted at school will be provided with the available accommodation that best meets the needs and privacy concerns of all students involved. If any student has a need or desire for increased privacy or safety, regardless of the underlying reason, they ~~may~~ shall be provided access to a reasonable alternative changing area or locker room such as: ~~Based on availability and appropriateness to address privacy concerns, such accommodations could include, but are not limited to:~~

- Use of a private area in the public area (i.e., a restroom ~~bathroom~~ stall with a door, an area separated by a curtain, or a P.E. a PB instructor's office in the locker room);
- A separate changing schedule (either utilizing the locker room before or after the other students); or
- Use of a nearby private area (i.e., a nearby restroom, a nurse's office).

PHYSICAL EDUCATION CLASSES & INTRAMURAL SPORTS

Transgender and gender non-confirming students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity.

INTERSCHOLASTIC COMPETITIVE SPORTS TEAMS

Participation in interscholastic athletics is a valuable part of the educational experience for all students. All students should have the opportunity to participate in CIF activities in a manner that is consistent with their gender identity, irrespective of the gender listed on a student's records. Should any questions arise whether a student's request to participate in a sex-segregated activity consistent with his or her gender identity is bona fide, a student may seek review of his or her eligibility for participation by working through the procedure and policies established by the California Interscholastic Federation. (CIF Bylaws § 300(D)).

Sports and Gym Class

~~Transgender students shall not be denied the opportunity to participate in physical education, nor shall they be forced to have physical education outside of the assigned class time. Generally, students should be permitted to participate in gender-segregated recreational gym class activities and sports in accordance with the student's gender identity that is exclusively and consistently asserted at school. Participation in competitive athletic activities and contact sports will be resolved on a case by case basis.~~

DRESS CODES

School sites can enforce dress codes that are adopted pursuant to Education Code 35291. Students shall have the right to dress in accordance with their gender identity that is ~~exclusively and~~ consistently asserted at school, within the constraints of the dress codes adopted at their school site. This regulation does not limit a student's right to dress in accordance with the school's dress code. Schools may not adopt dress codes that restrict students' clothing on the basis of gender.

HARASSMENT AND BULLYING

Each school must ensure that all students, including transgender students, are provided a safe and supportive learning environment that is free of discrimination, harassment, and bullying.

Administrators, faculty and staff are required to intervene when they witness discrimination, harassment, or bullying of any student if they can do so safely.

Complaints alleging discrimination, harassment or bullying based on a student's gender identity, gender expression, or gender nonconformity, are to be handled in the same manner as other discrimination/harassment/bullying complaints. Consistent with the Uniform Complaint Procedures, complaints alleging discrimination or harassment based on a student's gender identity, gender expression, or gender nonconformity should be given immediate attention; fully and appropriately investigated in a timely manner; and resolved through appropriate corrective action.

GENDER-SEGREGATED ACTIVITIES ~~Gender Segregation in Other Areas~~

To the extent possible, schools should reduce or eliminate the practice of segregating students by gender. In situations ~~As a general rule, in any other circumstances~~ where students are separated by gender in school activities (i.e., class discussions, field trips), students shall be permitted to participate in accordance with their gender identity exclusively and consistently asserted at school. Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case by case basis. In such circumstances, staff shall make a reasonable effort to provide an available accommodation that can address any such concerns.

RELATED RESOURCES

BP-1312.3 Uniform Complaint Procedures

BP- 5131.2 Bullying

BP 5145.3 Nondiscrimination/Harassment

Regulation SAN RAFAEL CITY SCHOOL DISTRICT
approved: December 8, 2008 San Rafael, California