



ENGAGE ♦ EMPOWER ♦ ACHIEVE

To: Brockport Central School District Principals
From: Dr. Lesli C. Myers, Superintendent of Schools *(Signature)*
Date: September 23, 2015
Re: Transgender / Gender Non-Conforming Guidelines

Brockport Central School District endeavors to comply with all federal and state laws and regulations related to educating and accommodating transgendered and gender nonconforming students. The District must, accordingly, accommodate, treat confidentially, and safeguard such individuals from harassment and/or discrimination in the school environment.

While each situation is different and must be examined on a case-by-case basis, included below are some procedures and considerations for principals and others relative to transgender and gender non-conforming students. Please review carefully:

- A. Privacy and Confidentiality.** Respect the student's privacy and emphasize to staff members involved with the transition that this is a confidential matter. July 2015 NYSED guidance recommends taking steps to keep a student's birth name confidential when a new transgender or gender nonconforming student enrolls or when an already enrolled student begins using a chosen name rather than a birth name.
1. NYSED recognizes that there may be practical issues with respect to some student records, particularly standardized test results that are tracked.
 2. Additionally, if a transgendered student is participating in a school sponsored out-of-country trip, the student will have to follow federal requirements as to name and gender identity with respect to the student's passport.
 3. The guidance recommends that school nurses use the student's birth name only if required to verify that the student receives proper care, to coordinate care with other providers, and/or to file insurance claims.
- B. Open Communication and Planning.** Meet with the student (and parent/guardian, as appropriate) to understand the issues at hand. Talk to the student, his/her parent/guardian, and physician(s), as necessary, about proper name and pronoun usage. For example, refer to the student as "he", "him", etc. (a legal name change may raise additional issues with respect to record-keeping). Inform the student and his/her parent/guardian about complaint procedures and what he/she/they should do if he/she/they feel(s) that the student is being harassed and/or discriminated against.

- C. Name and Pronoun Use.** If a transgender student chooses to use a first name other than his/her given name in order to reflect his/her gender identity, the school should implement a plan for use of the chosen name and corresponding pronoun.
- D. Zero Tolerance.** Consider updating anti-harassment policies and the code of conduct to provide additional protection for transgendered students and staff.
- E. Gender-based Activities, Rules, Policies, and Practices.** NYSED advises that any gender-based rules, policies and practices should be reviewed by the school and District. According to NYSED, where classes, such as physical education classes, are segregated by sex, students should be allowed to participate in the class consistent with their gender identity.
- F. Sensitivity Training May be Necessary.** This could include transgender/gender nonconforming awareness education to staff, students, and/or the community. (*Note Privacy implications; do not reveal identity or confidential information without both student and parent/guardian consent).
- G. Restroom/Locker Room Use.** Discuss the issue of restroom/locker room use with the student, his/her parent/guardian, and physician(s), as necessary. The law is evolving in this area. Though the student and his/her parent/guardian may be amenable to designating a restroom and/or locker room conveniently located for the student's use, OCR and NYSED's stance is that prohibiting a student from utilizing the restroom that matches his or her gender identity constitutes sex discrimination in violation of Title IX. NYSED now advises that school districts are expected to permit transgender and gender nonconforming students to utilize the restroom matching their gender identity and to find ways to create private areas in formerly communal changing areas. Communication and cooperation in this regard is key.
- H. Sex-Specific Dress Codes.** Discuss the issue of dress code with the student, parent/guardian, and physician(s), as necessary. Allowing the student to wear traditional/gender specific attire is likely a reasonable accommodation for this student. Note that sex-specific dress codes may be challenged on the ground that they discriminate on the basis of sex in violation of Title IX or on the basis of disability in violation of the Civil Rights Law. They may also be challenged pursuant to 42 U.S.C. § 1983 on the ground that they interfere with a student's First Amendment right to express herself freely. *See, e.g., Doe v. Brockton Sch. Comm.*, No. 001060A, 20000 WL 33162199 (Mass. Super. Ct., Oct. 11, 2000) (granting preliminary injunction to student against school's enforcement of dress code provision prohibiting her from wearing clothes a biological female would be allowed to wear; court found defendant's conduct constituted direct suppression of speech).
- I. Release Form.** Obtain the necessary release from the student's parents to communicate with the student's physician(s)/therapist(s), if necessary.