



February 27, 2025

VIA EMAIL and US MAIL

Craig Trainor
Acting Assistant Secretary
Office for Civil Rights
Lyndon B. Johnson Department of Education Bldg.
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Request for investigation regarding violations of applicable Executive Orders and Title IX of the Higher Education Act of 1972 by the public-school systems in St. Paul, MN; Rosemount-Apple Valley-Eagan, MN; Minneapolis, MN; Osseo, MN; Rochester, MN; Robbinsdale, MN; North St. Paul-Maplewood-Oakdale, MN; Bloomington, MN; Duluth, MN; White Bear Lake, MN; Burnsville-Eagan-Savage, MN; Moorhead, MN; Hopkins, MN; Richfield, MN; and Minnesota Transition Charter School in Minneapolis, MN

Dear Acting Assistant Secretary Trainor:

The Upper Midwest Law Center (“UMLC”) is a public-interest law firm based in Minnesota. We work to preserve freedom, uphold the Constitution and essential federal civil rights protections, and expose abuses of power.

In recent weeks, President Trump has issued three Executive Orders that corrected significant misunderstandings and abuses of Title IX of the Higher Education Act of 1972, 20 U.S.C. §1681 *et seq.* (“Title IX”), protected women and girls from harmful gender ideology, and promised investigations of violations of Title IX and other federal laws.

The Executive Orders are:

- President Trump’s January 20, 2025, Executive Order entitled “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government;”
- his January 29, 2025, Executive Order entitled “Ending Radical Indoctrination in K-12 Schooling;” and
- his February 5, 2025, Executive Order entitled “Keeping Men Out of Women’s Sports.”

Pursuant to these Executive Orders, Title IX, and other executive authority, the Office for Civil Rights of the United States Department of Education (“OCR”) launched an investigation into the Minnesota State High School League (“MSHSL”) on February 12, 2025, for its

violations of federal law related to the Executive Orders. *Exhibit A*.¹ UMLC respectfully requests that the OCR open similar investigations into the following public-school districts in Minnesota for related and continuing violations of the aforementioned Executive Orders, Title IX, and other applicable federal laws:

1. St. Paul Public Schools (ISD #625);
2. Rosemount-Apple Valley-Eagan Public School District (ISD #196);
3. Minneapolis Public School District (Special School District #1);
4. Osseo Area School District (ISD #279);
5. Rochester Public School District (ISD #535);
6. Robbinsdale Public Schools (ISD #281);
7. North St. Paul-Maplewood-Oakdale School District (ISD #622);
8. Bloomington Public School District (ISD #271);
9. Duluth Public Schools (ISD #709);
10. White Bear Lake Area School District (ISD #624)
11. Burnsville-Eagan-Savage School District (ISD #191);
12. Moorhead School District (ISD #152);
13. Hopkins Public School District (ISD #270);
14. Minnesota Transitions Charter School; and
15. Richfield Public Schools (ISD #280).

These school districts violate the Executive Orders listed above, Title IX and other federal laws by maintaining policies that permit “intersex, transgender, two-spirit, gender expansive, non-binary, and gender-questioning students” to use sex-segregated intimate facilities (including restrooms and locker rooms) consistent with their “gender identity,”² while denying individuals whose “gender identity” is the same as their sex the ability to feel safe and comfortable in the use of the sex-segregated common restrooms and locker rooms of their sex.

These school districts also violate Title IX by stating that “all students shall be permitted to participate in physical education classes, health education classes, and intramural sports and

¹ “U.S. Department of Education Launches Title IX Investigations into Two Athletic Associations,” Feb. 12, 2025, <https://www.ed.gov/about/news/press-release/us-department-of-education-launches-title-ix-investigations-two-athletic-associations>.

² See, e.g., Minneapolis Public Schools, Gender Inclusion, <https://tinyurl.com/bdfnz3bp>.

activities in a manner consistent with their gender identity”³ and therefore place individuals whose “gender identity” is the same as their sex at a physical disadvantage. OCR announced investigations into five Virginia school districts (on February 12, 2025) and a Maine school district (on February 21, 2025) based on similar policies.

The Relevant Policies and Regulations

All relevant policies are attached as Exhibits to this letter. They are similar in scope, definitions, and provisions. This letter will describe in detail the policies of three of the largest school districts that are at issue here and then highlight differences and important nuances in the remaining district policies.

St. Paul Public Schools

St. Paul Public Schools’ “Gender Inclusion” policy (Policy No. 500) provides that all students must have “access to facilities that best align with students’ gender identity, and/or the facilities the student feels safest accessing.” *Exhibit B*.⁴ The policy also provides “all students the opportunity to participate in co-curricular and extracurricular activities in a manner consistent with their gender identity, including but not limited to intramural and interscholastic athletics.” *Id.*

In St. Paul’s policy, “Gender Identity” is defined as including the claim that “[a] person’s gender identity may or may not correspond to their assigned sex at birth or to their primary or secondary sex characteristics.” *Id.* Gender Fluid is described as “someone whose gender identity is not fixed and may shift over time.” *Id.* “Questioning” is defined as “someone who has not yet self-identified their sexual orientation, gender identity, gender expression, or some combination of the three.” *Id.*

The policy requires that staff “respect the gender identity and gender expression of all students by honoring their right to be identified and addressed by their self-identified name and pronouns. Staff will not refer to a student using their ‘dead name.’” *Id.*

Finally, the policy requires schools to “[p]rovide all students the opportunity to socially transition during the timing and manner of which they choose.” *Id.* “Information related to a student’s transition cannot be disclosed without consent of the student and/or family.” *Id.*

In its “Gender Inclusion Procedures” document (Policy Procedure No. 500.00.01), St. Paul further requires that, “regardless of parental consent,” school district “[s]taff must honor the student’s preferred name and pronoun usage” and follow student preferences (after a private conversation) in addressing the student in “communications to the student’s parent(s)/legal guardians(s).” *Id.* With parental consent for minor students, other student preferences can be changed in the District’s system. *Id.* From there, students have “access to facilities, including but not limited to, restrooms and locker rooms,” along with athletic teams and

³ *Id.*

⁴ St. Paul Public Schools, “Gender Inclusion,” <https://tinyurl.com/4zh7eus8>; St. Paul Public Schools Procedure, “Gender Inclusion,” <https://tinyurl.com/8jtzd5rp>.

extracurriculars, that align with the student’s gender as listed in the District’s system. *Id.* Likewise, students are roomed on overnight field trips with the same gender as listed in the District’s system. *Id.*

President Trump’s Executive Orders prohibit federally funded K-12 schools from: failing to recognize that there are two sexes, male and female, which are not changeable and are grounded in fundamental and incontrovertible reality; undermining all-female athletic opportunities by allowing male competitive participation in women’s sports; allowing males into all-female locker rooms; and engaging in the “social transition” of a child, which includes modifying a person’s name or pronoun. St. Paul’s policy and procedures violate these Executive Orders.

St. Paul’s policy is even more troubling because, according to Minnesota’s own data, only 34.1% of St. Paul students were proficient in reading in 2024. The State of Minnesota is unwilling to seriously address the District’s failings. Only federal government action can stop the indoctrination so students can get back to learning to read in St. Paul.⁵

Rosemount-Apple Valley-Eagan Public Schools

Rosemount-Apple Valley-Eagan Public School District (“Rosemount”) states in its “Gender Inclusion” policy (Policy No. 503.9AR) that “every student may request to be addressed by a name and pronoun that corresponds to the student’s gender identity.” *Exhibit C.*⁶ Furthermore, “[w]ith respect to facilities, including all restrooms, locker rooms or changing facilities, students will have access that corresponds to their gender identity.” *Id.* For physical education and intramurals, students are to participate “in a manner consistent with their gender identity. All students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity as permitted by the Minnesota State High School League.” *Id.* Finally, “[a]ll students, regardless of their gender identity, have the right to participate fully in overnight trips and other activities. Student accommodations on overnight trips shall be consistent with their gender identity.” *Id.*

Rosemount defines “Gender identity” as “a person’s internal, deeply felt sense of being female, male, a blend of both or neither. The term refers to how individuals perceive themselves and what they call themselves and it can be the same as or different from their sex assigned at birth.” *Id.* Rosemount further defines “Transgender” as “an umbrella term for individuals whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation.” *Id.*

⁵ Minnesota Department of Education (“MDE”), “Minnesota Report Card,” St. Paul Public Schools Student Achievement Level – Reading, <https://tinyurl.com/49m3cd4z>. The proficiency results for each district discussed herein may also be downloaded from the MDE’s website at <https://public.education.mn.gov/MDEAnalytics/DataTopic.jsp?TOPICID=1>.

⁶ <https://tinyurl.com/2vn8jasu>.

Rosemount violates the Executive Orders listed above, Title IX, and other federal laws by: denying the reality of two sexes; failing to protect girls from playing against males in sports; requiring girls to share bathrooms and locker rooms with boys; allowing boys to sleep in the same room as girls on overnight field trips; and requiring staff to use pronouns that do not correspond to the sex of students.

Again, these violations are especially problematic in light of student achievement in Rosemount schools. In 2024, only 57.2% of students were proficient in reading.⁷

Minneapolis Public Schools

The Minneapolis School District provides that “students and staff of Minneapolis Public Schools (MPS) deserve respectful and inclusive learning environments that value students’ gender identity and gender expression.” *Exhibit D*.⁸ Its “Gender Inclusion” policy (Policy No. 5025) purports to address “the inequities some students, including intersex, transgender, two-spirit, gender expansive, non-binary, and gender-questioning students, confront as they navigate a system designed using a gender binary model.” *Id.*

Minneapolis’ policy defines “Gender Identity” as “a person’s deeply held sense or psychological knowledge of their own gender. A person’s gender identity can be the same or different from the sex or gender assigned at birth.” *Id.* “Gender Expression” refers to “the manner in which a person represents or expresses that person’s gender identity to others, often through behavior, clothing, hairstyles, activities, or mannerisms. Although transgender people typically seek to make their gender expression match their gender identity, rather than their sex assigned at birth, gender expression may or may not conform to a person’s gender identity.” *Id.*

Minneapolis then defines “Gender Expansive” to be an “umbrella term that is used to describe individuals whose gender expression, gender identity, or gender role is fluid and/or may differ from gender norms associated with their sex assigned at birth. This term also includes people who identify outside of traditional gender categories or identify as both or several genders. Other terms that can have a similar meaning include ‘gender diverse,’ ‘gender non-conforming,’ ‘genderqueer,’ and ‘nonbinary.’” *Id.* Finally, Minneapolis describes “Transgender/Trans” as “people whose gender identity or expression is different from that traditionally associated with an assigned sex at birth. Transgender identity is not dependent on medical procedures or other physical changes.” *Id.*

Minneapolis further asserts that “a transgender and/or gender expansive student in all grades has the right to be referred to at school by a name and pronouns that align with their gender identity.” *Id.* Facility access, which “includes, but is not limited to, multi-stalled gendered restrooms, locker rooms, and school programs, trips, and athletic programs” are available to students “consistent with the student’s gender identity.” *Id.* Similarly, “students

⁷ MDE, “Minnesota Report Card,” Rosemount Public Schools Student Achievement Level – Reading, <https://tinyurl.com/4pfdr86k>.

⁸ <https://tinyurl.com/bdfnz3bp>.

shall have access to the restroom that corresponds to their gender identity asserted at school.” *Id.* In case the point wasn’t clear enough, the policy also states that “[i]n no case shall any student be required to use a restroom that conflicts with the student’s gender identity.” The same applies to locker rooms. *Id.* If a girl has a concern with sharing a locker room with a boy, then the policy provides that she will “*if possible*, be provided with a reasonable alternative changing area.” *Id.* (emphasis added).

Minneapolis allows boys to compete against girls in all “physical education classes, health education classes, and intramural sports and activities in a manner consistent with their gender identity.” *Id.* Similarly, “students shall be permitted to participate in all school trips in a manner that corresponds with their gender identity.” The same applies to interscholastic sports: “[a]ll students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity and in compliance with the applicable regulations of the Minnesota State High School League (MSHSL).” *Id.*

Minneapolis School District’s Gender Inclusion policy violates all of the aforementioned Executive Orders. And Minneapolis does so while only preparing 40.1% of students to read at grade-level proficiency.⁹

Other Troubling School District Policies

The following school districts have also promulgated gender policies that appear to violate the Executive Orders listed above. Unless specified, the provisions of these policies are substantially similar to the St. Paul Public Schools, Rosemount-Eagan-Apple Valley Public Schools, and Minneapolis Schools policies detailed above:

- Rochester Public Schools “Supporting Transgender and/or Gender Expansive Students” policy (Policy No. 413A). *Exhibit E*.¹⁰
 - Only 49.7% of students in Rochester public schools are proficient in reading.¹¹
- Robbinsdale Public Schools “Gender Identity” policy (Administrative Procedure No 522.1 and Policy No. 522.1). *Exhibit F*.¹²
 - Robbinsdale’s “Gender Identity” policy is notable in its unusually broad definition of “Gender Identity” which is defined as “[o]ur deeply held, internal

⁹ MDE, “Minnesota Report Card,” Minneapolis Public Schools Student Achievement Level – Reading, <https://tinyurl.com/4k35utdt>.

¹⁰ <https://tinyurl.com/4ayk2skr>.

¹¹ MDE, “Minnesota Report Card,” Rochester Public Schools Student Achievement Level – Reading, <https://tinyurl.com/pad6adb3>.

¹² Robbinsdale Public Schools, “Administrative Procedure 522.1 – Gender Identity,” <https://tinyurl.com/y53bekmn>; Robbinsdale Public Schools, “522.1 – Gender Identity,” <https://tinyurl.com/mphv9wdc>.

sense of self as masculine, feminine, a blend of both, neither, or something else. Identity also includes the name we use to convey our gender. Gender identity can correspond to, or differ from the sex we are assigned at birth.” *Id.* Robbinsdale also provides “[e]xamples of pronouns:” “She, her, hers;” “He, him, his” “They, them, theirs;” and “Xe (‘zee’), xir (‘zeer’), xirs (‘zeers).” Notably, “[t]his is not a comprehensive list and students and staff should be allowed to identify their preferred pronouns.” *Id.*

- Only 41.4% of Robbinsdale’s students are proficient in reading.¹³
- North St. Paul-Maplewood-Oakdale School District “Gender Inclusion” policy (Policy No. 535). *Exhibit G*.¹⁴
 - Reading proficiency is especially poor in North St. Paul schools, with only 35.2% students reading at grade-level proficiency.¹⁵
- Bloomington Public School District “Student-Gender Inclusion” policy (Policy No. 540). *Exhibit H*.¹⁶
 - Bloomington’s “Student-Gender Inclusion” policy contains the following notable warning to those who disagree with its gender ideology: “The intentional or persistent refusal to respect a student’s gender identity (for example, intentionally referring to the student by a name or pronoun that does not correspond to the student’s gender identity) can constitute harassment and is a violation of this policy.” *Id.*
 - In Bloomington, 43.2% of students are proficient at reading.¹⁷
- Duluth Public Schools “Gender Inclusion” policy (Policy No. 541). *Exhibit I*.¹⁸

¹³ MDE, “Minnesota Report Card,” Robbinsdale Public Schools Student Achievement Level – Reading, <https://tinyurl.com/majrs4t3>.

¹⁴ <https://www.isd622.org/about/policies/policy/~board/policies/post/535>.

¹⁵ MDE, “Minnesota Report Card,” North St. Paul Public Schools Student Achievement Level – Reading, <https://tinyurl.com/bdzm2624>.

¹⁶ <https://tinyurl.com/mw3emwd9>.

¹⁷ MDE, “Minnesota Report Card,” Bloomington Public Schools Student Achievement Level – Reading, <https://tinyurl.com/4yx2c83f>.

¹⁸ <https://tinyurl.com/238xfh79>.

- In Duluth, 56.8% of students are proficient in reading.¹⁹
- White Bear Lake Area School District’s “Administrative Guidelines for Transgender and Gender-Expansive Student Rights and Protections” policy (Policy No. 413 Addendum-C). *Exhibit J*.²⁰
 - White Bear Lake’s gender policy has an unusual definition of sex that clearly violates President Trump’s Executive Order, Title IX, and other federal laws: “Sex refers a set of biological attributes. It is primarily associated with physical and physiological features including chromosomes, gene expression, hormone levels and function, and reproductive/sexual anatomy. Sex is usually categorized as female, male, or intersex, but there is variation in the biological attributes that comprise sex and how those attributes are expressed.” *Id.*
 - Just over half—50.7 percent—of White Bear Lake students are reading at proficiency.²¹
- Burnsville-Eagan-Savage School District “Transgender and Gender Expansive Students (Policy No. 413R). *Exhibit K*.²²
 - Burnsville-Eagan-Savage School District’s policy contains a broad definition of “Gender Non-Conforming”, which is defined as “people whose gender expression differs from social expectations, such as ‘feminine’ boys, ‘masculine’ girls, and those who are perceived as androgynous. This phrase also includes people who identify outside traditional gender categories.” *Id.*
 - Only 39.2% of students in Burnsville schools are proficient in reading.²³
- Moorhead School District “Guidelines for Supporting Student and Employee Gender Identity and Gender Expression” (Policy No. 413.2). *Exhibit L*.²⁴

¹⁹ MDE, “Minnesota Report Card,” Duluth Public Schools Student Achievement Level – Reading, <https://tinyurl.com/4ym683tk>.

²⁰ <https://tinyurl.com/jzz9ujyt>.

²¹ MDE, “Minnesota Report Card,” White Bear Lake Public Schools Student Achievement Level – Reading, <https://tinyurl.com/bd7zczdf>.

²² <https://tinyurl.com/2c8pb4mh>.

²³ MDE, “Minnesota Report Card,” Burnsville Public Schools Student Achievement Level – Reading, <https://tinyurl.com/4a93jdvs>.

²⁴ <https://www.moorheadschoools.org/documents/download/?id=713193>.

- Moorhead’s gender policy contains punitive measures similar to Bloomington against those who refuse to follow its gender ideology: “The intentional or persistent refusal to respect a person’s gender identity (for example, intentionally referring to the student by a name or pronoun that does not correspond to the student’s gender identity) is a violation of MAPS Policy 413, Prohibition of Harassment and Violence.” *Id.* It is, of course, totally absurd for anyone to claim to be a victim of “violence” when spoken to in a manner that observes biological reality.
- Again, this school district needs to get back to teaching: only 42.4% of students in Moorhead are proficient in reading.²⁵
- Hopkins Public School District “Gender Inclusion” policy (Policy No. 552). *Exhibit M.*²⁶
 - 47.8% of students in Hopkins are proficient in reading.²⁷
- Minnesota Transitions Charter School “School Board Practice Related to Transgender and Gender Nonconforming Students” policy. *Exhibit N.*²⁸
 - At these schools, only 36.8% of students are reading at proficiency.²⁹
- Richfield Public Schools “Gender Inclusion Policy” (Policy No. 586). *Exhibit O.*³⁰
 - Only 36.6% of Richfield students are proficient at reading.³¹
- Osseo Area School District “Gender Inclusion Policy” (Policy 508). *Exhibit P.*³²

²⁵ MDE, “Minnesota Report Card,” Moorhead Public Schools Student Achievement Level – Reading, <https://tinyurl.com/rkzyx5n5>.

²⁶ <https://tinyurl.com/5a3mrvbv>.

²⁷ MDE, “Minnesota Report Card,” Hopkins Public Schools Student Achievement Level – Reading, <https://tinyurl.com/4j8kmknm>.

²⁸ <https://tinyurl.com/2zprku7r>.

²⁹ MDE, “Minnesota Report Card,” Minnesota Transitions Charter School Student Achievement Level – Reading <https://tinyurl.com/yp64nzw5>.

³⁰ <https://tinyurl.com/5hxc59ff>.

³¹ MDE, “Minnesota Report Card,” Richfield Public Schools Student Achievement Level – Reading, <https://tinyurl.com/nhat8hza>.

³² <https://tinyurl.com/heeiyau3>.

- 53% of Osseo high schools students are proficient in reading, while only 45% of elementary students are proficient.³³

The Relevant School Policies, Regulations, and Guidance Violate Title IX

The Supreme Court of the United States has held that “[s]ex, like race and national origin, is an immutable characteristic determined solely by the accident of birth.” *Frontiero v. Richardson*, 411 U.S. 677, 686 (1973). Further, sex discrimination as defined by Title IX means discrimination on the basis of biological sex, not gender identity. *See Adams v. Sch. Bd. of St. Johns Cty.*, 57 F.4th 791, 811–12 (11th Cir. 2022).

Despite the obvious and well-settled principle that sex is an immutable characteristic, the Biden Administration issued a rule interpreting Title IX that jettisoned the reality of biological sex in favor of “gender identity.” In June and July of 2024, numerous federal district courts enjoined the Biden Administration’s rule on the grounds that Title IX prohibits discrimination on the basis of sex, not gender identity. *See, e.g., Oklahoma v. Cardona*, No. CIV-24-00461-JD, 2024 WL 3609109 (W.D. Okla. July 31, 2024); *Arkansas v. U.S. Dep’t of Educ.*, No. 4:24-CV-636-RWS, 2024 WL 3518588 (E.D. Mo. July 24, 2024); *Carroll Indep. Sch. Dist. v. U.S. Dep’t of Educ.*, No. 4:24-cv-00461-O, 2024 WL 3381901 (N.D. Tex. July 11, 2024); *Texas v. United States*, No. 2:24-CV-86-Z, 2024 WL 3405342 (N.D. Tex. July 11, 2024); *Kansas v. U.S. Dep’t of Educ.*, No. 24-4041-JWB, 2024 WL 3273285 (D. Kan. July 2, 2024); *Tennessee v. Cardona*, No. 2:24-cv-072-DCR, 2024 WL 3631032 (E.D. Ky. July 10, 2024); *Louisiana v. U.S. Dep’t of Educ.*, 737 F. Supp. 3d 377 (W.D. La. 2024).

Following an appeal from the Fifth and Sixth Circuits’ denial of a stay of the injunctions issued by the District Courts for the Western District of Louisiana and the Eastern District of Kentucky, the Supreme Court of the United States upheld those denials. *See United States Dep’t of Educ. v. Louisiana*, 603 U.S. 866 (2024). Notably, all nine justices “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). On January 9, 2025, the federal Eastern District of Kentucky granted a permanent, nationwide injunction on the Biden Administration’s unlawful rewrite of Title IX. *See Tennessee v. Cardona*, Case No. 2:24-cv-72-DCR, 2025 WL 63795 (E.D. Ky. Jan. 9, 2025).

Because the Biden Title IX rules have been enjoined, the prior rules prohibiting the above-described discrimination control.³⁴ Title IX prohibits discrimination on the basis of biological sex and cannot be expanded by rule to require recipients of federal funds to issue policies prohibiting discrimination on the basis of “gender identity.” But it should be equally clear that allowing “gender expansive and transgender students” to use common restrooms and locker rooms consistent with their subjective “gender identity”, but not their biological sex, results in the very thing that Title IX is designed to prohibit—discrimination on the basis of

³³ Osseo Public School District, U.S. News & World Report, <https://tinyurl.com/yjmhsy84>.

³⁴ *See* United States Department of Education, Office for Civil Rights, Dear Colleague Letter (January 31, 2025), <https://perma.cc/3FZE-2M34>.

sex. The relevant policies and application of those policies in the school districts identified above illustrate these exact points.

In each of these school districts, a “gender expansive or transgender student” has access to the sex-segregated common restrooms and locker rooms of the opposite sex because they claim they need such access to be safe and comfortable in their subjective sense of “gender identity.” But when other students whose “gender identity” is the same as their biological sex object on the grounds that they now feel *unsafe* and *uncomfortable* in the common sex-segregated restrooms and locker rooms that have traditionally been designated exclusively for their sex, those students’ only option is generally to use a private restroom or an alternative (and then, only if such alternative facilities are available). In other words, the relevant policies provide greater rights to students whose “gender identity” does not match their biological sex than to students whose “gender identity” matches their biological sex. Thus, these policies erase the very concept of biological sex in favor of “gender identity” and codify discrimination “on the basis of sex.” *Cf. Bostock v. Clayton Cnty.*, 590 U.S. 644, 665 (2020) (when discrimination is motivated by the difference between expressed sex identity and biological sex, “it necessarily and intentionally discriminates” because of sex).

Additionally, each school district policy attached asserts that “gender expression” is the way students assert their “gender identity.” In other words, a boy can express his “gender identity” as female merely by adopting the “behavior, clothing, hairstyles, activities, voice, or mannerisms” of a female. This is the exact type of sex-based classification that patently “rest[s] on impermissible stereotypes” and is unlawful sex discrimination. *J.E.B. v. Alabama*, 511 U.S. 127, 139 n.11 (1994).

Action by the OCR is especially critical in this case because Minnesota Attorney General Keith Ellison stated in a February 20, 2025, letter that President Trump’s “Executive Order does not have the force of law and cannot supersede Minnesota state law.” Attorney General Ellison interprets Minnesota law to require MSHSL, and by extension those districts which follow MSHSL policy to permit transgender women (i.e., men claiming to be women) to compete against actual women in high school sports. *Exhibit Q*.³⁵ In so doing, Attorney General Ellison claims that “[t]he Executive Order...was not issued pursuant to a statutory mandate or express delegation of authority from Congress.” *Id.* He squarely denies that the President has the authority under Title IX or other federal law to withhold federal funds to MSHSL (or its member school districts) if they fail to follow the Executive Orders discussed above and the Trump Administration’s (correct) interpretation of Title IX. This direct challenge to the authority of the federal government to enforce federal law, including Title IX, raises substantial questions under the Supremacy Clause, and should be addressed by OCR and the DOJ. *See Felder v. Casey*, 487 U.S. 131, 138 (1988) (“any state law, however clearly within a State’s acknowledged power, which interferes with or is contrary to federal law, must yield”) (citations omitted).

The possible effect of Attorney General Ellison’s wrong opinion under Minnesota law increases the urgency of these matters in Minnesota. Under Minnesota law, an Attorney

³⁵ Op. Atty. Gen. 1035, Feb. 20, 2025, <https://www.ag.state.mn.us/Office/Opinions/1035-20250220.pdf>.

General opinion on a matter of public importance related to school districts “shall be decisive until the question involved shall be decided otherwise by a court of competent jurisdiction.” Minn. Stat. §8.07. It is thus imperative that OCR and the DOJ take action to ensure that *other* school districts not identified herein that do *not* desire to violate Title IX and President Trump’s order are not bound by Attorney General Ellison’s reckless and faulty legal opinion.

Finally, I would note that U.S. Attorney General Pam Bondi reached the same conclusion that I have outlined above in a letter dated February 25, 2025, to Ellison and MSHSL Executive Director Erich Martens. She wrote:

It therefore does not matter if Minnesota state law allows, or even requires, state athletic associations or other similar entities to require girls to compete against boys in sports and athletic events. Where federal and state law conflict, states and state entities are required to follow federal law—not because we live in an authoritarian state, but because the Constitution requires states to follow the supreme law of the land.

*Exhibit R.*³⁶ Attorney General Bondi went on to state unequivocally that “[i]f the Department of Education’s investigation shows that relevant Minnesota entities are indeed denying girls an equal opportunity to participate in sports and athletic events by requiring them to compete against boys, the Department of Justice stands ready to take all appropriate action to enforce federal law.”

As of the date of this letter, none of the fifteen Minnesota school districts cited above have given any indication that they plan to abide by Title IX or the President’s Executive Orders. Swift action by the OCR and DOJ to enforce Title IX, President Trump’s Executive Orders and other applicable federal law is therefore essential.

Conclusion

The fifteen Minnesota public school systems identified herein have, by policy, eliminated the protections that Title IX requires of K-12 institutions that accept federal funding, and their policies run afoul of President Trump’s Executive Orders of January 20, 2025, January 29, 2025, and February 5, 2025, referenced above. For far too long, they have incorrectly told parents that they are required by law to abandon protections from discrimination on the basis of sex in favor of policies that eviscerate the notion of sex itself and replace it with “gender identity.” The recent injunctions against the similar position taken by the Biden Administration’s lawless Title IX rewrite make clear that these school districts have it wrong.

As these school districts have shown no inclination to end their discriminatory policies, the Department of Education should immediately open investigations into these schools and, if necessary, cut off all federal funding. OCR’s (and DOJ’s) vigorous action against these schools is particularly warranted because it has already opened an investigation into the Minnesota State High School League’s publicly stated intention not to follow President Trump’s


³⁶ <https://www.justice.gov/ag/media/1390801/dl>.

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Executive Orders, and because of the direct challenge to the federal Supremacy Clause by Minnesota Attorney General Keith Ellison.

If you would like to discuss these matters further, I would welcome any discussion.

Sincerely,



James V. F. Dickey
Senior Counsel
Upper Midwest Law Center

Enclosures: relevant policies of 15 Minnesota school districts; certain correspondence identified as exhibits

Cc: U.S. Attorney General Pam Bondi (by Acting Assistant Attorney General Brett A. Shumate); Minnesota House Speaker Lisa Demuth; Minnesota House Majority Leader Harry Niska; House DFL Caucus Leader Jamie Long; Senate Majority Leader Erin Murphy; Senate Minority Leader Mark Johnson; St. Paul Public Schools School Board; Rosemount-Apple Valley-Eagan Public School Board; Minneapolis Public School District School Board; Osseo Area School District School Board; Rochester Public School District School Board; Robbinsdale Public Schools School Board; North St. Paul-Maplewood-Oakdale School District School Board; Bloomington Public School District School Board; Duluth Public Schools School Board; White Bear Lake Area School District School Board; Burnsville-Eagan-Savage School District School Board; Moorhead School District School Board; Hopkins Public School District School Board; Minnesota Transitions Charter School Board; and Richfield Public Schools School Board. (all via email)

Exhibit A

U.S. Department of Education

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PRESS RELEASE

U.S. Department of Education Launches Title IX Investigations into Two Athletic Associations

Office for Civil Rights Directed Investigations Into Two Athletic Associations, Both of Which Publicly Announced Plans to Violate Federal Antidiscrimination Laws Related to Girls' and Women's Sports.

FEBRUARY 12, 2025

The U.S. Department of Education's Office for Civil Rights (OCR) today announced directed investigations into the Minnesota State High School League (MSHSL) and the California Interscholastic Federation (CIF), both of which publicly announced plans to violate federal antidiscrimination laws related to girls' and women's sports. This includes the possibility of allowing male athletes to compete in women's sports and use women's intimate facilities.

"The Minnesota State High School League and the California Interscholastic Federation are free to engage in all the meaningless virtue-signaling that they want, but at the end of the day they must abide by federal law," **said Acting Assistant Secretary for Civil Rights Craig Trainor.** "OCR's Chicago and San Francisco regional offices will conduct directed investigations into both organizations to ensure that female athletes in these states are treated with the dignity, respect, and equality that the Trump Administration demands. I would remind these organizations that history does not look kindly on entities and

states that actively opposed the enforcement of federal civil rights laws that protect women and girls from discrimination and harassment.”

President Trump’s Executive Order, [Keeping Men Out of Women’s Sports](#), states that “it is the policy of the United States to rescind all funds from educational programs that deprive women and girls of fair athletic opportunities,” and to take “all appropriate action to affirmatively protect all-female athletic opportunities and all-female locker rooms and thereby provide the equal opportunity guaranteed by Title IX of the Education Amendments Act of 1972.”

Last week, OCR [launched](#) directed investigations into San Jose State University, the University of Pennsylvania, and the Massachusetts Interscholastic Athletic Association for reported violations of Title IX. OCR also made it clear that they are reviewing athletic participation policies at a number of schools to evaluate their compliance with Title IX protections for female athletes.

Background Information on the Directed Investigations:

In a public statement released after President Trump signed his Protecting Women’s Sports Executive Order, [MSHSL](#) and [CIF](#) announced their intentions to abide by state law as it relates to girls’ and women’s sports in violation of federal antidiscrimination laws. Both state laws allow athletes to participate on teams based on an individual’s subjective gender identity rather than biological sex, even though biological sex is the basis for Title IX protections. State laws do not override federal antidiscrimination laws, and these entities and their member schools remain subject to Title IX and its implementing regulations.

CONTACT

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Office of Communications and Outreach (OCO)

Page Last Reviewed: February 12, 2025

Related Content

U.S. Department of Education Releases Statement on Maine's Title IX Compliance

The U.S. Department of Education's Acting Assistant Secretary for Civil Rights Craig Trainor released a statement about Maine's compliance with Title IX today.

FEBRUARY 26, 2025

U.S. Department of Education Employees Return to Work

Today, in compliance with President Trump's memorandum for federal employees to return to in-person work, the U.S. Department of Education welcomed back over 70% of its total workforce to employees' designated duty stations in Washington and elsewhere.

FEBRUARY 24, 2025

Office for Civil Rights Launches Title IX Violation Investigations into Maine Department of Education and Maine School District

The Office for Civil Rights announced that it is initiating a directed investigation of the Maine Department of Education amid allegations that it continues to allow male athletes to compete in girls' interscholastic athletics.

FEBRUARY 21, 2025

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Exhibit B

Policy 500.00
GENDER INCLUSION

I. PURPOSE

This policy addresses the inequities some students, including intersex, transgender, gender fluid, questioning, gender queer, gender diverse, and gender creative students, confront as they navigate a system designed using a cisgender, binary model.

II. GENERAL STATEMENT OF POLICY

The students of Saint Paul Public Schools (SPPS) deserve respectful and inclusive learning environments that foster a sense of belonging and respect their gender identity and gender expression. SPPS ensures that all students have access to programming and facilities in which they feel comfortable, safe, supported, included, and empowered.

III. DEFINITIONS

- A. **Gender** refers to the socially constructed roles, behaviors, activities, and attributes that a given society attaches to femininity or masculinity.
- B. **Gender Binary** refers to the social construction of a gender dichotomy between masculinity and femininity. The gender binary often ignores or denigrates alternate gender constructions.
- C. **Gender Expression** refers to the manner in which persons represent or express gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
- D. **Gender Identity** refers to a person's inherent sense of being a man, woman, both, or neither. A person's gender identity may or may not correspond to their assigned sex at birth or to their primary or secondary sex characteristics. A person's gender identity is not necessarily visible to others.
- E. **Gender Fluid** is a term that refers to someone whose gender identity is not fixed and may shift over time.
- F. **Questioning** is a term that refers to someone who has not yet self-identified their sexual orientation, gender identity, gender

expression, or some combination of the three.

- G. **Gender Diverse** is an umbrella term that refers to someone who identifies and/or expresses themselves outside of the gender binary. Their gender identity and/or expression may not fit neatly into a category based on stereotypical gender constructs.
- H. **Gender Creative** is an umbrella term that refers to someone who is exploring their gender identity beyond their assigned gender at birth and/or the gender binary in ways that are authentic to them. It may also be a term to identify their gender outside of stereotypical gender constructs.
- I. **Gender Queer** is an umbrella term that refers to someone who does not follow binary gender norms.
- J. **Cisgender** refers to someone whose gender identity matches the sex they were assigned at birth.
- K. **Sex** refers to a person's biology and is generally categorized as male, female, or intersex.
- L. **Intersex** is an umbrella term that refers to people who are both with variations in sex traits or reproductive anatomy. There are a wide variety of differences among these traits, which might not fit inside stereotypical assumptions of male or female bodies. These variations include internal and/or external anatomy, hormones or chromosomes.
- M. **Transgender** is an adjective describing persons whose gender identity or expression is different from the sex they were assigned at birth.
- N. **Transitioning** refers to the process of someone making changes to live according to their gender identity, also known as gender affirmation. The process of transitioning, or affirming one's gender identity, may look different for everyone. The process may include a "coming out" period where information is shared with others; name, pronoun and/or gender updates to legal documentation; and various types of medical procedures/treatments. Transitioning may include processes not listed above.

IV. ENSURE GENDER INCLUSIVENESS

SPPS staff and systems ensure equitable and inclusive access to programming and facilities. In accordance with procedure, the District will:

- A. Respect the gender identity and gender expression of all students' by honoring their right to be identified and addressed by their self-identified name and pronouns. Staff will not refer to a student using their "dead name."
- B. A Student Support Team may meet to determine a Student Support Plan. The Student Support Team will consist of the student, parent(s) or legal guardian(s) when possible, a school counselor, a school social worker, and the principal or the principal's administrative designee. The student may also invite an additional adult advocate(s) to the team, if they feel the support would be beneficial.
- C. Within academic programming, prohibit the separation of students and/or curricular materials based upon perceived gender unless it serves as a compelling pedagogical tool.
- D. Provide all students the opportunity to participate in co-curricular and extracurricular activities in a manner consistent with their gender identity, including but not limited to intramural and interscholastic athletics.
- E. Provide all students with access to facilities that best align with students' gender identity, and/or the facilities the student feels safest accessing.
- F. Provide all students the opportunity to socially transition during the timing and manner of which they choose. Administrators and staff will respect the right of the students and families to disclose information regarding this confidential and private process. Information related to a student's transition cannot be disclosed without consent of the student and/or family.

LEGAL REFERENCES:

Minn. Stat. ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 121A.031 (Safe and Supportive Minnesota Schools Act) Minn. Stat. § 121A.03, subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)
Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)
20 U.S.C. § 1681 et seq. (Title IX)
20 U.S.C. § 1701 et seq. (Equal Educational Opportunities)
U.S.C. Amend.XIV § 2 (Equal Protection Clause of the 14th Amendment)

CROSS REFERENCES TO DISTRICT POLICIES:

102.00 Equal Opportunity/Non-Discrimination
415.00 Harassment, Violence and Other Offensive Behavior
501.03 Student Dress Code
505.00 Bullying Prohibition

500.00.01 Gender Inclusion

Saint Paul Public Schools (“District”) commits to supporting and maintaining - learning environments that value students’ gender identity and gender expression. The District’s Gender Inclusion Policy and procedures work to ensure that all students have access to programming and facilities in which they feel comfortable and safe.

1. **Respect all students’ gender identity and gender expression by honoring the right of students to be identified and addressed by their preferred name and pronoun.**
 - a. Staff expectations
 - i. Staff must honor the student’s preferred name and pronoun usage regardless of whether the District’s student information system has been updated under paragraph 1b.
 - ii. Upon written or oral request from a student and regardless of parental consent, a student is to be addressed in classes, announcements, and other school gatherings by the name and/or pronoun requested by the student, unless the student’s principal determines that the use of a particular name or pronoun would be patently offensive.
 - iii. Upon written or oral request from a student and regardless of parental consent, staff must update District usages of the student’s name in school community spaces that are visible to other students, staff, and families including, but not limited to, on bulletin boards, lockers, cubbies, folders, materials, and use of the student’s name in digitally viewable spaces including District managed email and online learning environments such as Schoology.
 - iv. Upon written or oral request from a student and regardless of parental consent, staff must update usage of the student’s name in digitally viewable spaces including District managed email and online learning environments such as Schoology.
 1. Changes to District managed digital systems can be requested by submitting a custom ticket to IT. See attachment A. for more information about the custom ticket.
 2. A counselor, social worker, principal or other designee must consult with the student to inform them of implications of the change.
 3. A counselor, social worker, principal or other designee will record the student's name in the "nickname" field on Campus.

4. A counselor, social worker, principal or other designee will notify teachers and staff working with the student of the student's name change. See Attachment B
 5. A communication is to be sent home to notify the student's parent(s)/guardian(s) of the name change, see Attachment C., unless the student expresses safety concerns from such a notification. In those cases, see section 5 – Student Support Plan, for guidance.
 6. Changes may be made once annually or at the discretion of the principal or administrative designee.
- v. Staff must privately ask students who have identified themselves as transgender or gender variant how they want to be addressed in communications to the student's parent(s)/legal guardian(s). For purposes of this procedure, communications include, but are not limited to, materials sent to the student's home and how the student is referred to at conferences with the student's parent(s)/legal guardian(s).
 - vi. For communications with a student's parent(s)/legal guardian(s), staff must use the student's name as listed in the District's student information system, unless specifically told otherwise by the student or parent(s)/guardian(s).
 - vii. Inadvertent, honest mistakes in the use of a student's preferred name or pronoun may occur. The intentional and persistent refusal to respect a student's gender identity or gender expression may be considered discriminatory and is subject to disciplinary measures.

b. Modifying Student Records

- i. A student's name and/or gender, as listed in the District's student information system, must be modified in accordance with a completed Name and Gender Change Request form. The form may be obtained from the student's principal, on the District website, or at the Student Placement Office. The form must be submitted to the student placement office, the student's principal or the principal's administrative designee.
 1. The form will include the following change options:
 - a. Student's name,
 - b. Student's gender,
 - c. Student's District alternate gender,
 - d. Student's gender pronoun,
 - e. Student's access to gender-specific facilities,
 - f. Student's extra and/or co-curricular activities participation, and
 - g. A notice that the District's acceptance of the form does not constitute a legal name or gender change and only constitutes a request to change the

student's name and/or gender in the District's records.

2. Students under 18 must complete the form with parent/guardian consent.
 3. Students age 18 or older may complete the form without parent/guardian consent.
 4. The form may be updated annually or at the discretion of the principal or administrative designee.
- ii. A portion of the District's student information system will include sections for the student's District alternate gender, gender pronoun, access to gender-specific facilities, and extra and/or co-curricular activities participation. These elements must be updated upon receipt of a completed name and gender change form.
 - iii. The District's student information system will reflect options to meet the needs of students who identify outside of the gender binary.
- 2. Within academic programming, prohibit the separation of students and/or curricular materials based upon gender unless it serves as a compelling pedagogical tool.**
- a. Arbitrary separation of students and/or curricular materials based upon sex and/or gender is prohibited.
 - i. Prohibited separation includes, but is not limited to:
 1. Boys vs. girls competition;
 2. Developing, classifying, or labeling materials, such as book bins, as boy or girl specific; and
 3. Lining up students according to sex and/or gender.
 - ii. Permissible separation includes, but is not limited to:
 1. Sex education classes;
 2. Gender-based affinity groups; and
 3. Lining up students by sex and gender to access gender separated restrooms and/or locker room facilities that are not adjacent to each other.
 - b. To determine whether there is a compelling pedagogical tool justifying separation of students and/or curricular materials, staff will reflect and provide, upon request, the reasoning behind any gender based separation.
 - c. In any permissible separation or grouping by sex and/or gender, individual students must be afforded the opportunity to select the group that best aligns with the student's gender identity or expression.
- 3. Provide all students the opportunity to participate in co-curricular and extracurricular activities in a manner consistent with their gender**

identity, including, but not limited to, intramural and interscholastic athletics.

- a. Eligibility shall be determined according to the District's student information system.

4. Provide all students access to facilities that best align with students' gender identity.

- a. Students shall have access to facilities, including but not limited to, restrooms and locker rooms, that best align with a student's gender as listed on the District's student information system.
- b. Students shall be roomed on overnight field trips, for which students will be separated based on gender, with other students of their same gender as listed on the District's student information system.

5. Student Support Plan

- a. A Student Support Plan is available to any student who due to extraordinary circumstances cannot reasonably obtain guardian consent to modify student records and/or expresses a good-faith desire for increased privacy and/or safety. A student support team consisting of the student, an adult advocate of the student's choice, and the student's principal or the principal's administrative designee will meet to determine a Student Support Plan addressing, among other things, participation in co-curricular and extracurricular activities, and access to facilities, including but not limited to restroom and locker room access.

- i. Restroom Accessibility

1. Details of the student support plan may include, among other things:

- a. Use of a gender neutral restroom;
 - b. Use of a health/nurse/office restroom; and/or
 - c. Any other plan agreeable to the student support team.

- ii. Locker Room Accessibility

1. Details of the student support plan may include, among other things:

- a. Use of a private area within 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);
 - b. A separate changing schedule utilizing the locker room before or after other students;
 - c. Use of a nearby private area such as a nearby restroom or a health/office restroom; or
 - d. Any other plan agreeable to the student support team.

- b. All student support plan information is private data in accordance with the Minnesota Data Practices Act and the Family Educational Rights and Privacy Act.

6. Professional Development

- a. The District will offer professional development opportunities for staff, including but not limited to, teachers, administrators, counselors, social workers, and health staff.
- b. Professional development opportunities are intended to improve the knowledge, will, skill, and capacity of all District staff to prevent, identify, and respond to bullying, harassment, discrimination, violence, or any other marginalizing action. The content of such professional development may include, but is not limited to:
 - i. Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents;
 - ii. Developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy;
 - iii. District policies and procedures regarding, bullying, harassment, discrimination, violence, or any other marginalizing action based upon gender identity and/or expression;
 - iv. District Rights and Responsibilities handbook and
 - v. Data privacy laws, and District policies, and procedures.

LEGAL REFERENCES:

- Minn. Stat. ch. 13 (Minnesota Government Practices Act)
- Minn. Stat. § 121A.03, subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)
- Minn. Stat. § 121A.031 (Safe and Supportive Minnesota Schools Act)
- Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)
- Minn. Stat. ch. 363A (Minnesota Human Rights Act)
- 20 U.S.C. § 1681 et seq. (Title IX)
- 20 U.S.C. § 1701 et seq. (Equal Educational Opportunities)

CROSS REFERENCES TO DISTRICT POLICIES:

- 500.00 Gender Inclusion
- 102.00 Equal Opportunity/Non-Discrimination
- 505.00 Bullying Prohibition

ATTACHMENT A: IT TICKET PROCESS FOR UPDATING NAME

The custom ticket will include the following fields:

- Brief statement that first name in account is being changed related to consistent gender identity. Last name may not be changed.
- Statement that student has been offered the Name/Gender Change Request Form and is unable to return it at this time. Staff should continue to work with student towards this as it provides the greatest support for student.
- Statement that student has been counseled and is aware that peers and their parent/guardian may be able to see this change.
- Statement that building Principal has been notified that student's Schoology and Google Apps email address will be changed.
- Statement that family has been notified of change via email or phone and a written note has been sent home with the student, unless there is a safety concern.
- Current full student name + Active Directory number (lunch number) + SPPS Google Apps email address (@stpaul.k12.mn.us)
- New name for student SPPS Apps email address (name that will appear on iPad)
- Current Schoology First Name:
- New Schoology First Name:

See Gender Inclusion Policy for more information and for Name/Gender Change Request Form. www.spps.org/genderinclusion

Contact Out for Equity with questions, outforequity@spps.org or 651-744-6095.

ATTACHMENT B: TEMPLATE PARENT/GUARDIAN NOTIFICATION

Dear colleagues:

I would like you to be aware that OLD FIRST AND LAST NAME prefers to be called NEW FIRST NAME. This name is reflected as the student's nickname in Campus. From now on, please use the pronouns SPECIFY (E.G., HE/HIM/HIS) when addressing NEW FIRST NAME.

Please use NEW FIRST NAME in all verbal, written, and digital spaces at school.

Please continue to use OLD FIRST NAME when contacting home to support the student and family.

Please let me know if you have any questions.

Example letter.

Dear colleagues:

I would like you to be aware that Jordyn Smyth prefers to be called Cindy. This name is reflected as the student's nickname in Campus. From now on, please use the pronouns They/Them/Theirs when addressing Cindy. The student's parents/guardians have been informed.

Please use Cindy in all verbal, written, and digital spaces at school.

Please continue to use Jordyn when contacting home to support the student and family.

Please let me know if you have any questions.

ATTACHMENT C: TEMPLATE PARENT/GUARDIAN NOTIFICATION

As part of the ticketing process for changing names in District managed systems, a notification should be given to the student's parent(s) or guardian(s). A template of suggested information to be shared in the phone call, email, or letter is below.

By request of your student, your student's email address and Schoology name have been updated to _____.

If you have questions, please contact (STAFF NAME SUBMITTING TICKET OR PRINCIPAL).

Exhibit C

INDEPENDENT SCHOOL DISTRICT 196
Rosemount-Apple Valley-Eagan Public Schools
Educating our students to reach their full potential

Series Number 503.9AR Adopted August 2021 Revised October 2022

Title **Gender Inclusion**

1. **PURPOSE** – All students need a safe and supportive school environment in which to learn. The purpose of this regulation is to foster an educational environment that is safe, supportive and free from discrimination for all students, regardless of gender identity or gender expression, and to facilitate compliance with local, state, and federal laws concerning nondiscrimination.

2. **DEFINITIONS** - The following definitions are provided to assist in understanding this regulation. The definitions provided below are not intended to label or limit individual identities or experiences. Students may or may not use these terms to describe themselves and terminology may differ between cultures.
 - 2.1 "Gender identity" means a person's internal, deeply felt sense of being female, male, a blend of both or neither. The term refers to how individuals perceive themselves and what they call themselves and it can be the same as or different from their sex assigned at birth.
 - 2.2 "Gender expression" means the external appearance of one's gender identity, usually expressed through behavior, clothing, hair or voice, which may or may not conform to socially defined behaviors and characteristics typically associated with being either feminine or masculine.
 - 2.3 "Transgender" is an umbrella term for individuals whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation.
 - 2.4 "Cisgender" means a person whose gender identity aligns with the sex assigned to them at birth.
 - 2.5 "Non-Binary" means a person who does not identify exclusively as female or male.
 - 2.6 "Gender Expansive" means individuals that broaden commonly held definitions of gender, including expectations for its expression, identities, roles, and/or other perceived gender norms. Gender-expansive individuals include those with transgender and non-binary identities, as well as others whose gender expression does not conform to socially defined behaviors and characteristics typically associated with being either feminine or masculine.

3. **SCOPE** - This regulation covers conduct that takes place in the school, on school property, at school-sponsored activities and events, during school video conferencing, on school buses or vehicles and at bus stops and school parking areas. This includes conduct carried out through the use of electronic technology and electronic communication. This regulation applies to the entire school community, including educators, school district staff, students, parents, and volunteers.

4. **BULLYING, HARASSMENT, AND DISCRIMINATION PROHIBITION** - Discrimination, bullying, and harassment on the basis of gender identity or expression are prohibited within the school district. Each school and all staff are responsible to ensure that all students, including transgender and gender expansive students, have a safe school environment. The scope of this responsibility includes ensuring that any incident of discrimination, bullying, or harassment based on a person's actual or perceived gender identity or expression are to be taken seriously and handled in the same manner as other discrimination, bullying, or harassment complaints and consistent with applicable school district policies and regulations pertaining to discrimination, bullying and harassment. A family and/or student may request that school officials identify one or more District 196 staff members that the student can access if they require additional support during the school day.

5. **PRIVACY**
 - 5.1 All students have a right to privacy, and this includes the right to keep one's transgender status private at school. The school district will maintain the privacy of information relating to transgender and gender expansive students in accordance with applicable local, state, and federal privacy laws. School staff shall not disclose information that reveals a student's transgender status to others unless legally required to do so or when written permission has been given. School staff access to this information is on a strict, need-to-know basis consistent with district regulations regarding the privacy of student records.

 - 5.2 Transgender and gender expansive students have the right to discuss and express their gender identity and expression openly and to decide when, with whom, and how much to share. The fact that a student chooses to disclose his or her transgender status to staff or other students does not authorize school staff to disclose other private information about the student.

6. **NAMES, PRONOUNS AND RECORDS** - Every student may request to be addressed by a name and pronoun that corresponds to the student's gender identity. The school shall maintain a mandatory permanent student record that includes a student's legal name and legal gender, however, to the extent that the school is not legally required to use a student's legal name and gender on other unofficial school records or documents, the school shall use the name and gender provided by the student. Upon written request of the student and their parent(s) or guardian(s), the student name and gender will be changed on the school district's digital student information system and on unofficial school records and documents to the extent possible to align with their gender identity, while still maintaining the legal name and gender for required purposes. Parent request is not required for an 18-year-old student who wishes to change their name and/or gender on the school district's digital student information system and on unofficial school records and documents. Medical documentation or legal verification of a student's name or gender change is not required. The school will change a current student's official record to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order, or through amendment of state or federally issued identification.

7. **ACCESS TO FACILITIES, INCLUDING RESTROOMS, LOCKER ROOMS AND CHANGING AREAS** - With respect to facilities, including all restrooms, locker rooms or changing facilities, students will have access that corresponds to their gender identity. Schools may maintain separate restroom, locker room, and changing facilities for male and female students. For any gender-segregated facility, any student, of any gender identity who is uncomfortable using a shared facility may request to be provided with a reasonable alternative.

8. **PHYSICAL EDUCATION CLASSES AND INTRAMURAL AND INTERSCHOLASTIC ATHLETICS** - All students shall be permitted to fully participate in physical education classes and intramural athletics in a manner consistent with their gender identity. All students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity as permitted by the Minnesota State High School League.

9. **OTHER GENDER-BASED ACTIVITIES, RULES, POLICIES AND PRACTICES** – While some activities will continue to be gender-based (e.g., athletics, choir), as a general matter, schools should evaluate all gender-based activities, rules, policies, and practices including, but not limited to, classroom activities, school ceremonies, and school photos. To the extent practicable, students shall be permitted to participate in any such activities or conform to any such rule, policy, or practice consistent with their gender identity.

All students, regardless of their gender identity, have the right to participate fully in overnight trips and other activities. Student accommodations on overnight trips shall be consistent with their gender identity.

10. **DRESS CODE** - Schools may enforce dress codes, however, students shall have the right to dress in accordance with their gender identity, within the constraints of the dress codes adopted by the school. School staff shall not enforce a school's dress code more strictly against transgender and gender expansive students than other students.

11. **PUBLICATION** - This regulation will be referenced in the annual Overview of Student Rights and Responsibilities and posted on the school district website. School district employees will receive notice of this regulation to ensure they understand their responsibilities under the regulation.

References:

- Minnesota Statute § 121A.04 (Athletic Programs; Sex Discrimination)
- Minnesota Statute Ch. 363A (Minnesota Human Rights Act)
- 20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972); 34 C.F.R. Part 106 (Implementing Regulations of Title IX)
- 503.4AR, Harassment, Discrimination, Violence or Hazing
- 503.8AR, Bullying Prohibition

Exhibit D

Policy 5025: Gender Inclusion

1. PURPOSE AND GENERAL STATEMENT OF POLICY

The students and staff of Minneapolis Public Schools (MPS) deserve respectful and inclusive learning environments that value students' gender identity and gender expression. MPS ("District") ensures that all students have access to programming and facilities in which they feel comfortable, supported, and safe. This policy addresses the inequities some students, including intersex, transgender, two-spirit, gender expansive, non-binary, and gender-questioning students, confront as they navigate a system designed using a gender binary model. This policy does not and cannot anticipate every situation that may occur, as every student is unique. The support for each student must be assessed and addressed individually based upon the student's specific requests and needs.

2. DEFINITIONS

The definitions contained in this policy are not intended to label students, but rather to assist in understanding this policy and the legal obligations of district staff. It is recognized that students might or might not use these terms to describe themselves.

- a. "Gender" refers to the socially constructed roles, behaviors, activities, and attributes that a given society attaches to femininity or masculinity.
- b. "Gender Identity" is a person's deeply held sense or psychological knowledge of their own gender. A person's gender identity can be the same or different from the sex or gender assigned at birth.
- c. "Sex Assigned at Birth" refers to the sex designation recorded on an infant's birth certificate should such a record be provided at birth.
- d. "Gender Expression" refers to the manner in which a person represents or expresses that person's gender identity to others, often through behavior, clothing, hairstyles, activities, or mannerisms. Although transgender people typically seek to make their gender expression match their gender identity, rather than their sex assigned at birth, gender expression may or may not conform to a person's gender identity.
- e. "Gender Expansive" is an umbrella term that is used to describe individuals whose gender expression, gender identity, or gender role is fluid and/or may differ from gender norms associated with their sex assigned at birth. This term also includes people who identify outside of traditional gender categories or identify as both or several genders. Other terms that can have a similar meaning include "gender diverse," "gender non-conforming," "genderqueer," and "nonbinary."
- f. "Transgender/Trans" describes people whose gender identity or expression is different from that traditionally associated with an assigned sex at birth. Transgender identity is not dependent on medical procedures or other physical changes.
- g. "Transition" refers to the process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth.

3. PRIVACY

- a. The privacy of student data is governed by MPS Policy 5690, which incorporates the Minnesota Government Data Practices Act and the Family Educational Rights and Privacy Act. Virtually all student data are private, including student gender identity and information relating to a student's transgender or gender expansive status. Private student data are accessible only to 1) the student who is the subject of the data, 2) their parent or guardian, 3) MPS employees, contractors, and volunteers whose work

assignment reasonably requires access and who have a legitimate educational interest, and 4) other parties or entities as provided for in section 6 of MPS Policy 5690. The District cannot withhold any private student data requested by the student's parent or caregiver unless there exists a court order which specifically denies access to the data.

- b. It does not violate student data privacy to call a student by their updated name or refer to them by their updated pronouns, either orally or in writing. Nor does it violate student data privacy to share a student's updated name and pronouns with others, including MPS employees, contractors, volunteers, and students, for the purpose of ensuring that the appropriate name and pronouns are used when communicating with or about the student.
- c. A student may choose to openly discuss and express their gender identity and gender expression or they may choose not to do so. In the classroom and other group settings, it is the student's prerogative to broach the subject.
- d. All rights and protections given to parents under MPS Policy 5690 transfer to the student when he or she reaches eighteen (18) years of age or enrolls in an institution of post-secondary education. The student then becomes an "eligible student." However, the parents of an eligible student who is also a "dependent student" are entitled to gain access to the education records of such student without first obtaining the consent of the student. In addition, parents of an eligible student may be given access to education records in connection with a health or safety emergency if the disclosure meets the conditions of any provision set forth in 34 C.F.R. § 99.31(a).

4. OFFICIAL SCHOOL RECORDS

- a. The school district is required to maintain a mandatory and permanent student record ("official record") that includes a student's legal name and gender. The school district will change a student's official record to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order or other official government action.
- b. Pertaining to students of all grades: At the request of a transgender or gender expansive student, and/or their parent/guardian the District will use the student's requested name, gender identity, and pronouns when referring to the student in education records.

5. STUDENT NAMES, PRONOUNS, AND GENDER MARKERS

- a. At the student's and/or parent's/guardian's request, a transgender and/or gender expansive student in all grades has the right to be referred to at school by a name and pronouns that align with their gender identity. At the parent's/guardian's request, a transgender or gender expansive student in all grades has the right to be referred to at school by a name and pronouns that align with the student's gender identity.

6. GENDER-SEGREGATED FACILITIES

All students shall have access to gendered facilities and school-sponsored programs that are consistent with the student's gender identity. This includes, but is not limited to, multi-stalled gendered restrooms, locker rooms, and school programs, trips, and athletic programs.

- a. *Restroom Accessibility*
Pursuant to Minn. Stat. 363A.13, subd. 1 (N.H. v. Anoka-Hennepin Sch. Dist. No. 11, 950 N.W.2d 553 (Minn. Ct. App. 2020)) students shall have access to the restroom that corresponds to their gender identity asserted at school:
 - i. Any student who has a need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason

for the student's need or desire for increased privacy, should be provided access to a single-user restroom.

- ii. No student shall be required to use a single-user restroom because they are transgender or gender expansive
- iii. The District shall work with each transgender and gender expansive student to determine which restrooms are most comfortable for the student.
- iv. In no case shall any student be required to use a restroom that conflicts with the student's gender identity

b. *Locker Room Accessibility*

Pursuant to Minn. Stat. 363A.13, subd. 1 (N.H. v. Anoka-Hennepin Sch. Dist. No. 11, 950 N.W.2d 553 (Minn. Ct. App. 2020)), the use of locker rooms by transgender and gender expansive students shall be assessed on an individualized basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports and other school activities, ensuring the student's comfort, and minimizing stigmatization of the student.

- i. Unless the student requests otherwise, transgender and gender expansive students should have access to the locker room that corresponds to the student's gender identity asserted at school, like all other students.
- ii. Any student who has the need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should, if possible, be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a physical education instructor's office in or near the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponds to gender identity before or after other students).
- iii. Any alternative arrangement should be provided to protect the student's ability to keep the student's transgender or gender expansive status confidential.
- iv. The District shall work with each gender expansive student to determine which restrooms and locker room facilities are most comfortable for the student.
- v. In no case shall a transgender student be required to use a locker room that conflicts with the student's gender identity.

7. PHYSICAL EDUCATION AND HEALTH EDUCATION CLASSES AND INTRAMURAL SPORTS

- a. All students shall be permitted to participate in physical education classes, health education classes, and intramural sports and activities in a manner consistent with their gender identity.

8. SCHOOL TRIPS

- a. All students shall be permitted to participate in all school trips in a manner that corresponds with their gender identity. In planning school trips, staff is expected to assess the student's needs in collaboration with the student and/or the student's parent(s)/guardian(s) and make reasonable efforts to provide an acceptable accommodation to the student. Accommodations will be discussed in advance of the trip on a case-by-case basis.

9. INTERSCHOLASTIC COMPETITIVE SPORTS TEAMS/ACTIVITIES

- a. All students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity and in compliance with the applicable regulations of the Minnesota State High School League (MSHSL).

10. OTHER GENDER-BASED ACTIVITIES, RULES, POLICIES AND PRACTICES

- a. As a general matter, Minneapolis Public Schools will evaluate, on an ongoing basis, all gender-based activities, rules, policies, and practices, including but not limited to classroom activities, school ceremonies, yearbooks and school photos. Students will be permitted to participate in any such activities or conform to any such rule, guidelines, or practice consistent with their gender identity.

11. DISCRIMINATION/HARASSMENT/BULLYING

- a. It is the policy of the District to maintain a safe and supporting learning and educational environment that is free from harassment, intimidation, violence, and/or bullying and free from discrimination on account of gender, gender identity, and gender expression.
- b. Complaints alleging discrimination or harassment based on a student's actual or perceived transgender status or gender expansive status generally are to be handled in the same manner as sex discrimination, harassment or bullying complaints. For information about the types of conduct that constitute a violation of the school district's policy on harassment and violence and the school district's procedures for addressing such complaints, refer to the school district's policy on harassment and violence (MPS Policy 4002). For information about the types of conduct that constitute a violation of the school district's policy on bullying and the school district's procedures for addressing such complaints, refer to the school district's policy on bullying (MPS Policy 5201).

12. RESPONSIBILITY

- a. The Superintendent is authorized to promulgate regulations to implement this policy.
- b. The Superintendent or their designee shall provide regular training to district personnel on this policy.

Original Adoption:

6/11/2024

Legal References:

- Minn. Stat ch. 363A (Minnesota Human Rights Act)
- Minn. Stat. § 121A.031 (Safe and Supportive Minnesota Schools Act)
- Minn. Stat. § 121A.03, subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)
- Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)
- 20 U.S.C. § 1681 et seq. (Title IX)
- 20 U.S.C. § 1701 et seq. (Equal Educational Opportunities)

MPS Policy Cross References:

- Policy 4002 (Harassment And Violence Prohibition Protected Classes)

- Policy 5000 (Equal Education Opportunity)
- Policy 5201 (Bullying And Hazing Prohibition)
- Policy 5050 (Title IX Non-Discrimination)
- Policy 5051 (Equal Opportunity In Athletics)
- Policy 5690 (Student Data)

HISTORY

Adopted by Res. [2024-0022](#) on 6/11/2024

Exhibit E

Post-June 11 Study Session Updates

PROCEDURE 413A

SUPPORTING TRANSGENDER AND/OR GENDER-EXPANSIVE STUDENTS (DRAFT 07/08/24)

I. PURPOSE

- A. These procedures set forth the School District's procedures for schools to address the needs and concerns of transgender and/or gender-expansive students to ensure safe, supportive, and healthy school environments where every child can learn. These procedures are intended to: 1) ensure that all students are welcomed, valued, included, and respected; 2) to help schools ensure safe learning environments free of discrimination, harassment, and bullying; and 3) to promote the educational and social integration of transgender and/or gender-expansive students. These procedures do not and cannot anticipate every situation that may occur, as every student is unique. The support for each student must be assessed and addressed individually based upon the student's specific requests and needs.

II. DEFINITIONS

- A. The definitions are not intended to label students, but rather to assist in understanding this procedure and the legal obligations of District staff. It is recognized that students might or might not use these terms to describe themselves.
1. **"Cisgender": is a term that describes a person whose gender identity aligns with the sex assigned to them at birth.**
 2. *"Gender Identity"* is a person's deeply held sense or psychological knowledge of their own gender, regardless of the sex or gender they were assigned at birth. A person's gender identity can be the same or different than the sex or gender assigned at birth.
 3. *"Gender Expression"* refers to the manner in which a person represents or expresses that person's gender identity to others, often through behavior, clothing, hairstyles, activities, or mannerisms.
 4. *"Transgender/Trans"* is an umbrella term for people whose gender identity and/or expression is different from the sex they were assigned at birth.
 5. *"Gender Non-Conforming"* describes those whose gender expression differs from social and cultural expectations, as well as those who identify outside the gender binary.
 6. *"Gender-expansive"* describes someone with a more flexible gender identity than is associated with the gender binary.
 7. **"Sex" refers to a person's biology and is generally categorized as male, female, or intersex.**

III. PRIVACY

- A. All students have a right to privacy, including the right to keep private one's transgender or gender expansive status at school. Transgender and gender-expansive students have the right to discuss and express their gender identity and expression openly and to decide when, how, and with whom to share private information, well as to determine what information will be shared.
- B. The privacy of student data is governed by the Minnesota Government Data Practices Act (MDGPA) and the Family Educational Rights and Privacy Act (FERPA). Virtually all student data are private, including a student's gender identity, sex assigned at birth, transgender identity, or information that may reveal a student's gender identity (e.g., birth name).
- C. Private student data are accessible only to:
 1. the student who is the subject of the data,
 2. their parent/guardian (see **Parent Access to Information**),
 3. District employees, contractors, and volunteers whose work assignment reasonably requires access and who have a legitimate educational interest
- D. To ensure the safety and well-being of the student, District employees shall not disclose information that reveals a student's gender identity, sex assigned at birth, transgender identity, or information that may reveal a student's gender identity (e.g., birth name) to staff members, students, or parents/guardians of other students unless:
 1. The student or student's parent/guardian has given written consent
 2. The information is needed by other school personnel within the District who have a legitimate educational interest in the information in order to perform their duties or provide services to the student
 3. A federal or state law compels disclosure (i.e. health emergency, court order or subpoena)
 4. ~~The person is a parent or legal guardian of the student (see **Parent Access to Information**)~~
- E. In some cases, transgender or gender-expansive students may feel more supported and safer if other students are aware that they are transgender or gender-expansive. In such cases, District staff should work closely with the student, parent/guardian, and other staff members on a plan to inform and educate the student's peers and shall document the plan. In some circumstances, it may also be appropriate to engage external resources to assist with educational efforts. The District must have written consent from the **student or** parent/guardian before disclosing a student's transgender or gender-expansive status to other students.

IV. PARENT ACCESS TO INFORMATION

- A. If a child is under the age of 18, the law generally gives parents/guardians the right to access all educational data on their child, unless there exists a court order which

specifically denies access to the data.

- B. If a parent or guardian requests information about their child who is under the age of 18, including information about whether their child identifies as transgender, **gender-expansive**, or whether their child has asked to use a name, pronouns, restrooms, or locker rooms based on the child's gender identity rather than their legal name or sex assigned at birth, a staff member must provide that information to the parent/guardian if the staff member is in possession of that information at the time the request is made.
- C. Staff members may refuse to provide such information if the student is 18 years of age or older, unless the parent has been designated as the child's legal guardian or conservator.
- D. Any staff member who provides such information to a parent/guardian should promptly inform the lead principal of the school or lead administrator of the program.

V. NAMES, PRONOUNS, GENDER MARKERS AND DISTRICT RECORDS

- A. A student ~~and/or~~ a parent/guardian has the right to request that the student be referred to by a **preferred** name and pronouns that **reflect** ~~correspond to~~ the student's gender **expression** ~~identity~~ by all school staff and fellow students, unless the student's principal determines that the use of a particular name or pronoun would be patently offensive.
- B. In order for a student to be addressed by the **preferred** name and pronouns that **reflect** ~~correspond to~~ the student's gender **expression** ~~identity~~ by members of the school community, parent/guardian consent is not required, a court-ordered name change or official gender change is not required, and the student is likewise not required to change the school's "official records" or the school's student information system (SIS).
- C. The District is required to maintain a mandatory and permanent student record ("official record") that includes a student's legal name and legal gender. The District will change a student's "official record" to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order or other official government action.
- D. The District is not required to use a student's legal name and gender on other school records or documents that do not constitute "official records", and should use a **preferred** name, gender and/or pronouns that **reflect** ~~correspond to~~ the student's gender **expression** ~~identity~~.
- E. Parent(s)/Guardian(s) have a right to request that the District change the student's first and middle name; **and/or** gender identity; ~~and/or preferred pronouns that correspond to the student's gender identity~~ in the school's SIS. Documenting the name ~~and/or pronouns that correspond to the student's gender identity~~ in the school's SIS will help ensure that a student's preferred name **and/or** gender identity ~~and/or preferred pronouns~~ are used correctly in the school setting. **See Form 413A Student Name and/or Gender Change Request Form Instructions.**
- F. In situations where the student's name has not been changed in the "official records", and

District staff or administrators are required by law to use or report a transgender or gender-expansive student's legal name or gender, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of confidential or private information relating to a student's gender identity or gender expression to parties lacking a legitimate educational interest in that information. When administering standardized tests or conducting surveys, the building administrator or designee should ensure that a student's preferred name is used.

- G. If a student and/or a parent/guardian requests that the student be referred to by a preferred name and pronouns that reflect correspond to the student's gender expression identity, but has not made a request to change the school's "official records" or the student's information in the school's SIS, the building administrator and staff should work to accommodate the preferred change to the greatest extent possible.

VI. GENDER-SEGREGATED FACILITIES

- A. Transgender and gender-expansive students shall have access to gendered facilities that are consistent with the student's gender identity. This includes, but is not limited to, multi-stalled gendered restrooms and locker rooms.
- B. Restroom Accessibility - Pursuant to Minn. Stat. 363A.13, subd. 1 (N.H. v. Anoka-Hennepin Sch. Dist. No. 11, 950 N.W.2d 553 (Minn. Ct. App. 2020)), students shall have access to the restroom that corresponds to their gender identity asserted at school.
1. Any student who has a need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided access to a single user restroom.
 2. No student shall be required to use a single user restroom because they are transgender or gender-expansive.
 3. ~~The District shall work with each gender-expansive student to determine which restrooms are most comfortable for the student.~~
 4. In no case shall a transgender or gender-expansive student be required to use a restroom that conflicts with the student's gender identity.
 5. This section does not give permission to non-transgender or non-gender-expansive students (i.e., cisgender students) to use a facility that does not correspond to their gender identity.
 6. ~~Students seeking to use facilities that do not correspond to their sex assigned at birth must first notify their principal or designee of their intent to do so.~~
- C. Locker Room Accessibility - Pursuant to Minn. Stat. 363A.13, subd. 1 (N.H. v. Anoka-Hennepin Sch. Dist. No. 11, 950 N.W.2d 553 (Minn. Ct. App. 2020)), the use of

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

1. Unless the student requests otherwise, transgender and gender-expansive students should have access to the locker room that corresponds to the student's gender identity asserted at school, like all other students.
2. Any student who has the need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a physical education instructor's office in or near the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponds to gender identity before or after other students).
3. Any alternative arrangement should be provided in a manner that protects the student's ability to keep the student's transgender or gender-expansive status confidential.
4. ~~The District shall work with each gender-expansive student to determine which restrooms and locker room facilities are most comfortable for the student.~~
5. In no case shall a transgender or gender-expansive student be required to use a locker room that conflicts with the student's gender identity.
6. **This section does not give permission to non-transgender or non-gender-expansive students (i.e., cisgender students) to use a facility that does not correspond to their gender identity.**
7. ~~Students seeking to use facilities that do not correspond to their sex assigned at birth must first notify the school of their intent to do so.~~

D. Response to Requests, Concerns or Complaints - Student and/or parent/guardian requests, concerns or complaints regarding gender-segregated facilities should be forwarded to the building principal. These may include:

1. Requests from students and/or parents/guardians for increased privacy and a reasonable restroom or locker room alternative;
2. Concerns or complaints from students and/or parents/guardians that the District is violating a student's privacy rights by allowing transgender students to use restroom and locker room facilities consistent with their gender identity. Responses to concerns or complaints may include a reminder that school officials may not share private information about other students, the District follows the

laws governing the rights of transgender and gender-expansive students, and that alternative arrangements are available for any student who has an increased desire for restroom or locker room privacy.

VII. GENDER-SEGREGATED ACTIVITIES, CLASSES, RULES, POLICIES AND PRACTICES

- A. To the extent possible, schools should reduce or eliminate the practice of segregating students by gender.
- B. In situations where students are segregated by gender, students have the right to participate in any such activities or conform to any such rule, policy, or practice in a manner that aligns with their gender identity consistently asserted at school.
- C. The District will make reasonable accommodations to the curriculum and provide staff training to accommodate students whose gender identity aligns outside the binary male and female constraints.
- D. Transgender and gender-expansive students shall be permitted to participate in physical education classes and health education classes in a manner consistent with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable.
- E. Students in physical education classes may be grouped by ability, as long as a student's ability is based on objective standards of individual performance. A student's gender identity shall not be considered when assessing ability.

VIII. DRESS CODES

- A. Transgender and gender-expansive students have the right to dress in a manner consistent with their gender identity or gender expression, including at school-sponsored functions such as dances, after school activities, and graduation. Policy 504 and Procedure 504A Student Dress will be enforced consistently, regardless of a student's gender identity or expression.
- B. A student whose gender expression is different from expectations based on the student's sex assigned at birth will not be considered disruptive of the educational process or as an interference with the maintenance of a positive teaching/learning climate.

IX. SCHOOL TRIPS

- A. All students shall be permitted to participate in all school trips, including overnight trips, in a manner that corresponds with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable. In planning school trips, staff is expected to assess the student's need in collaboration with the student and/or the student's parent(s)/guardian(s) and make reasonable efforts to provide an accommodation that is acceptable to the student. Accommodations will be discussed in advance of the trip on a case-by-case basis and will be documented in writing. In all cases, the school has an

obligation to maintain the privacy of all students and cannot disclose or require the disclosure of the student's gender identity to the other students or the parent(s)/guardian(s) of other students.

X. INTRAMURAL SPORTS, EXTRA-CURRICULAR ACTIVITIES AND INTERSCHOLASTIC SPORTS TEAMS/ACTIVITIES

- A. Transgender and gender-expansive students shall be permitted to participate in school-sponsored sports and activities in a manner consistent with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable. Transgender students must have an equal opportunity to participate and are subject to the same performance criteria that apply to all other students.
- B. Transgender and gender-expansive students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity and in compliance with the applicable regulations of the Minnesota State High School League (MSHSL).

XI. COMPLIANCE

- A. District employees who refuse to abide by these Guidelines may be subject to disciplinary actions, up to and including termination, as set forth in the relevant employee discipline policy. This includes a staff member's persistent refusal to respect a student's gender identity, for example by consistently referring to the student by a name or pronoun that does not correspond with the student's gender identity.

XII. DISCRIMINATION/HARASSMENT/BULLYING

- A. It is the policy of the District to maintain a safe and supporting learning and educational environment that is free from harassment, intimidation, violence, and/or bullying and free from discrimination on account of gender, gender identity, and gender expression.
- B. Complaints alleging discrimination or harassment based on a student's actual or perceived transgender status or gender non-conformity generally are to be handled in the same manner as sex discrimination, harassment or bullying complaints. For information about the types of conduct that constitute violation of the District's policy on harassment and violence and the District's procedures for addressing such complaints, refer to the District's policy on harassment and violence (Policy 413). For information about the types of conduct that constitute violation of the District's policy on bullying and the District's procedures for addressing such complaints, refer to the District's policy on bullying (Policy 514).

XIII. RESPONSIBILITY

- A. The Superintendent is authorized to promulgate guidance to implement this procedure.
- B. The Superintendent or their designee shall provide regular training to district personnel on this procedure.

CROSS REFERENCES

Policy 102 (Equal Education Opportunity)

Policy 105 (Equity Policy)

Policy 413 (Harassment and Violence)

Policy 504 (Dress Codes)

Procedure 504A (Dress Codes)

Policy 514 (Bullying Prohibition Policy)

Policy 515 (Protection and Privacy of Pupil Records)

Policy 522 (Title IX Sex Nondiscrimination Policy, and Grievance Procedure and Process)

LEGAL REFERENCES:

Minn. Stat Ch. 363A (Minnesota Human Rights Act)

Minn. Stat. § 13.32 (Educational Data)

Minn. Stat. § 121A.031 (Safe and Supportive Minnesota Schools Act)

Minn. Stat. § 121A.03, subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)

Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)

20 U.S.C. § 1232g (Family Educational and Privacy Rights)

20 U.S.C. § 1681 et seq. (Title IX)

20 U.S.C. § 1701 et seq. (Equal Educational Opportunities)

34 C.F.R. Part 106 (Implementing Regulations of Title IX)

CASE LAW

N.H. v. Anoka-Hennepin Sch. Dist. No. 11, 950 N.W.2d 553 (Minn. Ct. App. 2020)

Montgomery v. ISD No. 709, 109 F.Supp. 2d 1081, 1093 (D. Minn. 2000)

Bostock v. Clayton County, 140 S. Ct. 1731 U.S. 2020

Exhibit F

ADMINISTRATIVE PROCEDURE 522.1 - GENDER IDENTITY

I. PURPOSE

Our efforts in this district in addressing safety and bullying should be in compliance with the expectations embedded in the Minnesota Safe and Supportive Schools Act.

Students are protected from discrimination on the basis of sex pursuant to Title IX of the Education Amendments of 1972 and on the basis of sex and sexual orientation pursuant to the Minnesota Human Rights Act. Under Title IX, sex includes failure to conform to sex-based stereotypes.

Under the Minnesota Human Rights Act, sexual orientation includes gender identity and gender expression. The purpose of this administrative procedure is to assist administrators and district staff in providing a safe, secure and dignified educational and work atmosphere for all students and staff. Please review this guidance in preparation for future situations that may arise involving transgender and gender diverse students and staff and refer back to it when needed. If issues arise that are not addressed within this administrative procedure or more information and support is desired, please contact the superintendent or superintendent designee for assistance.

II. DEFINITIONS

A. Gender

Our body, identity and social gender (how we present our gender in the world and how individuals, society, culture, and community perceive, interact with, and try to shape our gender) are three distinct, but interrelated, components that comprise a person's experience of gender. Each of these dimensions can vary greatly across a range of possibilities. A person's comfort in their gender is related to the degree to which these three dimensions feel incongruence.,

B. Gender Identity

Our deeply held, internal sense of self as masculine, feminine, a blend of both, neither, or something else. Identity also includes the name we use to convey our gender. Gender identity can correspond to, or differ from the sex we are assigned at birth.

C. Gender Expression

How an individual expresses or shows their gender to the world around them. This is our "public" gender. How we present our gender in the world and how society, culture, community, and family perceive, interact with, and try to shape our gender. Gender expression is also related to gender roles and how society uses those roles to try to enforce conformity to current gender norms.,

D. Transgender

Sometimes this term is used broadly as an umbrella term to describe anyone whose gender identity differs from their assigned sex. It can also be used more narrowly as a gender identity that reflects a binary gender identity that is “opposite” or “across from” the sex they were assigned at birth.

E. Gender Non-Conforming

Denoting or relating to a person whose behavior or appearance does not conform to prevailing cultural and social expectations about what is appropriate to their sex.

III. SAFETY AND BULLYING

Address bullying and name-calling consistently and equitably. This includes name-calling and bullying based on gender stereotypes. Address claims of discrimination or harassment based on the person’s gender identity as one would all other types of claims.

IV. NAMES AND PRONOUNS

A. “Chosen name” is a name that a person chooses to use for oneself, that is different from a person’s legal name.

B. "preferred gender pronoun" is the pronoun a person chooses to use for oneself. Examples of pronouns:

1. She, her, hers
2. He, him, his
3. They, them, theirs
4. Xe (“zee”), xir (“zeer”), xirs (“zeers”)

This is not a comprehensive list and students and staff should be allowed to identify their preferred pronouns.

Procedure: Staff are expected to refer to all students and staff by their chosen name and preferred gender pronouns.

V. FACILITIES

The district will work to provide options-based universal access to facilities, based on need. This is considered a best practice for all students as it allows equitable access for all.

A. Bathrooms

Provide students and staff with access to restrooms that correspond to the gender identity the student or staff consistently asserts at school and make accessible a single-stall gender neutral restroom that is available to all students and staff and required of none.

B. Locker Rooms

Provide students with access to a locker room that corresponds to the gender identity the student consistently asserts at school. Alternate changing facilities are available to all students and required of none. Schools will work with students to make reasonable accommodations based on individual situations. For example, the person could be given access to a single stall gender non-specific or staff restroom, use of the Physical Education Office facility, or a private room for changing purposes.

VI. GENDERED ACTIVITIES

Avoid using gender as a characteristic for divisions whenever possible. When groups are separated by gender, allow students to self-select the group in which they would feel most comfortable.

VII. FORMS, STUDENT RECORDS, AND STUDENT DATABASE

The district is committed to updating forms and records to allow for students and families to report preferred name in addition to legal name and gender identity (male, female or non-binary) in addition to sex assigned at birth.

Students have the option to either update their preferred name and pronouns in the system (requires student signature) and/or to amend their identity in district technology systems (requires both student and parent/guardian signature for students under 18). Diplomas, transcripts and state testing materials will reflect the student's legal name. Students may request a duplicate diploma reflecting their preferred name.

[Name or Gender Identification Change Request](#)

VIII. PRIVACY

School staff will be mindful of and uphold the right to privacy of our transgender and gender non-conforming students. Information will be shared with school staff about a specific student on a need-to-know basis. The student's well-being will be at the center of all decisions.

IX. DISSEMINATION OF ADMINISTRATIVE PROCEDURE AND EVALUATION

- A. This administrative procedure shall be made available to all students, parents/guardians of students, staff members, employee unions and organizations.
- B. The school district shall review this administrative procedure and the school district's operation for compliance with state and federal laws prohibiting discrimination on a continuous basis.

Legal References: Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act) 20 U.S.C. §§ 1681-1688
(Title IX of the Education Amendments of 1972) 34 C.F.R. Part 106
(Implementing Regulations of Title IX)
20 U.S.C. § 1232g; 34 CFR Part 99 (Federal Educational Rights and Privacy Act)

Cross Reference: [RAS Policy 102.1 Equity Policy](#)

522.1 - GENDER IDENTITY

I. PURPOSE

Our efforts in this district in addressing safety and bullying should be in compliance with the expectations embedded in the Minnesota Safe and Supportive Schools Act.

Students are protected from discrimination on the basis of sex pursuant to Title IX of the Education Amendments of 1972 and on the basis of sex and sexual orientation pursuant to the Minnesota Human Rights Act. Under Title IX, sex includes failure to conform to sex-based stereotypes.

Under the Minnesota Human Rights Act, sexual orientation includes gender identity and gender expression. The purpose of this administrative procedure is to assist administrators and district staff in providing a safe, secure and dignified educational and work atmosphere for all students and staff. Please review this guidance in preparation for future situations that may arise involving transgender and gender diverse students and staff and refer back to it when needed. If issues arise that are not addressed within this administrative procedure or more information and support is desired, please contact the superintendent or superintendent designee for assistance.

II. GENERAL STATEMENT OF POLICY

- A. The school district provides equal educational opportunity for all students and does not unlawfully discriminate on the basis of sex or sexual orientation. No student will be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any educational program or activity operated by the school district on the basis of sex or sexual orientation.
- B. It is the responsibility of every school district employee to comply with the administrative procedure.
- C. The school board has designated the Executive Director of Human Resources as its Title IX coordinator. This employee coordinates the school district's efforts to comply with and carry out its responsibilities under Title IX.

III. PROCESS

The superintendent is directed to develop administrative procedures for Gender Identity for the School District that meet the state and federal requirements established in law or rule.

Legal References: Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act) 20 U.S.C. §§ 1681-1688
(Title IX of the Education Amendments of 1972) 34 C.F.R. Part 106 (Implementing Regulations of Title IX)
20 U.S.C. § 1232g; 34 CFR Part 99 (Federal Educational Rights and Privacy Act)

Cross References: [RAS Equity Policy 102.1](#)

Exhibit G

535 - Gender Inclusion

500 SERIES: STUDENTS

Rationale	Date Approved/Revised
<p>The purpose of this policy is to foster an educational environment that is safe and free from discrimination for all students, regardless of gender identity or gender expression, and to facilitate compliance with local, state, and federal laws prohibiting discrimination.</p> <p>This policy is also designed to support the school district’s mission to commit each day to develop and empower lifelong learners who thrive in diverse communities.</p>	<ul style="list-style-type: none"> 9/24/19

1. General Statement of Policy

The school district will act to improve the educational integration of transgender and gender nonconforming students and strive to maintain the privacy of these students. Furthermore, the school district will support healthy communication between educators, students, and parents or guardians to further the successful educational development and well-being of every student.

2) Definitions

The following definitions are provided to assist in understanding this policy. Students may or may not use these terms to describe themselves.

- A. “Assigned sex at birth” refers to a person’s biology when they are born, and is generally categorized as male or female.

English (English)

[Skip To Main Content](#)

- B. "Gender identity" means a person's deeply held sense or psychological knowledge of their own gender. One's gender identity can be the same as or different from their assigned sex at birth. Most people have a gender identity that matches their assigned sex at birth. For some, however, their gender identity is different from their assigned sex. All people have a gender identity, not just transgender people.
- C. "Gender expression" means the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
- D. "Transgender" means a gender identity or expression different from that traditionally associated with an assigned sex at birth.
- E. "Transition" means the process in which a person goes from living and identifying as one gender to living and identifying as another.
- F. "Gender nonconforming" means gender expression different from stereotypical expectations. This term includes people who identify outside traditional gender categories.

3) Scope

This policy covers conduct that takes place in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles and at bus stops. This policy also pertains to the use of electronic technology and electronic communication that occurs in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles and at bus stops, and on school computers, networks, forums, and mailing lists. This policy applies to the entire school community, including educators, school district staff and students.

4) Bullying, Harassment, and Discrimination Prohibition

Discrimination, bullying, and harassment on the basis of gender identity or expression are prohibited within the school district. Each school and all staff are responsible for ensuring that all students, including transgender and gender nonconforming students, have a safe school environment. The scope of this responsibility includes ensuring that any incident of discrimination, bullying, or harassment based on a person's actual or perceived gender identity or expression is handled in the same manner as other discrimination, bullying, or harassment complaints.

5) Privacy/Confidentiality

English (English)

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All students have a right to privacy, and this includes the right to keep one's transgender status private at school. Information about a student's transgender status, legal name, or gender assigned at birth also may constitute confidential medical information. Disclosing this information to other students, parents or guardians, or third parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA) and the Minnesota Government Data Practices Act (MGDPA). The school district will keep confidential all medical information relating to transgender and gender nonconforming students in accordance with applicable local, state, and federal privacy laws. School staff shall not disclose information that may reveal a student's transgender status to others, including other parents and school staff, unless the other staff member has a need to know, is legally required to be notified, or when written permission has been given.

Transgender and gender nonconforming students have the right to discuss and express their gender identity and expression openly and to decide when and with whom to share private information, as well as how much private information to share. The fact that a student chooses to disclose their transgender status to staff or other students does not authorize school staff to disclose other medical information about the student. (See "Student Transitions and Support Plans" below.)

6) Official Records

The school shall maintain a mandatory permanent student record that includes a student's legal name and legal gender. The school will change a student's official record to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order, or through amendment of state or federally issued identification. However, to the extent that the school is not legally required to use a student's legal name and gender on other school records or documents, the school shall use the name and gender preferred by the student. In situations where school staff or administrators are required by law to use or to report a transgender student's legal name or gender, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of confidential information.

7) Names and Pronouns

Every student may request 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. A recommended best practice for teachers is to privately ask students who disclose that they identify as transgender or

English (English)


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gender nonconforming how they want to be addressed in class. District communication to parents will use the student's legal name, pronouns, and gender as established by their official records, unless otherwise specified by a support plan.

8) Gender-Based Activities, Areas, Rules, Procedures and Practices

To the extent practicable, students shall be permitted to participate in activities or conform to rules, procedures, or practices consistent with their gender identity and the rules, policies, and procedures established by the Minnesota State High School League.

A. Schools may maintain separate restroom, locker room, and changing facilities for male and female students. It is the general position of the school district that students may use the restroom, locker room, or changing facility that corresponds with their gender identity, rather than their assigned sex; however, students seeking to use facilities that do not correspond to their assigned sex must first notify the school that they will be doing so. With respect to all restrooms, locker rooms, or changing facilities, transgender or gender nonconforming students will have access to facilities that correspond to their gender identity, the required notification shall consist of either meeting with and approval by a licensed school counselor who is sufficiently

 knowledgeable on gender dysphoria to properly determine whether a student's request to use such facilities accurately reflects that student's gender identity, or a written statement from an appropriate health-care professional, acting within the scope of their licensure, that verifies the existence of the student's consistent and uniform or sincerely held gender identity.

B. For any gender-segregated facility, any student, of any gender identity, who is uncomfortable using a shared facility, regardless of the reason, may request to be provided with a reasonable alternative.

9) Student Transitions and Support Plans

1. 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, in consultation with the minor student's parents or guardians, may create a student support plan to ensure student health, well-being, and safety.

10) Training and Professional Development


English (English)

[Skip To Main Content](#)

Information regarding gender identity shall be included in any school district training or professional training related to the prevention of bullying, harassment, or discrimination.

11) Publication_

This policy will be included in the student handbook and posted on the school district website.

Adoption and Revision History	Incorporated Policies
 <p>Policy 535</p> <p>GENDER INCLUSION</p> <p>This Policy Adopted: September 24, 2019</p>	

Administrative Rule, Regulation and Procedure: NA

Legal References: Minn. Stat. § 13.32 (Educational Data)

Minn. Stat. § 121A.031 (School Student Bullying Policy)

Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)

Minn. Stat. Ch. 363A (Minnesota Human Rights Act)

20 U.S.C. § 1232g (Family Educational and Privacy Rights)

20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)

34 C.F.R. Part 106 (Implementing Regulations of Title IX)

Cross References: [School District Policy 104 \(Mission, Values & Beliefs\)](#)

English (English)

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School District Policy 102 (Equal Educational Opportunity)

School District Policy 413 (Harassment and Violence)

School District Policy 514 (Bullying Prohibition Policy)

School District Policy 515 (Protection and Privacy of Pupil Records)

School District Policy 522 (Student Sex Nondiscrimination)

School District Policy 526 (Hazing Prohibition)

 535GenderInclusion

(<https://resources.finalsite.net/images/v1682364308/isd622org/kn36kp5qozizvldo0vsu/535Gen>)



English (English)

Exhibit H

name or pronoun that does not correspond to the student's gender identity) can constitute harassment and is a violation of this policy.

A court-ordered name or gender change is not required, and a student need not change official records in order to have this request honored by all members of the school community. Official records must identify a student with their legal name and assigned gender, unless the student has legally changed their name.

V. PRIVACY

- A. All students have a right to privacy. A student's gender status is private information. Related information, such as a student's legal name, may also constitute private information. Information regarding a student's gender status may also be confidential medical information. Intentionally disclosing this information to other students, other students' parents or third parties may violate privacy provisions in certain laws, such as the federal Family Educational Rights and Privacy Act (FERPA) and the Minnesota Government Data Practices Act. Disclosure of this information to school employees is also limited to those employees who have a legitimate educational reason for obtaining the information. Other disclosure may occur as allowed by exceptions to FERPA or the Minnesota Government Data Practices Act.
- B. District personnel shall not disclose information that reveals a student's gender status to others unless:
1. By written consent of the parent/legal guardian or student
 2. The information is needed by other school personnel within the District who have a legitimate educational interest in the information in order to perform their duties or provide services to the student
 3. The person is a parent or legal guardian of the student; or a federal or state law compels disclosure (i.e. health emergency, court order or subpoena). Parents/guardians have full access to information regarding their children, except in very limited circumstances where a determination has been made by the superintendent or designee that access is not in the best interest of the child (i.e. to protect from maltreatment). Parents/guardians may not be denied access to any existing educational record unless the student is enrolled full time in a postsecondary institution or has attained the age of 18.
- C. Bloomington Public Schools shall keep private all personal information relating to a student's gender in accordance with board policy and applicable laws.
- D. Students have the right to discuss and express their gender identity and gender expression openly and decide when, with whom, and how much private information to share about themselves. The fact that a student chooses to disclose their gender status to a staff or other students does not authorize school staff to disclose other private information about the student.

VI. DRESS CODES

Students shall have the right to dress in accordance with their gender identity. The District's rules regarding clothing will be enforced consistently, regardless of a student's gender identity or expression.

VII. GENDER-SEGREGATED ACTIVITIES, RULES, POLICIES AND PRACTICES

Bloomington Public Schools shall consider all gender-based activities, curricula, rules, policies and practices, including but not limited to classroom activities, school ceremonies and school photos for inclusivity and cultural proficiency.

Students have the right to participate fully in overnight trips and other activities in accordance with Minnesota State High School League guidelines.

VIII. PHYSICAL EDUCATION CLASSES

All students have the right to participate in physical education classes in a manner that aligns with their gender identity.

IX. ACCESS TO RESTROOMS, LOCKER ROOMS, AND CHANGING AREAS

Each student shall have access to restrooms, locker rooms and changing areas that align with the student's gender identity asserted consistently at school. Any student who has a need or desire for increased privacy, regardless of the underlying reason, shall be provided access to a reasonable alternative, but no student shall be required to use such a facility.

Exhibit I

541 GENDER INCLUSION

STATEMENT OF SUPPORT

The students and staff of Duluth Public Schools deserve respectful and inclusive learning environments that value students' gender identity and gender expression. Duluth Public Schools ensures that all students have access to programming and facilities in which they feel comfortable, supported, and safe. This policy addresses the inequities some students, including intersex, transgender, two-spirit, gender nonconforming students and gender-questioning students, confront as they navigate a system designed using a gender binary model. These Guidelines do not and cannot anticipate every situation that may occur, as every student is unique. The support for each student must be assessed and addressed individually based upon the student's specific requests and needs.

These Guidelines are supported by District Policy:
102 Equal Education Opportunity,
413 Prohibiting Harassment and Violence,
514 Bullying Prohibition,
522 Title IX Student Sex Nondiscrimination,
526 Hazing Prohibition

I. DEFINITIONS

The definitions contained in these Guidelines are not intended to label students, but rather to assist in understanding these Guidelines and the legal obligations of district staff. It is recognized that students might or might not use these terms to describe themselves.

"Gender" refers to the socially constructed roles, behaviors, activities, and attributes that a given society attaches to femininity or masculinity.

"Gender Identity" is a person's deeply held sense or psychological knowledge of their own gender. A person's gender identity can be the same or different than the sex or gender assigned at birth.

"Sex Assigned at Birth" refers to the sex designation recorded on an infant's birth certificate should such a record be provided at birth.

"Gender Expression" refers to the manner in which a person represents or expresses that person's gender identity to others, often through behavior, clothing, hairstyles, activities, or mannerisms. Although transgender people typically seek to make their gender expression match their gender identity, rather than their sex assigned at birth, gender expression may or may not conform to a person's gender identity.

"Gender non-conforming" is an umbrella term that is used to describe individuals whose gender expression, gender identity, or gender role differs from gender norms associated with their sex assigned at birth. This term also includes people who identify outside of traditional gender categories or identify as both or several genders. Other terms that can have a similar meaning include "gender diverse," "gender expansive," "genderqueer," and "nonbinary."

"Transgender/Trans" describes people whose gender identity or expression is different from that traditionally associated with an assigned sex at birth. Transgender identity is not dependent on medical procedures or other physical changes.

"Transition" refers to the process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth.

II. PRIVACY

All students have a right to privacy, including the right to keep private one's transgender or gender-non-conforming status at school. Transgender and gender-non-conforming students have the right to discuss and express their gender identity and expression openly and to decide when, how, and with whom to share private information, well as to determine what information will be shared.

Information about a student's transgender or gender-non-conforming status is classified as private data under state and federal law. School district personnel may only disclose a student's gender identity to other school district employees if they have a "need to know" the information in order to perform their job duties. The fact that a student chooses to disclose his or her transgender status to staff or other students does not authorize school staff to disclose such information about the student.

A school district employee may not confirm or otherwise disclose a student's transgender status to the parents of other students in the school or community members.

III. OFFICIAL SCHOOL RECORDS

The school district is required to maintain a mandatory and permanent student record ("official record") that includes a student's legal name and gender. The school district will change a student's official record to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order or other official government action.

Pertaining to student of all grades: At the request of a transgender or gender-non-conforming student, and/or their parent/guardian the District will use the student's preferred name, gender identity, and preferred pronouns when referring to the student in education records.

IV. STUDENT NAMES, PRONOUNS, AND GENDER MARKERS

At the student's and/or parent's/guardian's request, a transgender and/or gender-non-conforming student in all grades has the right to be referred to at school by a name and pronouns that align with their gender identity. At the parent's/guardian's request, a transgender student in all grades has the right to be referred to at school by a name and pronouns that align with the student's gender identity. A court-ordered name change or official gender change is not required, and the parent/guardian or student is likewise not required to change the school's official records in order for the student to be addressed by the name and pronouns that correspond to the student's gender identity.

V. GENDER-SEGREGATED FACILITIES

All students shall have access to gendered facilities and school-sponsored programs that are consistent with the student's gender identity. This includes, but is not limited to, multi-stalled gendered restrooms, locker rooms, and school programs, trips, and athletic programs.

A. Restroom Accessibility

Pursuant to Minn. Stat. 363A.13, subd. 1 (*N.H. v. Anoka-Hennepin Sch. Dist. No. 11*, 950 N.W.2d 553 (Minn. Ct. App. 2020)) students shall have access to the restroom that corresponds to their gender identity asserted at school:

1. Any student who has a need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided access to a single-user restroom.
2. No student shall be required to use a single-user restroom because they are transgender or gender-non-conforming.
3. The District shall work with each transgender and gender-non-conforming student to determine which restrooms are most comfortable for the student.
4. In no case shall any student be required to use a restroom that conflicts with the student's gender identity.

B. Locker Room Accessibility

Pursuant to Minn. Stat. 363A.13, subd. 1 (*N.H. v. Anoka-Hennepin Sch. Dist. No. 11, 950 N.W.2d 553 (Minn. Ct. App. 2020)*), the use of locker rooms by transgender and gender-non-conforming students shall be assessed on an individualized basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports and other school activities, ensuring the student's comfort, and minimizing stigmatization of the student.

1. Unless the student requests otherwise, transgender and gender-non-conforming students should have access to the locker room that corresponds to the student's gender identity asserted at school, like all other students.
2. Any student who has the need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should, if possible, be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a physical education instructor's office in or near the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponds to gender identity before or after other students).
3. Any alternative arrangement should be provided to protect the student's ability to keep the student's transgender or gender-non-conforming status confidential.
4. The District shall work with each gender-non-conforming student to determine which restrooms and locker room facilities are most comfortable for the student.
5. In no case shall a transgender student be required to use a locker room that conflicts with the student's gender identity.

VI. PHYSICAL EDUCATION AND HEALTH EDUCATION CLASSES AND INTRAMURAL SPORTS

All students shall be permitted to participate in physical education classes, health education classes, and intramural sports and activities in a manner consistent with their gender identity.

VII. SCHOOL TRIPS

All students shall be permitted to participate in all school trips in a manner that corresponds with their gender identity. In planning school trips, staff is expected to assess the student's needs in collaboration with the student and/or the student's parent(s)/guardian(s) and make reasonable efforts to

provide an acceptable accommodation to the student. Accommodations will be discussed in advance of the trip on a case-by-case basis.

VIII. DRESS CODES

All students have the right to dress in a manner consistent with their gender identity or gender expression, at school and at school-sponsored functions. This includes, but is not limited to dances, after-school activities, and graduation.

IX. INTERSCHOLASTIC COMPETITIVE SPORTS TEAMS/ACTIVITIES

All students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity and in compliance with the applicable regulations of the Minnesota State High School League (MSHSL).

X. OTHER GENDER-BASED ACTIVITIES, RULES, POLICIES AND PRACTICES

As a general matter, Duluth Public Schools will evaluate, on an ongoing basis, all gender-based activities, rules, policies, and practices, including but not limited to classroom activities, school ceremonies, yearbooks and school photos. Students will be permitted to participate in any such activities or conform to any such rule, guidelines, or practice consistent with their gender identity.

XI. DISCRIMINATION/HARASSMENT/BULLYING

It is the policy of the District to maintain a safe and supporting learning and educational environment that is free from harassment, intimidation, violence, and/or bullying and free from discrimination on account of gender, gender identity, and gender expression.

Complaints alleging discrimination or harassment based on a student's actual or perceived transgender status or gender non-conformity generally are to be handled in the same manner as sex discrimination, harassment or bullying complaints. For information about the types of conduct that constitute a violation of the school district's policy on harassment and violence and the school district's procedures for addressing such complaints, refer to the school district's policy on harassment and violence (Policy 413). For information about the types of conduct that constitute a violation of the school district's policy on bullying and the school district's procedures for addressing such complaints, refer to the school district's policy on bullying (Policy 514).

Legal References: Minn. Stat ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 121A.031 (Safe and Supportive Minnesota Schools Act)

Minn. Stat. § 121A.03, subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)
Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)
20 U.S.C. § 1681 et seq. (Title IX)
20 U.S.C. § 1701 et seq. (Equal Educational Opportunities)

Cross References:

102 Equal Education Opportunity
413 Prohibiting Harassment and Violence
514 Bullying Prohibition
522 Title IX Student Sex Nondiscrimination
526 Hazing Prohibition
MSHSL Handbook
MSHSL ByLaws Duluth Public School District ISD #709

First Reading: 2.28.23
Second Reading: 3.21.23
Adopted: 3.21.23

Exhibit J

413 - Addendum C - Administrative Guidelines for Transgender and Gender- Expansive Student Rights and Protections

These Administrative Guidelines (“Guidelines”) set forth White Bear Lake Area Schools’ (“District”) procedures for schools to address the needs and concerns of transgender and gender-expansive students to ensure safe, supportive, and healthy school environments where every child can learn. These Guidelines are intended to: 1) ensure that all students are welcomed, valued, included, and respected; 2) help schools ensure safe learning environments free of discrimination, harassment, and bullying; and 3) promote the educational and social integration of transgender and gender-expansive students. These Guidelines do not and cannot anticipate every situation that may occur, as every student is unique. The support for each student must be assessed and addressed individually based upon the student’s specific requests and needs.

These Guidelines are supported by district Policy 102 (Equal Education Opportunity), 413 (Harassment and Violence), 515 (Bullying Prohibition Policy), 515 (Protection and Privacy of Pupil Records, 522 (Title IX Sex Nondiscrimination Policy, Grievance Procedure and Process), and 525 (Violence Prevention).

I. DEFINITIONS

A. **Cisgender** is a term used to describe individuals whose gender identity matches their sex assigned at birth.

B. **Gender-expansive** describes someone with a more flexible gender identity than might be associated with a gender binary.

C. Gender expression means the manifestation, presentation, or communication of one's gender identity through behavior, physical appearance, clothing, accessories, voice, body characteristics, or other means. Although transgender people may seek to make their gender expression match their gender identity, rather than their sex assigned at birth, gender expression may or may not conform to a person's gender identity.

D. Gender identity is a person's deeply held sense or psychological knowledge of their own gender, regardless of the sex or gender they were assigned at birth. A person's gender identity can be the same or different than the sex or gender assigned at birth.

E. Gender non-conforming is an umbrella term that is used to describe individuals whose gender expression, gender identity, or gender role differs from gender norms associated with their sex assigned at birth.

F. Parent means a person with legal custody or the legal guardian of a child.

G. Questioning is an identity label for people exploring their sexual orientation or gender identity.

H. Sex refers to a set of biological attributes. It is primarily associated with physical and physiological features including chromosomes, gene expression, hormone levels and function, and reproductive/sexual anatomy. Sex is usually categorized as female, male, or intersex, but there is variation in the biological attributes that comprise sex and how those attributes are expressed.

I. Sex assigned at birth refers to the sex designation recorded on an infant's birth certificate when such a record is provided at birth.

J. Sexual orientation refers to a person's pattern of sexual attraction, often toward a specific gender, toward multiple genders, or to nobody at all.

K. Transgender describes people whose gender identity or expression is different from that traditionally associated with an assigned sex at birth.

L. **Transition** refers to the process in which transgender people begin asserting the gender that corresponds to their gender identity instead of the sex assigned at birth.

II. NONDISCRIMINATION

A. **Bullying and Harassment.** Transgender and gender-expansive students have the right to attend school and participate in all school sponsored events and activities in an environment that is free from unlawful discrimination, including bullying or harassment that is based on gender identity, gender expression, sexual orientation, or any protected class status.

B. **Response to Sexual Harassment.** Harassment that is based on gender identity or transgender status is harassment based on sex. If sexual harassment occurs, the district must take prompt action to stop the harassment from occurring and to prevent it from recurring. Various laws and policies may be implicated, including Title IX, the Minnesota Human Rights Act, district Policy 413 (Harassment and Violence) and district Policy 514 (Bullying Prohibition Policy).

III. FACILITY USE

A. **Restroom Accessibility.** Pursuant to state law, students shall have access to the restroom that corresponds to their gender identity asserted at school:

1. Any student who has a need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided access to a single user restroom.
2. No student shall be required to use a single user restroom because they are transgender or gender-expansive.
3. The district shall work with each gender-expansive student to determine which restrooms are most comfortable for the student.

4. In no case shall a transgender or gender-expansive student be required to use a restroom that conflicts with the student's gender identity.

B. Locker Room Accessibility. The use of locker rooms by transgender and gender-expansive students shall be assessed on an individualized basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports and other school activities, ensuring the student's safety and comfort, and minimizing stigmatization of the student.

1. Unless the student requests otherwise, transgender and gender-expansive students should have access to the locker room that corresponds to the student's gender identity asserted at school, like all other students.

2. Any student who has the need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a physical education instructor's office in or near the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponds to gender identity before or after other students).

3. Any alternative arrangement should be provided in a manner that protects the student's ability to keep the student's transgender or gender-expansive status confidential.

4. The district shall work with each gender-expansive student to determine which restrooms and locker room facilities are most comfortable for the student.

5. In no case shall a transgender or gender-expansive student be required to use a locker room that conflicts with the student's gender identity.

C. School Trips. All students shall be permitted to participate in all school trips in a manner that corresponds with their gender identity or in a manner that allows the student to feel the safest, included, and most

comfortable. In planning school trips, staff is expected to assess the student's need in collaboration with the student and/or the student's parent(s)/guardian(s) and make reasonable efforts to provide an accommodation that is acceptable to the student. Accommodations will be discussed in advance of the trip on a case-by-case basis.

IV. GENDER EXPRESSION

A. Student Names, Pronouns, and Gender Markers. A student has the right to request that the student be referred to by a name and pronouns that correspond to the student's gender identity by all school staff and fellow students. Parent(s)/ Guardian(s) have a right to request that the district change the student's name and/or gender marker in the school's student information system. A court-ordered name change or official gender change is not required, and the student is likewise not required to change the school's official records in order to be addressed by the name and pronouns that correspond to the student's gender identity.

B. Student Attire. Regardless of age, transgender and gender-expansive students have the right to dress in a manner that is consistent with their gender identity at school and at school sponsored events and activities.

V. EDUCATION RECORDS

A. MARSS Report. School districts must currently use a student's legal name and sex assigned at birth in the Minnesota Automated Reporting Student System (MARSS).

B. Other Records. At the request of a transgender or gender-expansive student, or their parent, the district will use the student's preferred name, gender identity, and pronouns when referring to the student in education records. This applies to all school records, including, but not limited to, the following:

- Transcripts
- Diplomas
- IEPs
- Section 504 Plans
- Honor or Award Certificates
- Yearbooks

- School IDs
- Announcements
- Programs for sports, plays, and concerts.

C. Amendment of Education Records. The Office for Civil Rights (OCR) has issued the following guidance for responding to requests to amend or correct education records to reflect a student's gender identity and new name in order to protect the student's privacy rights:

A school may receive requests to correct a student's education records to make them consistent with the student's gender identity. Updating a transgender student's education records to reflect the student's gender identity and new name will help protect privacy and ensure personnel consistently use appropriate names and pronouns.

Under FERPA, a school must consider the request of an eligible student or parent to amend information in the student's education records that is inaccurate, misleading, or in violation of the student's privacy rights. If the school does not amend the record, it must inform the requestor of its decision and of the right to a hearing. If, after the hearing, the school does not amend the record, it must inform the requestor of the right to insert a statement in the record with the requestor's comments on the contested information, a statement that the requestor disagrees with the hearing decision, or both. That statement must be disclosed whenever the record to which the statement relates is disclosed.

Under Title IX, a school must respond to a request to amend information related to a student's transgender status consistent with its general practices for amending other students' records. If a student or parent complains about the school's handling of such a request, the school must promptly and equitably resolve the complaint under the school's Title IX grievance procedures.

VI. STUDENT ACTIVITIES, PHYSICAL EDUCATION AND HEALTH EDUCATION, CLASSROOM AND PROGRAM EXPECTATIONS

A. Minnesota State High School League Activities. The MSHSL has adopted a bylaw that states: “In accordance with applicable state and federal laws, rules and regulations, the Minnesota State High School League allows participation for all students consistent with their gender identity or expression in an environment free from discrimination with an equal opportunity for participation in athletics and fine arts.” Based on this bylaw, transgender students must have an equal opportunity to participate but are subject to the same performance criteria that apply to all students trying out for a team. The MSHSL bylaws outline an appeals process for addressing eligibility disputes in this area. The current bylaws state:

Transgender Eligibility Appeal Procedures. The application to appeal a transgender eligibility determination is limited to the following circumstances:

(1) The school must have made a determination of ineligibility based on the student’s gender identity after receiving information that the student has a consistent gender identity or that the gender identity is sincerely held as part of the student’s core identity and the gender identity is different from the student’s sex assigned at birth and that the student wishes to participate in athletics in a manner consistent with the student’s gender identity.

(2) The appeal must be submitted to the MSHSL Executive Director or Executive Director’s Designee and may include, but is not limited to, the following:

(a) The student’s current transcript, school registration and any additional relevant information.

(b) The written statement from the student and the student’s parent(s)/legal guardian(s) affirming the consistent gender related identity and expression to which

the student self-relates.

(c) Statements from individuals such as, but not limited to parents, friends, and/or teachers, which affirm that the actions, attitudes, dress and manner demonstrate the student's consistent or sincerely held gender-related identification and expression.

(d) A written statement from an appropriate health-care professional, acting within the scope of his/her licensure that verifies the existence of the student's consistent and uniform gender-related identity or sincerely held gender-related identity.

(e) Any other evidence that the gender identity is sincerely held as part of the person's core identity as may be required by the school or the MSHSL office relative to the eligibility determination.

B. Physical Education and Health Education Classes and Intramural Sports. Transgender and gender-expansive students shall be permitted to participate in physical education classes, health education classes, and intramural sports and activities in a manner consistent with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable.

C. Classroom and Program Expectations. Teachers and staff in all subject areas will make their best efforts not to divide students based on sex assigned at birth or gender identity during any activities or classes. A student's gender identity shall not be considered when assessing ability.

D. Other School Sponsored Activities. Transgender and gender-expansive students have the right to participate in school sponsored activities consistent with their gender identity. Transgender and gender-expansive students must have an equal opportunity to participate and are subject to the same performance criteria that apply to all other students. To the extent possible, schools should reduce or eliminate the practice of segregating students by gender.

VII. PARENT ACCESS TO INFORMATION

A. Parent Involvement. If a student asks a school official to modify education records to refer to the student based on the student's gender identity rather than the sex assigned at birth, the school official will inform the student that the request requires that the parent be notified. If the student wants to pursue the modification, the school official or other appropriate staff member will inform the student's parents of the change unless they are over the age of 18.

B. May Not Withhold Information from a Student's Parent. A staff member must not refuse to provide parents with information about their child who is under the age of 18, including information about whether their child has asked to use a name, pronouns, restrooms, or locker rooms based on the child's gender identity rather than sex assigned at birth. Staff members may refuse to provide such information if the student is 18 years of age or older, unless the parent has been designated as the child's legal guardian or conservator. The law generally gives parents the right to access all educational data on their child, if the child is under the age of 18.

VIII. DATA PRIVACY

A. Disclosure of Transgender or Gender-Expansive Status to other Employees. All students have a right to privacy, including the right to keep private one's transgender or gender-expansive status at school. Transgender and gender-expansive students have the right to discuss and express their gender identity and expression openly and to decide when, how, and with whom to share private information, as well as to determine what information will be shared.

To ensure the safety and well-being of the student, district employees shall not disclose a student's gender identity, sex assigned at birth, transgender identity, or information that may reveal a student's gender identity (e.g., birth name) to anyone, including, but not limited to, other staff members, students, or parents of other students, unless such disclosure has been authorized by the student or their parent(s)/guardian(s). If such a disclosure is necessary, it will be documented in writing and should be discussed with the student in advance.

B. No Disclosure of Transgender or Gender-Expansive Status to Other Parents or Students. A school district employee may not confirm or otherwise disclose a student's transgender or gender-expansive status to the other students, parents of other students in the school, or community members. A student's gender identity is classified as private educational data.

C. Response to Parent Inquiries. If the parent of another student expresses a concern or makes a complaint that the district is violating their child's privacy rights by allowing transgender students to use restroom and locker room facilities consistent with their gender identity, the complaint should be forwarded to the building principal. When responding, the building principal should state that school officials may not share information about other students and that the school district follows the laws governing the rights of transgender students. If applicable, the principal may also consider informing the parent that single-use facilities are available for all students who have an increased desire for privacy.

IX. PROCEDURES

A. Proof Not Required. Students do not need to provide any documentation or other "proof" that they are transgender or gender-expansive as a prerequisite to being afforded the rights of a transgender and gender-expansive student.

B. Notice to Building Administrator. If a parent or student informs a staff member that a student wishes to change their facility use, gender identity, or update a status in the education records, the staff member must notify the building principal so the principal can ensure that the student's rights are honored and that appropriate supports are in place. Staff members should not unilaterally make decisions about supports that will or will not be provided to the student. If a student asks a school official to modify education records to refer to the student based on the student's gender identity rather than the sex assigned at birth, the school official will inform the student that the request requires parental consent. If the student wants to pursue the issue, the school official or other appropriate staff member will inform the student's parents of the change unless they are over the age of 18.

C. Staff Training and Compliance. All administrative staff shall be informed of the existence of these Guidelines. The district will provide training on these Guidelines and how to support transgender or gender-expansive students at reasonable intervals, to be determined by the district.

District employees who refuse to abide by these Guidelines may be subject to disciplinary actions, up to and including termination, as set forth in the relevant employee discipline policy. This includes a staff member's persistent refusal to respect a student's gender identity; for example, by consistently referring to the student by a name or pronoun that does not correspond with the student's gender identity.

Exhibit K

413R - Transgender And Gender Expansive Students

400 - EMPLOYEES/PERSONNEL

BURNSVILLE-EAGAN-SAVAGE SCHOOL DISTRICT 191 ADMINISTRATIVE REGULATION FOR SUPPORTING TRANSGENDER AND GENDER-EXPANSIVE STUDENTS

This Administrative Regulation (“Regulation”) sets forth Burnsville-Eagan-Savage School District 191 (“District”) procedures for schools to address the needs and concerns of transgender and gender-expansive students to ensure safe, supportive, and healthy school environments where every child can learn. This Regulation is intended to: 1) ensure that all students are welcomed, valued, included, and respected; 2) to help schools ensure safe learning environments free of discrimination, harassment, and bullying; and 3) to promote the educational and social integration of transgender and gender-expansive students. This Regulation does not and cannot anticipate every situation that may occur, as every student is unique. The support for each student must be assessed and addressed individually based upon the student’s specific requests and needs.

This Regulation is supported by District Policy 102 (Equal Education Opportunity), 413 (Harassment and Violence), 514 (Bullying Prohibition Policy), 515 (Protection and Privacy of Pupil Records, 522 (Title IX Sex Nondiscrimination Policy, Grievance Procedure and Process), and 525 (Violence Prevention).

1. Definitions

The definitions contained in the policy are not intended to label students, but rather to assist in understanding this policy and the legal obligations of district staff. It is recognized that students might or might not use these terms to describe themselves.

“*Gender Identity*” is a person’s deeply held sense or psychological knowledge of their own gender, regardless of the sex or gender they were assigned at birth. A person’s gender identity can be the same or different than the sex or gender assigned at birth.

“*Gender Expression*” refers to the manner in which a person represents or expresses that person’s gender identity to others, often through behavior, clothing, hairstyles, activities, or mannerisms.

“*Transgender/Trans*” describes people whose gender identity or expression is different from that traditionally associated with an assigned sex at birth.

“*Gender Non-Conforming*” describes people whose gender expression differs from social expectations, such as “feminine” boys, “masculine” girls, and those who are perceived as androgynous. This phrase also includes people who identify outside traditional gender categories.

“*Gender-expansive*” describes someone with a more flexible gender identity than might be associated with a typical gender binary.

2. Privacy/Confidentiality

Information related to a student’s transgender and gender-expansive status is private data under the Minnesota Government Data Practices Act and the Family Educational Rights and Privacy Act (FERPA); therefore, there are limitations on when such data may be shared. To ensure the privacy rights of students, District personnel shall not disclose information that reveals a student’s transgender or gender-expansive status to others, unless:

1. by written consent of a parent/legal guardian or student.;
2. the information is needed by other school personnel within the District who have a legitimate educational interest in the information in order to perform their duties or provide services to the student;
3. the person is a parent or legal guardian of the student; or (4) a federal or state law compels disclosure (i.e. health emergency, court order or subpoena). Parents/guardians have full access to information regarding their children, except in very limited circumstances where a determination has been made that access is not in the best interest of the child (i.e. to protect from physical or emotional harm.) Parents/guardians may not be denied access to any existing educational record unless the student is enrolled full-time in a postsecondary institution or has attained the age of 18.

In some cases, with the consent of the student and parents/guardians, District staff will develop a plan to inform and educate the student’s peers and/or engage external resources to assist in the support of students dealing with transgender or gender-expansive issues.

3. Official School Records

The school district is required to maintain a mandatory and permanent student record (“official record”) that includes a student’s legal name and gender. The school district is not required to use a student’s legal name and gender on other school records or documents.

Skip to Main Content

English

The school district will change a student's official record to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order or other official government action.

In situations where school district staff or administrators are required by law to use or report a transgender or gender-expansive student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices intended to minimize the likelihood of inadvertent disclosure of confidential or private information relating to a student's gender identity or gender expression to parties lacking a legitimate educational interest in that information.

4. Student Names, Pronouns, and Gender Markers

A student may request that the student be referred to by a name and pronouns that correspond to the student's gender identity by all school staff and fellow students. Parent(s)/Guardian(s) have a right to request that the District change the student's name and/or gender marker in the school's student information system. A court-ordered name change or official gender change is not required, and the student is likewise not required to change the school's official records in order to be addressed by the name and pronouns that correspond to the student's gender identity.

5. Gender-Segregated Activities

To the extent possible, schools should reduce or eliminate the practice of segregating students by gender.

6. Gender-Segregated Facilities

Transgender and gender-expansive students shall have access to gendered facilities and school-sponsored programs that are consistent with the student's gender identity. This includes, but is not limited to, multi-stalled gendered restrooms, locker rooms, and school programs, trips, and athletic programs.

a. Restroom Accessibility

Pursuant to state law, students shall have access to the restroom that corresponds to their gender identity asserted at school:

- i. Any student who has a need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided access to a single user restroom.
- ii. No student shall be required to use a single user restroom because they are transgender or gender-expansive.
- iii. The District shall work with each gender-expansive student to determine which restrooms are most comfortable for the student.
- iv. In no case shall a transgender or gender-expansive student be required to use a restroom that conflicts with the student's gender identity.

b. Locker Room Accessibility

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

- i. Unless the student requests otherwise, transgender and gender-expansive students should have access to the locker room that corresponds to the student's gender identity asserted at school, like all other students.
- ii. Any student who has the need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a physical education instructor's office in or near the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponding to gender identity before or after other students).
- iii. Any alternative arrangement should be provided in a manner that protects the student's ability to keep the student's transgender or gender-expansive status confidential.
- iv. The District shall work with each gender-expansive student to determine which restrooms and locker room facilities are most comfortable for the student.

v. In no case shall a transgender or gender-expansive student be required to use a locker room that conflicts with the student's gender identity.

7. Physical Education and Health Education Classes and Intermural Sports

Transgender and gender-expansive students shall be permitted to participate in physical education classes, health education classes, and intramural sports and activities in a manner consistent with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable.

Students in physical education classes may be grouped by ability, so long as a student's ability is based on objective standards of individual performance. A student's gender identity shall not be considered when assessing ability.

Physical education and health education teachers and staff will make their best efforts not to divide students based on sex assigned at birth or gender identity during any activities or classes.

8. School Trips

All students shall be permitted to participate in all school trips in a manner that corresponds with their gender identity or in a manner that allows the student to feel the safest, included, and most comfortable. In planning school trips, staff is expected to assess the student's need in collaboration with the student and/or the student's parent(s)/guardian(s).

9. Dress Codes

Transgender and gender-expansive students have the right to dress in a manner consistent with their gender identity or gender expression, including at school-sponsored functions such as dances, after school activities, and graduation. The District's rules regarding clothing will be enforced consistently, regardless of a student's gender identity or expression.

10. Interscholastic Competitive Sports Teams/Activities

Transgender and gender-expansive students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity and in compliance with the applicable regulations of the Minnesota State High School League (MSHSL).

11. Staff Training and Compliance

All District staff shall be informed of the existence of this Regulation. The District will, at intervals to be determined by the District, provide staff training on this Regulation and how to support transgender or gender-expansive students.

12. Discrimination/Harassment/Bullying

It is the policy of the District to maintain a safe and supporting learning and educational environment that is free from harassment, intimidation, violence, and/or bullying and free from discrimination on account of gender, gender identity, and gender expression.

Complaints alleging misconduct based on a student's actual or perceived transgender status or gender non-conformity shall be investigated and addressed pursuant to the applicable School District policy. For information about the types of conduct that constitute violation of the school district's policy on harassment and violence and the school district's procedures for addressing such complaints, refer to the school district's policy on harassment and violence (Policy 413). For information about the types of conduct that constitute violation of the school district's policy on bullying and the school district's procedures for addressing such complaints, refer to the school district's policy on bullying (Policy 514).

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Exhibit L



Independent School District 152



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Guidelines for Supporting Student And Employee Gender Identity and Gender Expression

Administrative Procedure: 413.2

Section: 400 Employees/Personnel

Adopted Date: 02/13/23

Date Revised: 02/13/23

Date Reviewed: 02/13/23

These administrative guidelines set forth Moorhead Area Public Schools (“District”) procedures for schools to address the needs of students and employees, regardless of gender identity and expression, to ensure safe, supportive, and healthy school environments where every child can learn. These Guidelines are intended to:

1. ensure that all individuals are welcomed, valued, included, and respected;
2. to help schools ensure safe learning and working environments free of discrimination, harassment, and bullying; and
3. to promote the educational and social integration of transgender and gender-expansive students.

This procedure does not and cannot anticipate every situation that may occur, as every individual is unique. The support for each individual must be assessed and addressed individually based upon the specific requests and needs. In all cases, the goal is to ensure the safety, comfort, and healthy development of the students while maximizing the students’ social integration and minimizing stigmatization of the students. Similarly, for employees, the goal is to ensure a safe and supportive working environment.

1. Definitions

The definitions contained in the policy are not intended to label individuals, but rather to assist in understanding this policy and the legal obligations of district staff. It is recognized that students might or might not use these terms to describe themselves.

“Gender” refers to the socially constructed roles, behaviors, activities, and attributes that a given society attaches to femininity or masculinity.

“Gender Binary” refers to the social construction of a gender dichotomy between masculinity and femininity. The gender binary often ignores or denigrates alternate gender constructions.

“Gender Identity” is a person’s deeply held sense or psychological knowledge of their own gender, regardless of the sex or gender they were assigned at birth. A person’s gender identity can be the same or different than the sex or gender assigned at birth.

“Gender Expression” refers to the manner in which a person represents or expresses that person’s gender identity to others, often through behavior, clothing, hairstyles, activities, or mannerisms.

“Gender Non-Conforming” describes people whose gender expression differs from social expectations, such as “feminine” boys, “masculine” girls, and those who are perceived as androgynous. This phrase also includes people who identify outside traditional gender categories.

“Gender-expansive” describes someone with a more flexible gender identity than might be associated with a typical gender binary.

“Transgender/Trans” describes people whose gender identity or expression is different from that traditionally associated with an assigned sex at birth.

“Sex” refers to a person’s biology and is generally categorized as male, female, or intersex.

“Intersex” refers to a combination of features that distinguish male and female anatomy.

2. Privacy

All individuals have a right to privacy, including the right to keep private one’s gender identity or expression status, at school. Individuals have the right to discuss and express their gender identity and expression openly and to decide when, how, and with whom to share private information, well as to determine what information will be shared. Based on the information, the educator or administrator and student should determine how to proceed through a collaborative, intentional, and ongoing process of how the school can support the student and balance the student’s need to be affirmed at school.

Privacy and confidentiality are critically important for transgender or gender-expansive students and inadvertent disclosures could put the student in potentially dangerous situations. To ensure the safety and well-being of the student, District employees shall not disclose a student's gender identity, sex assigned at birth, transgender identity, or information that may reveal a student's gender identity (e.g., birth name) to anyone, including, but not limited to, other staff members, individuals, or parents of other individuals, unless such disclosure has been authorized by the student or their parent(s)/guardian(s). If such a disclosure is necessary, it will be documented in writing and should be discussed with the student in advance.

Information about a student's transgender or gender-expansive status, legal name, or gender assigned at birth may constitute private data under state and federal law. School district personnel shall not disclose information that may reveal a student's gender identity to others, including parents and other school personnel, unless legally required to do so or unless the student has authorized such disclosure. Staff may not withhold information from a parent/guardian of a student who is under the age of 18 if the parent/guardian specifically requests information regarding the student's gender identity, gender expression, or transgender status at school.

In some cases, individuals may feel more supported and safer if other individuals are aware that they are transgender or gender-expansive. In such cases, district staff should work closely with the student, family, and other staff members on a plan to inform and educate the student's peers and shall document the plan. In some circumstances, it may also be appropriate to engage external resources to assist with educational efforts.

Families play a vital role in helping students navigate issues of gender identity. Pursuing relationships, open discussion, removing pressure, and seeking help from trustworthy people can support a safe and supportive environment for your student.

3. Student Transition Meeting

The principal or designee shall request a meeting with the transgender or gender nonconforming student and their parent/guardian upon the student's enrollment in the District or in response to a currently enrolled student's change of gender expression or identity to ensure a collaborative, intentional and ongoing process of support.

The goals of the meeting are to:

1. Develop and understanding of the student's individual needs with respect to their gender expression or gender identity, including any accommodations that the student is requesting or that the District may provide according to district policy and procedure, and/or under state and federal law, and

2. Develop a shared understanding of the students day-to-day routine within the school so as to foster a supportive relationship and help alleviate any apprehensions the student may have with regard to their attendance at school.

The school may not require a student to attend a meeting as a condition of providing them with the protection to which they are entitled under district policy and procedure, and/or state and federal law regarding gender expression or gender identity.

4. Student Official School Records

The school district is required to maintain a mandatory and permanent student record (“official record”) that includes a student’s legal name and gender. The school district is not required to use a student’s legal name and gender on other non-official school records or documents.

The school district will change a student’s “official record” to reflect a change in legal name or gender upon receipt of documentation that such change has been made pursuant to a court order or other official government action.

In situations where school district staff or administrators are required by law to use or report a 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 confidential or private information relating to a student’s gender identity or gender expression.

5. Student Names, Pronouns, and Gender Markers

A student has the right to request that the student be referred to by a name and pronouns that correspond to the student’s gender identity by all school staff and fellow students. Parent(s)/Guardian(s) have a right to request that the District change the student’s name and/or gender marker in the school’s student information system. A court-ordered name change or official gender change is not required, and the student is likewise not required to change the school’s official records in order to be addressed by the name and pronouns that correspond to the student’s gender identity.

A request to change the name, pronoun, or gender marker in the student information system can be made through the school counselor or building administrator. Documentation of the request will be required prior to approval.

The intentional or persistent refusal to respect a person’s gender identity (for example, intentionally referring to the student by a name or pronoun that does not correspond to

the student's gender identity) is a violation of MAPS Policy 413, Prohibition of Harassment and Violence.

6. Gender-Segregated Student Activities

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

7. Gender-Segregated Facilities

Students shall have access to gendered facilities and school-sponsored programs that are consistent with the student's gender identity. This includes but is not limited to, multi-stalled gendered restrooms, locker rooms, school programs, trips, and athletic programs.

a. Restroom Accessibility

Pursuant to state law, students shall have access to the restroom that corresponds to their gender identity asserted at school:

- i. Any student who has a need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided access to a single-user restroom.
- ii. No student shall be required to use a single-user restroom because of their identified gender identity or expression.
- iii. The District shall work with each gender-expansive student to determine which restrooms are most comfortable for the student.
- iv. In no case shall a student be required to use a restroom that conflicts with the student's gender identity or expression.

b. Locker Room Accessibility

The use of locker rooms by individuals shall be assessed on an individualized basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports and other school activities, ensuring the student's safety and comfort, and minimizing stigmatization of the student.

- i. Unless the student requests otherwise, students should have access to the locker room that corresponds to the student's gender identity or expression asserted at school, like all other students.
- ii. Any student who has the need or desire for increased privacy, regardless of the student's gender identity or expression, and regardless of the underlying reason for the student's need or desire for increased privacy, should be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a physical education instructor's office in or near the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponding to gender identity before or after other students).
- iii. Any alternative arrangement should be provided in a manner that protects the student's ability to keep the student's status confidential.
- iv. The District shall work with each gender-expansive student to determine which restrooms and locker room facilities are most comfortable for the student.
- v. In no case shall a student be required to use a locker room that conflicts with the student's gender identity.

8. Physical Education and Health Education Classes and Intramural Sports

Students shall be permitted to participate in physical education classes, health education classes, and intramural sports and activities in a manner consistent with their gender identity or expression, and in a manner that allows the student to feel the safest, included, and most comfortable.

Students in physical education classes may be grouped by ability, so long as a student's ability is based on objective standards of individual performance. A student's gender identity shall not be considered when assessing ability.

Physical education and health education teachers and staff will make their best efforts not to divide students based on sex assigned at birth or gender identity during any activities or classes.

9. School Trips

All students shall be permitted to participate in all school trips in a manner that corresponds with their gender identity or expression, and in a manner that allows the student to feel the safest, included, and most comfortable. In planning school trips, staff is expected to assess the student's need in collaboration with the student and/or the student's parent(s)/guardian(s) and make reasonable efforts to provide an accommodation that is acceptable to the student.

Accommodations will be discussed in advance of the trip on a case-by-case basis and will be documented in writing.

10. Dress Codes

Individuals have the right to dress in a manner consistent with their gender identity or expression, including at school-sponsored functions such as dances, after-school activities, and graduation. District policy regarding clothing will be enforced consistently, regardless of a student's gender identity or expression.

A student whose gender expression is different from expectations based on the student's sex assigned at birth will not be considered disruptive of the educational process or as an interference with the maintenance of a positive teaching/learning climate.

11. Interscholastic Competitive Sports Teams/Activities

Students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity and expression, and in compliance with the applicable regulations of the Minnesota State High School League (MSHSL).

12. Specific Guidelines for Employees

a. Names, Pronouns, and Gender Markers

i. Employees have the right to be addressed by a name and pronoun that correspond to the employee's gender identity. A court-ordered name or gender change is not required.

ii. An employment record may be changed to reflect a change in name or gender upon request from the employee. Certain types of records, like those relating to payroll and retirement accounts, may require a legal name change before the person's name can be changed.

iii. The intentional or persistent refusal to respect a person's gender identity (for example, intentionally referring to the employee by a name or pronoun that does not correspond to the employee's gender identity) is a violation of MAPS Policy 413, Prohibition of Harassment and Violence

b. Restrooms

i. Employees shall have access to the restroom corresponding to their gender identity.

ii. Any employee who has a need or desire for increased privacy, regardless of the underlying reason, will be provided access to a single-stall restroom, when available. No employee, however, shall be required to use such a restroom.

iii. All employees have a right to safe and appropriate restroom facilities, including the right to use a restroom that corresponds to the employee's gender identity, regardless of the employee's sex assigned at birth. That decision should be left to the employee to determine the most appropriate and safest option for them.

c. Dress Code

i. Individuals have the right to dress in a manner consistent with their gender identity or expression, including at school-sponsored functions such as dances, after school activities, and graduation. District policy regarding clothing will be enforced consistently, regardless of a person's gender identity or expression.

13. Staff Training and Compliance

All administrative staff shall be informed of the existence of this procedure. The District will provide training regarding this procedure and how to support individuals at reasonable intervals, to be determined by the District.

District employees who refuse to abide by this procedure may be subject to disciplinary actions, up to and including termination, as set forth in the relevant employee discipline policy. The intentional or persistent refusal to respect a person's gender identity (for example, intentionally referring to the student by a name or pronoun that does not correspond to the student's gender identity) is a violation of MAPS Policy 413, Prohibition of Harassment and Violence.

14. Discrimination/Harassment/Bullying

It is the policy of the District to maintain a safe and supporting learning and educational environment that is free from harassment, intimidation, violence, and/or bullying and free from discrimination on account of gender, gender identity, and gender expression.

Complaints alleging discrimination or harassment based on an individual's actual or perceived gender identity, non-conformity, or expression generally are to be handled in the same manner as sex discrimination, harassment, or bullying complaints. For information about the types of conduct that constitute violation of the school district's policy on harassment and violence and the school district's procedures for addressing such complaints, refer to the school district's policy on harassment and violence (MAPS Policy 413). For information about the types of conduct that constitute violation of the school district's policy on bullying and the school district's procedures for addressing such complaints, refer to the school district's policy on bullying (MAPS Policy 514).

Exhibit M

552: Gender Inclusion

[< Back to Policies \(/fs/pages/554\)](#)

I. PURPOSE

All students need a safe, supportive school environment to progress academically and developmentally. The purpose of this policy is to facilitate compliance with applicable laws and organizational guidelines as well as to foster an educational environment at Hopkins Public Schools that is safe, supportive, and fully inclusive for all students regardless of gender identity or gender expression.

II. POLICY STATEMENT

Hopkins Public Schools shall act to ensure that students who are transgender and gender non-conforming are included in all school activities and have equal access to all programs offered by the District like their peers.

III. DEFINITIONS

The following definitions are provided to assist in understanding this policy.

- A Assigned Gender – An individual’s gender assigned at birth, which may correlate to visual manifestations of the biological, genetic, and anatomical makeup of a body.
- B Gender Expression – The manner in which an individual realizes and manifests their gender.
- C Gender Fluid - Denoting or relating to a person who does not identify themselves as having a fixed gender.
- D Gender Identity – An individual’s knowledge of being male, female, or otherwise on a continuum of gender.

- E. Gender Non-Conformity – Behaviors and interests that fit outside of stereotypical behaviors and interests for an individual’s assigned sex.
- F. Nonbinary Gender - Umbrella term to describe any gender identity that does not fit into the gender binary of male and female
- G. Transgender – An individual whose gender identity or gender expression is different from the gender stereotype for that person’s assigned gender.

IV. BULLYING, HARASSMENT, AND DISCRIMINATION PROHIBITION

Bullying, harassment, and discrimination on the basis of gender identity or expression are prohibited. Hopkins Public Schools will take any such incident seriously, give the incident immediate attention, and handle the incident in the same manner as the school handles other bullying, harassment and discrimination. The school and all employees are responsible for ensuring that every student, including transgender and gender nonconforming students, has a safe and supportive school environment at Hopkins Public Schools. Education and training regarding the issues addressed in this gender inclusion policy will be provided for employees, students and the broader school community.

V. GENDER TRANSITION AT SCHOOL

Students who transition socially at school have a right to a safe and supportive environment. School administration and staff shall work with any such students and their parents/guardians to identify which steps will create the necessary conditions to make the transition experience as positive as possible. Based on this work, the school, student, and parents/guardians may choose to create a tailored gender transition plan that ensures the school environment remains both safe and supportive of the student.

School staff will not control the timelines or manner of transition for transgender and nonbinary students.

VI. NAMES AND PRONOUNS USAGE

Students have the right to be addressed by a preferred name and by a pronoun corresponding to their gender identity. A court-ordered name or gender change is not required, and a student need not change official records in order to have this right honored by all members of the school community. Every effort to accommodate gender non- conforming identities will be made by school officials, including expanding the options for gender selection on school forms.

Official records must identify a student with their legal name and assigned gender, unless the student has legally changed their name.

VII. DRESS CODE

Students have the right to dress in accordance with their gender identity, within the constraints of the dress code specified in the Hopkins Public Schools' handbook or policy. School staff will not enforce the school's dress code more strictly toward transgender and gender nonconforming students than other students. Hopkins Public Schools will not require gender stereotypical fashion or dress, and seek gender parity in its dress codes. Hopkins Public Schools will avoid the use of gender pronouns when describing dress in its dress code.

VIII. GENDER-SEGREGATED ACTIVITIES, RULES, POLICIES AND PRACTICES

Hopkins Public Schools will continually evaluate all gender-based activities, curricula, rules, policies, and practices – including but not limited to classroom activities, school ceremonies, and school photos – and maintain only those that have a clear and sound pedagogical purpose.

In situations where students are segregated by gender, students have the right to participate in any such activities or conform to any such rule, policy, or practice in a manner that aligns with their gender identity. The district will make reasonable accommodations to curriculum to accommodate students whose gender identity aligns outside the binary male and female constraints. Appropriate curriculum adaptation, as well as staff training, will be provided.

All students, regardless of their gender identity, have the right to participate fully in overnight trips and other activities. In all cases, the school has an obligation to maintain the privacy of all students and cannot disclose or require the disclosure of the student's gender status to the other students or the parents/guardians of other students.

IX. PHYSICAL EDUCATION CLASSES AND INTRAMURAL AND INTERSCHOLASTIC ATHLETICS

All students have the right to participate in physical education classes, intramural sports, and interscholastic athletics in a manner that aligns with their gender identity. This choice shall not infringe on their right to full participation.

X. ACCESS TO FACILITIES

Each student shall be granted access to facilities including, restrooms, locker rooms, and changing areas that align 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 access to a reasonable alternative, such as a gender neutral facility, but no student shall be required to use such a facility.

XI. PRIVACY

All students have a right to privacy. A student's transgender or gender nonconforming status is private information. The fact that a student chooses to disclose their gender status to staff or other students does not authorize school staff to disclose other private information about the student.

XII. IMPLEMENTATION

To ensure uniform implementation of this policy across the district, Administration will provide the necessary education and training to staff and students and will create supportive materials for students and staff.

Legal Reference:

Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)

Minn. Stat. § 363A (Minnesota Human Rights Act)

20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)

34 C.F.R. Part 106 (Implementing Regulations of Title IX)

Montgomery v. ISD No. 709, 109 F.Supp. 2d 1081, 1093 (D. Minn. 2000).

Bostock v. Clayton County, 140 S. Ct. 1731, 590 U.S. ____ (2020)

Cross References:

MSBA/MASA Model Policy 102 (Equal Educational Opportunity)

MSBA/MASA Model Policy 514 (Bullying Prohibition Policy)

MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)

MSBA/MASA Model Policy 522 (Student Sex Nondiscrimination)

MSBA/MASA Model Policy 525 (Violence Prevention)

MSBA/MASA Model Policy 526 (Hazing Prohibition)

MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)

Adopted: April 27, 2021

Revised: Type date here

Reviewed: Type date here

500: STUDENTS

< [Back to Policies \(/fs/pages/554\)](#)

Exhibit N

**SCHOOL BOARD PRACTICE
RELATED TO TRANSGENDER AND
GENDER NONCONFORMING STUDENTS**

I. PURPOSE

The Purpose of this Official School Board Practice is to ensure the uniform treatment of students across all MTCS schools, as well as:

1. To foster an educational environment that is safe, welcoming, and free from stigma and discrimination for all students, regardless of gender identity or expression;
2. To facilitate compliance with local, state, and federal laws concerning bullying, harassment, privacy, and discrimination; and
3. To ensure that all students are comfortable and have the opportunity to present themselves at school in conformance with their gender identity or expression.

II. DEFINITIONS

As used in this practice, the following terms have the following definitions. Note that these definitions are being provided to assist students and staff in understanding MTCS practices. Students may or may not use these terms to describe themselves or their experience.

1. Bullying: conduct as defined and described in MTCS Policy 514.
2. Gender Expression: the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
3. Gender Identity: a person's sincerely held knowledge of their own gender, which can include being female, male, another gender, or no gender. One's gender identity can be the same or different than the sex assigned at birth. The responsibility for determining an individual's gender identity rests with the individual.
4. Gender Nonconforming: a term used to describe people whose gender expression differs from stereotypical expectations. It also includes individuals who do not identify as either male or female, sometimes referred to as non-binary individuals.
5. Transgender: an adjective describing a person whose gender identity is different from that traditionally associated with the sex they were assigned at birth. A transgender girl is a girl who was thought to be male when she was born. A transgender boy is a boy who was thought to be female when he was born.

III. SCOPE OF THE PRACTICE

This practice covers conduct that takes place in school, on school property, at school-sponsored functions and activities, on school buses or vehicles, during a student's commute to and from school, and at bus stops. This practice also pertains to usage of electronic communication that occurs in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles and at bus stops, and on school computers, networks, forums, and mailing lists, as well as any electronic communication that is directed at a student and that substantially interferes with the student's ability to participate in or benefit from the services, activities, or privileges provided by the school. This practice applies to the entire school community, including educators, school staff, students, parents, and volunteers. At all times, MTCS retains the right to revise this practice at it sees fit, and also retains the right to take actions that may be in conflict with this practice if following said practice may lead to a substantial disruption of the school or threaten student safety.

IV. BULLYING, HARASSMENT, AND DISCRIMINATION

Bullying, harassment, and discrimination against students on the basis of their gender identity or expression are specifically prohibited pursuant to School Board Policies 102, 413, and 514, and as amended. Such policies and the procedures outlined therein shall be followed by MTCS in the event it receives a report of any alleged discrimination, harassment, or bullying on the basis of a student's gender identity or expression.

V. PRIVACY AND CONFIDENTIALITY

1. Students are encouraged to speak to a building administrator or staff member about any requests and or needs they may have. This way, MTCS may ensure that it is supporting students and helping to minimize any potential disruption to the learning environment.
2. MTCS shall ensure that all personally identifiable and medical information relating to transgender students shall be kept confidential in accordance with applicable state and federal privacy laws, as well as MTCS Policy 515. School staff shall not disclose any information that may reveal a student's transgender identity to others, including parents or guardians and other school staff, unless there is a legitimate educational need or legal reason to do so, or unless the student has authorized such disclosure. School staff may provide the student with an opportunity to make the disclosure themselves, where practicable, if there is a need to share this information with other staff members and/or students.
3. Transgender students may discuss and express their gender identity and expression openly and to decide when, with whom, and how much to share private information, subject to the provisions outlined above. Before contacting the parent or guardian of a transgender student, the recommended practice for

school staff is to privately ask the student whether to use their chosen name and the pronouns that correspond to their gender identity, or whether to use their legal name.

VI. NAMES, PRONOUNS, AND SCHOOL RECORDS

1. Regardless of whether a transgender or gender nonconforming student has legally changed their name or sex, MTCS will allow such students to use a chosen name and pronouns that reflect their identity in school. It is recommended that school staff privately ask transgender or gender nonconforming students how they want to be addressed in class and in the school's communication with the student's parents or guardians.
2. To ensure consistency among administrators and staff, every effort will be made to update the student information systems with the student's chosen name and appropriate gender markers, including pronouns. In some circumstances, school administrators may be specifically required by law to record a student's name or sex as it appears on documents such a current birth certificate. In those instances, school staff and administrators shall record this information in a separate, confidential file to avoid the inadvertent disclosure of the information.

VII. ACCESS TO GENDER-SEGREGATED ACTIVITIES AND FACILITIES

1. With respect to all restrooms, locker rooms, or changing facilities, students shall have access to facilities that correspond to their gender identity. MTCS will continue to maintain separate restroom, locker room, or changing facilities for male and female students, and will allow all students equal access to facilities that are consistent with their gender identity. Students should determine which facilities are consistent with their sincerely held gender identity, and are encouraged to discuss such facilities usage with a building administrator prior to such use in order to minimize any disruption.
2. Any student who is uncomfortable using a shared gender-segregated facility, regardless of the reason, shall, upon the student's request, be provided with a safe and non-stigmatizing alternative. This may include, for example, provision to use a nearby private restroom or office, or a separate changing schedule.

VIII. MSHSL PARTICIPATION

MTCS will follow the MSHSL rules for the participation of transgender students in any MSHSL sporting activities, and will provide information about the process for seeking eligibility to participate in sports in conformance with a student's gender identity upon request.

IX. TRAINING AND PROFESSIONAL DEVELOPMENT

MTCS may conduct training for all staff members on their responsibilities under

applicable laws and this practice, including teachers, administrators, counselors, social workers, and health staff. Information regarding this practice shall be incorporated into training for new school employees.

X. PUBLICATION

This practice will be distributed annually to students, parents/guardians, and staff, and it will also be included in any student codes of conduct, disciplinary policies, student handbooks, and school websites.

Date Approved by the School Board: _____

Exhibit O

I. PURPOSE

All students need a safe, supportive school environment to progress academically and developmentally. The purpose of this policy is to facilitate compliance with applicable laws and organizational guidelines as well as to foster an educational environment at Richfield Public Schools that is safe, supportive, and fully inclusive for all students regardless of gender identity or gender expression.

II. POLICY STATEMENT

Richfield Public Schools shall act to ensure that all students, regardless of their gender identity or expression are included in all school activities like their peers.

III. DEFINITIONS

The following definitions are provided to assist in understanding this policy.

- a. Gender Expression – The way in which an individual presents their gender through actions, dress, and demeanor and how those presentations are interpreted.
- b. Gender Identity – An individual’s sense of being a girl/woman, boy/man or otherwise on a continuum of gender.
- c. Nonbinary – Describes an individual whose gender identity falls outside of the traditional structure of girl/woman and boy/man. Other terms that are sometimes used are genderqueer and gender fluid.
- d. Sex Assigned at Birth – An individual’s sex (female, male, or intersex) assigned at birth, which correlates to the biological, genetic, and anatomical makeup of a body.
- e. Trans/Transgender – Describes an individual whose gender identity is different from the gender that traditionally corresponds to the sex assigned to them at birth.

III. BULLYING, HARASSMENT, AND DISCRIMINATION PROHIBITION

Bullying, harassment, and discrimination on the basis of gender identity or expression are prohibited. Richfield Public Schools will take any such incident seriously, give the incident immediate attention, and handle the incident in the same manner as the school handles other bullying, harassment and

discrimination. Staff will take extra care to ensure that no private information about a victim of bullying or harassment (such as a student's transgender or nonbinary identity) is disclosed in the process of investigating and/or handling an incident of bullying or harassment.

The school and all employees are responsible for ensuring that every student, regardless of their gender identity or expression, has a safe and supportive school environment at Richfield Public Schools. Education and training regarding the issues addressed in this gender inclusion policy will be provided for employees, students and the broader school community. Richfield Public Schools will ensure that all District policies, including but not limited to Policy 102: Equal Educational Opportunity, Policy 103: Harassment Prohibition, Policy 108: Hazing Prohibition, Policy 113: Bullying Prohibition, Policy 505: Student Disability Nondiscrimination, Policy 506: Student Sex Nondiscrimination, Policy 541: Student Behavior and Policy 581: Protection and Privacy of Pupil Records apply to all students regardless of their gender identity or gender expression.

IV. GENDER TRANSITION AT SCHOOL

Students who transition socially or physically at school have a right to a safe and supportive environment. Steps taken to support students during this time will be done in collaboration with the student first, then the parent/guardian, with careful consideration given to student data privacy and consent. If appropriate, school administration and staff shall work with any such students and their parents/guardians (based on the individual student needs) to identify which steps will create the necessary conditions to make the transition experience as positive as possible. Based on this work, the school, student, and parents/guardians will create a tailored gender transition plan that ensures the school environment remains both safe and supportive of the student. As each possible plan will be highly individualized, the plan will be developed in collaboration with the student, parent/guardian, school principal, director of student support services, the lead social worker, and/or additional appropriate school staff. If a student, due to extraordinary circumstances, cannot reasonably obtain parent/guardian consent to have a gender transition plan at school and/or expresses a good faith desire for increased privacy and/or safety, an adult advocate will be identified with the student to create the gender transition plan.

V. NAMES AND PRONOUNS USAGE

Students have the right to be addressed by a preferred name and by a pronoun corresponding to their gender identity. A court-ordered name or gender change is not required, and a student need not change official records in order to have this right honored by all members of the school community. Official school records, including report cards, transcripts, class lists, course schedules, standardized

testing information, health records and discipline files, etc. must identify a student with their legal name and sex assigned at birth, unless the student has legally changed their name or the sex on their birth record.

VI. DRESS CODE

Students have the right to dress in accordance with any form of gender expression, within the constraints of the dress expectations specified in Policy 547: Student Dress and Appearance. School staff will enforce the school's dress expectations in the same manner regardless of a student's gender identity or expression. Richfield Public Schools will not require gender stereotypical fashion or dress. Richfield Public Schools will not use gendered language when describing dress in Policy 547: Student Dress and Appearance.

VII. GENDER-SEGREGATED ACTIVITIES, RULES, POLICIES AND PRACTICES

Richfield Public Schools shall evaluate all gender-based activities, curricula, rules, policies, and practices – including but not limited to classroom activities, school ceremonies, and school photos – and maintain only those that have a clear and sound pedagogical purpose. In situations where students are segregated by gender, students have the right to participate in any such activities or conform to any such rule, policy, or practice in a manner that aligns with their gender identity consistently asserted at school.

All students, regardless of their gender identity, have the right to participate fully in overnight trips, clubs and other activities. In all cases, the school has an obligation to maintain the privacy of all students and cannot disclose or require the disclosure of the student's gender identity to the other students or the parents/guardians of other students.

VIII. PHYSICAL EDUCATION CLASSES AND INTRAMURAL AND INTERSCHOLASTIC ATHLETICS

All students have the right to participate in physical education classes, intramural sports, and interscholastic athletics in a manner that aligns with their gender identity. For participation on interscholastic athletic teams, this policy will not supersede Minnesota State High School League policy related to transgender student eligibility and participation.

IX. ACCESS TO RESTROOMS, LOCKER ROOMS, AND CHANGING AREAS

Each student shall be granted access to restrooms, locker rooms, and changing areas that align 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 access to a reasonable alternative that is adequately clean

and safe, but no student shall be required to use such a facility.

X. PRIVACY

All students have a right to privacy. A student's transgender or nonbinary status is private information. Related information, such as the student's legal name, may also constitute private information. Information regarding a student's transgender or nonbinary status may also be confidential medical information. Disclosing this information to other students, other students' parents, or other third parties may violate privacy provisions in certain laws, such as the federal Family Educational Rights and Privacy Act (FERPA) and the Minnesota Government Data Practices Act. Disclosure of this information to school employees is also limited to those employees who have a legitimate educational reason for obtaining the information.

Richfield Public Schools shall keep private all personal information relating to transgender and nonbinary students in accordance with Board Policy 581 and applicable laws. School staff shall not disclose information that may reveal a student's transgender or nonbinary status to others, including other students' parents/guardians and other school staff, unless legally required to do so or when written permission has been given by the parent/guardian or the student who is over 18 years of age.

All students have the right to discuss their gender identity and express their gender openly and to decide when, with whom, and how much private information to share. The fact that a student chooses to disclose their transgender or nonbinary status to staff or other students does not authorize school staff to disclose any private information about the student.

Legal References:

Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)

Minn. Stat. § 121A.031 (Safe and Supportive Minnesota Schools Act)

Minn. Stat. § 121A.03, subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)

Minn. Stat. § 363A (Minnesota Human Rights Act)

20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)

34 C.F.R. Part 106 (Implementing Regulations of Title IX)

Montgomery v. ISD No. 709, 109 F.Supp. 2d 1081, 1093 (D. Minn. 2000).

Cross References:

Policy 102: Equal Educational Opportunity

Policy 103: Harassment Prohibition

Policy 108: Hazing Prohibition

Policy 113: Bullying Prohibition

Policy 505: Student Disability Nondiscrimination

Policy 506: Student Sex Nondiscrimination

Policy 541: Student Behavior

Policy 547: Student Dress and Appearance

Policy 581: Protection and Privacy of Pupil Records

Policy 653: Field Trips

Minnesota State High School League Official Handbook 300.00 Bylaws: Administration of Student Eligibility

RATIFIED BY THE BOARD OF EDUCATION: August 20, 2018

REVISED BY THE BOARD OF EDUCATION: October 16, 2023

 **Board Policy 586 - Gender Inclusion Policy**

(<https://resources.finalsite.net/images/v1697558340/richfieldschoolsorg/bedi5q5f9mio9sGenderInclusionPolicy.pdf>)

Exhibit P

508 Policy: Gender Inclusion

I. SCOPE AND PURPOSE

This policy is intended to ensure student access to school district programming, activities and facilities for each student regardless of their sexual orientation, gender identity, gender expression or gender non-conformity. All students of the school district, including transgender and gender diverse students, deserve respectful and inclusive learning environments that value students' gender identity and gender expression. The school district strives to provide programming and facilities where all students feel safe and supported.

II. DEFINITIONS

- A. "Gender" refers to the socially constructed roles, activities, behaviors and attributes that a given society attaches to femininity or masculinity.
- B. "Gender Expression" means the manner in which persons represent or express gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
- C. "Gender Identity" means a person's deeply held sense or knowledge of one's own gender, regardless of the sex assigned at birth.
- D. "Gender Non-Binary" is an umbrella term for people who transcend commonly held concepts of gender through their own expressions and identities. Other terms for this include gender diverse, gender expansive, gender creative, gender nonconforming or genderqueer. Some non-binary people also identify as transgender.
- E. "Transgender" is an umbrella term describing persons whose gender identity or expression is different from that traditionally associated with the sex at birth.
- F. "Gender Non-Conforming" is a term for individuals who do not fit into traditional "male" and "female" gender categories.
- G. Sexual Orientation means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness.

III. GENERAL STATEMENT OF POLICY

The school district's staff and systems ensure inclusive access to programming and facilities. In accordance with this policy, and in consultation with students, parents, and/or guardians, the school district will:

- A. Respect all students' sexual orientation, gender identity, gender expression and gender non-conformity.

Find Additional Policies

➔

SEARCH

101 Policy: Racial Equity in Educational Achievement
 (<https://www.districtus/policies/individual-policy/~board/school-board-policies/post/101-policy-racial-equity-in-educational-achievement>)

101 Procedure: Racial Equity in Educational Achievement
 (<https://www.districtus/policies/individual-policy/~board/school-board-policies/post/101-procedure-racial-equity-in-educational-achievement>)

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B. Identify and address students by their preferred names and pronouns that align with their gender identity.

C. Upon written request of the student and their parent(s) or guardian(s), student names and pronouns will be changed on school district digital systems to the extent possible to align with their gender identity. Medical documentation or legal verification of a student's name change is not required.

D. Within academic programming, prohibit the separation of students and/or curricular materials based upon gender unless it serves as a legitimate pedagogical tool.

E. Provide all students the opportunity to participate in co-curricular and extracurricular activities in a manner consistent with their gender identity, including but not limited to intramural and interscholastic athletics, and in conformance with Minnesota State High School League rules and regulations, where applicable.

F. Provide all students with access to facilities that align with students' gender identity.

G. Respect the safety and privacy of all students, pursuant to District Policy 515 (Protection & Privacy of Pupil Records) and state and federal privacy laws.

H. Ensure that all district policies apply to all students, regardless of their sexual orientation, gender identity, gender expression or gender nonconformity.

I. School officials will work with families and students to identify one or more safe staff members that gender nonconforming students can access if they require additional support during the school day.

IV. REPORTING

Any person who believes there has been a violation of this policy shall report the alleged violation under the procedures set forth in Procedure 413 A.

V. PROFESSIONAL DEVELOPMENT

School district employees will receive professional development to ensure that staff understands their responsibilities pursuant to this policy.

Adopted: 7/20/21

Legal References:

- Title IX of the Education Amendments of 1972
- Minn. Stat. ch. 363A (Minnesota Human Rights Act)
- Minn. Stat. § 121A.031 (Safe and Supportive Minnesota Schools Act)
- Minn. Stat. § 121A.03, subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)
- 20 U.S.C. § 1701 et seq. (Equal Educational Opportunities)

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us/policies/individual policy/~board/school board-policies/post/101-procedure-racial-equity-in-educational-achievement)

102 Policy: Equal Opportunity and Prohibition Against Discrimination, Harassment and Violence (https://www.districtus/policies/individual policy/~board/school board-policies/post/102-policy-equal-educational-and-employment-opportunity)

102A Procedure: Prohibition Against Protected Status Discrimination,

Harassment and Violence
(<https://www.districtus/policies/individual-policy/~board/school-board-policies/post/102-procedure-equal-educational-and-employment-opportunity>)

102B Procedure: Grievance Procedures for Sexual Harassment Claims
(<https://www.districtus/policies/individual-policy/~board/school-board-policies/post/102b-procedure-grievance-procedures-sexual-harassment-claim>)

104 Policy: School District Mission

[Skip To Main Content](#)

**Statement
(<https://www.district279.org/about-us/policies/individual-policy/~board/school-board-policies/post/104-policy-school-district-mission-statement>)**

LOAD MORE

Exhibit Q

Minnesota State High School League: Executive Order 14201 does not preempt Minnesota law. Prohibiting students from participating in extracurricular activities consistent with their gender identity would violate the Minnesota Human Rights Act.

1035



The Office of
Minnesota Attorney General Keith Ellison
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February 20, 2025

Erich Martens
Executive Director
Minnesota State High School League
2100 Freeway Boulevard
Brooklyn Center, Minnesota 55430

Re: Request for Advisory Opinion Pursuant to Minn. Stat. § 8.07

Dear Mr. Martens:

Thank you for your letter dated February 14, 2025, requesting an opinion from this Office on the legal effect of the Executive Order 14201 and whether compliance with the Executive Order would violate the Minnesota Human Rights Act.

BACKGROUND

The facts as you present them are as follows. The Minnesota State High School League (“MSHSL”) is a nonprofit voluntary association which neither solicits nor receives state or federal funding. Its authority to regulate interscholastic activities is based on Minnesota Statutes section 128C.01, subd. 1, which authorizes school boards to “delegate control of extracurricular activities” to the MSHSL. Currently 624 member schools have delegated this control to MSHSL. These member schools do receive funding from state and federal sources.

The MSHSL, together with the Minnesota Association of School Administrators and the Minnesota Association of Secondary School Principals, requests guidance on Executive Order 14201 entitled “Keeping Men Out Of Women’s Sports” (hereinafter Executive Order), which President Trump signed on February 5, 2025.

The Executive Order directs the Secretary of Education to “prioritize Title IX enforcement actions against educational institutions (including athletic associations composed of or governed by such institutions) that deny female students an equal opportunity to participate in sports and athletic events by requiring them, in the women’s category, to compete with or against or to appear unclothed before males,” (*id.* at § 3(a)(iii)) and further directs that “[a]ll executive departments

and agencies (agencies) shall review grants to educational programs and, where appropriate, rescind funding to programs that fail to comply with the policy established in this order.” *Id.* § 3(b).

QUESTIONS PRESENTED

The questions you raise are the following:

Question 1: Does the Executive Order supersede/preempt the Minnesota Human Rights Act, Minn. Stat. 363A.01, et. seq. (“MHRA”) which prohibits discrimination in education based on gender identity particularly as it relates to participation in extracurricular activities offered by the League and its member schools?

Question 2: Does the Executive Order supersede/preempt the equal protection clause contained in Article 1, Section 2 of the Minnesota Constitution particularly as it relates to participation in extracurricular activities offered by the League and its member schools?

Question 3: If a school district complies with the Executive Order and prohibits a student from participation in extracurricular activities consistent with the student’s gender identity, does this subject the district to claims for violations of the MHRA?

Question 4: If the League complies with the Executive Order and prohibits a student from participation in extracurricular activities consistent with the student’s gender identity, does this subject the League to claims for violations of the MHRA?

We interpret your questions as follows: (1) Whether the Executive Order preempts Minnesota laws, including the MHRA and the equal protection clause in Article 1, Section 2 of the Minnesota Constitution, which prohibit discrimination in education based on gender identity particularly as it relates to participation in extracurricular activities offered by the MSHSL and its member schools, and (2) Whether compliance with the Executive Order by prohibiting students from participation in extracurricular activities consistent with their gender identity violates the MHRA.

SUMMARY OF CONCLUSION

The Executive Order does not have the force of law and therefore does not preempt any aspect of Minnesota law. Complying with the Executive Order and prohibiting students from participation in extracurricular activities consistent with their gender identity would violate the MHRA.

ANALYSIS

I. THE EXECUTIVE ORDER DOES NOT SUPERSEDE MINNESOTA LAW

Where a state law and federal law conflict, the federal law can preempt the state law if it is impossible to comply with both state and federal law, and the state law is an obstacle to the accomplishment of the full purpose of Congress in enacting the relevant federal law. *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 372-73 (2000). In order to preempt state law, however, a federal action, whether taken by Congress, an executive branch agency, or by the President himself, must have the force and effect of law. *Wyeth v. Levine*, 555 U.S. 555, 576 (2009) (“[A]n agency regulation with the force of law can pre-empt conflicting state requirements.”). An executive order will only have the force and effect of laws “when issued pursuant to a statutory mandate or delegation of authority from Congress.” *Indep. Meat Packers Ass’n v. Butz*, 526 F.2d 228, 234 (8th Cir. 1975); *cf. Crosby*, 530 U.S. 374-75 (holding that Executive Order made pursuant to an “express investiture of the President with statutory authority to act for the United States” had force and effect of law such that it preempted a conflicting state statute).

The Executive Order at issue in your letter was not issued pursuant to a statutory mandate or express delegation of authority from Congress. Although the Executive Order references Title IX of the Education Amendments Act of 1972 (“Title IX”), 20 U.S.C. § 1681, *et seq.*, Title IX does not authorize the President to issue directives with the force of law or to unilaterally rescind all federal funds from all educational programs that do not comply with presidential policy preferences. *Contra Crosby*, 530 U.S. 374 (finding authorization to act with the force of law where Congress authorized the President to take certain actions if he made specific findings). In fact, Congress made it clear that the President could not, on his own, rescind federal funding from an educational program, by including a statutory provision that mandates a process, controlled by the agencies empowered to provide federal funds to educational entities, for the termination of any such funding. *See* 20 U.S.C. § 1682 (requiring “an express finding on the record, after opportunity for hearing, of a failure to comply” with a properly-issued regulation implementing Title IX’s prohibition against sex discrimination in educational programs).

Because the President does not have the authority to unilaterally rescind funding from educational programs, the Executive Order does not have the force of law and cannot supersede Minnesota state law.

II. MSHSL AND SCHOOL DISTRICTS WOULD VIOLATE THE MHRA IF THEY PROHIBIT STUDENTS FROM PARTICIPATING IN EXTRACURRICULAR ACTIVITIES CONSISTENT WITH STUDENTS’ GENDER IDENTITY.

The MHRA declares that the full utilization of or benefit from any educational institution without discrimination is a civil right. Minn. Stat. § 363A.02, subs. 1(5) & (2). The Minnesota Legislature recognized that discrimination based on a person’s membership in a protected class threatens the rights and privileges for all and “menaces the institutions and foundations of democracy.” *Id.* at subd. 1(b). The MHRA is liberally construed to accomplish its remedial purpose of securing freedom from discrimination for persons in Minnesota. Minn. Stat. § 363A.04.

The plain language of the MHRA prohibits schools from discriminating against students based on their gender identity. In its section specific to educational institutions, the statute provides that “[i]t is an unfair discriminatory practice to discriminate in any manner in the full utilization of

Erich Martens, Executive Director

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or benefit from any educational institution, or the services rendered thereby to any person because of . . . gender identity[.]” Minn. Stat. § 363A.13, subd. 1. The MHRA specifically defines “gender identity” to mean “a person’s inherent sense of being a man, woman, both, or neither. A person’s gender identity may or may not correspond to their assigned sex at birth or to their primary or secondary sex characteristics.” Minn. Stat. § 363A.03, subd. 50. To discriminate includes to “segregate or separate.” Minn. Stat. § 363A.03, subd. 13.

An educational institution violates the MHRA by discriminating in any manner in the services or benefits it offers a student because of the student’s gender identity. This includes prohibiting transgender student athletes from participating in extracurricular activities, as such a practice inherently separates and segregates transgender student athletes from other student athletes based solely on their gender identity. Excluding transgender girl athletes from participating in girls’ extracurricular activities, as the Executive Order directs, denies those students the full utilization and benefit of educational institutions in violation of the MHRA. *See, e.g., N.H. v. Anoka-Hennepin Sch. Dist. No. 11*, 950 N.W.2d 553, 562-65 (Minn. Ct. App. 2020) (holding that school must permit transgender student to use locker room that aligns with the student’s gender identity under the MHRA).

Therefore, based on the plain language of the statute, educational institutions and the MSHSL would violate the MHRA by prohibiting transgender athletes from participating in extracurricular activities according to their gender identity.

Thank you again for your inquiry, and we hope this opinion is helpful to you.

Sincerely,



KEITH ELLISON
Attorney General

Exhibit R



Office of the Attorney General
Washington, D. C. 20530

February 25, 2025

Attorney General Ellison and Executive Director Martens,

This Department of Justice will hold accountable states and state entities that violate federal law. Indeed, we have already begun to do so. Earlier this month, the Department of Justice sued two states—Illinois and New York—that defied federal immigration laws. We also stand ready to sue states and state entities that defy federal antidiscrimination laws.

President Trump recently directed the Department of Justice and the Department of Education to prioritize enforcement actions against athletic associations that deny girls an equal opportunity to participate in sports and athletic events by requiring them to compete against boys. Yet in response, state athletic associations—including Minnesota’s—have issued defiant statements saying that they would continue requiring girls to compete against boys in sports and athletic events. Attorney General Ellison has since issued a legal opinion asserting that the Minnesota State High School League would be violating state law unless it continues this demeaning, unfair, and dangerous practice. And he has shamefully described the federal government’s attempts to enforce federal antidiscrimination laws as “authoritarian bullying.”

Let me be clear. Requiring girls to compete against boys in sports and athletic events violates Title IX of the Educational Amendments Act of 1972. And under the Constitution, federal law—including Title IX—is “the supreme Law of the Land.” U.S. Const. Art. VI. It therefore does not matter if Minnesota state law allows, or even requires, state athletic associations or other similar entities to require girls to compete against boys in sports and athletic events. Where federal and state law conflict, states and state entities are required to follow federal law—not because we live in an authoritarian state, but because the Constitution requires states to follow the supreme law of the land.

Minnesota should be on notice. The Department of Education’s Office of Civil Rights has begun a Title IX investigation into the Minnesota State High School League. If the Department of Education’s investigation shows that relevant Minnesota entities are indeed denying girls an equal opportunity to participate in sports and athletic events by requiring them to compete against boys, the Department of Justice stands ready to take all appropriate action to enforce federal law.

I hope that it does not come to this. The Department of Justice does not want to have to sue states or state entities, or to seek termination of their federal funds. We only want states and state entities to comply with the law. And federal law requires giving girls an equal opportunity to participate in sports and athletic events by ensuring that girls need to compete only with other girls, not with boys.

Sincerely,

A handwritten signature in black ink, appearing to read "Pam Bondi". The signature is written in a cursive, flowing style.

Pam Bondi

Attorney General