

PENN-DELCO SCHOOL DISTRICT

ADMINISTRATIVE REGULATION

APPROVED:

REVISED:

259-AR-0. - Non-Discrimination/Gender Preference Accommodations

Purpose

The Penn-Delco School District is committed to providing a safe, supportive, and inclusive experience to all individuals. Addressing the needs of all students, regardless of gender identity, is an important part of that experience. The Board, administration, staff, and students will comply with federal and state laws, which require that all programs, activities, and employment practices be free from discrimination based on sex, sexual orientation, or gender identity/expression. This regulation is in keeping with mandates to create a safe learning environment for all students and to ensure that every student has equal access to all school programs and activities.

Definitions

“Biological sex” means the sex assigned by a doctor at birth. For intersex individuals or others with genetic anomalies, “biological sex” refers to gender identity.

“Gender identity” means the presentation of a set of attributes that are stereotypically perceived as male or female.

“Transgender” describes an individual whose biological sex does not match their gender identity. While no medical diagnosis is required, a consistent and extended expression of gender identity and prolonged desire to be recognized as that gender must be present.

I. GENDER PREFERENCE NOTIFICATION

- a) Where a student is transgender and wishes to be acknowledged with a different gender identity than what corresponds with their biological sex, an initial meeting must be held with a school counselor to develop a plan to address the student’s particular circumstances, needs, or accommodations. The counselor will complete the Interview Form attached to this AR in consultation with the student and the family, and may request additional information from student or family if necessary.
- b) The plan will identify a student support team made up of school staff who need to know about the plan and can provide support in implementing the plan. As part of the plan development process, the school counselor should convene the student support team to work with the transgender student and/or their parents or guardians to address the student’s individual needs and potential accommodations. To protect the student’s privacy, this team is limited to: the school principal, the student, the student’s parents/guardians (absent student safety or welfare concerns), the school counselor, individuals the student identifies as trusted adults, and individuals the principal determines may have a legitimate interest in the safety and healthy development of the student.

- c) The plan shall address, at a minimum, (1) identification of pronouns and name; (2) bathroom and locker room usage; (3) communication to school personnel and confidentiality; (4) records references; (5) unofficial and official record modification; (6) safety plan and behavioral contract; (7) stage of transition.
- d) To obtain special accommodations, the student must articulate more than a casual declaration of gender identity or expression. A formal evaluation and medical diagnosis are not required, but at a minimum, the student should be able to detail a consistent and persistent desire to be identified as the opposite gender. If there are medical records that will assist in the determination, they will be considered along with all other relevant information. Since individual circumstances, needs, programs, facilities, and resources may differ, administrators and school staff are expected to consider the needs of the student on a case-by-case basis.
- e) Once approved, the student is expected to maintain his/her preferred gender identity consistently. Any modifications to the plan must be made in conjunction with the school counselor.

II. PRIVACY AND CONFIDENTIALITY

- a) Some transgender students are not openly so at home for reasons such as safety concerns or lack of acceptance. Penn-Delco's usual practice is to try to involve parents in any student issues of which it becomes aware. Penn-Delco will continue to do so with the family with respect to a student's transgender status, unless and until the student's safety and welfare appear to the district be compromised. Ordinarily, any school support team shall communicate and collaborate with parents/guardians on issues impacting their children.
- b) When speaking with other staff members, parents, guardians, or third parties, school staff should make every effort to avoid disclosing a student's preferred name, pronoun, or other confidential information pertaining to the student's transgender status without the student's permission, absent a need to implement a bathroom/locker room plan or other extenuating circumstances.
- c) Students shall be known by the name and the gender by which the student identifies. However, there may be situations (e.g. communications with family, official state or federal records, and assessment data) where it may be necessary and recommended for staff to be informed of the student's legal name and gender. In these situations, staff should prioritize the safety, confidentiality, and respect for the needs of the student in a manner that affirms the law.
- d) In some cases, a student may want school staff and students to know of their gender identity, and in other cases, the student may not want information about their gender identity to be widely known. School staff should make every effort to follow the student's preference regarding confidentiality and not to inadvertently disclose information that is intended to be kept private or that is protected from disclosure (such as confidential medical information). The plan must address communication of the student's gender identity with the school community.

III. OFFICIAL RECORDS

- a) The District is required to maintain in perpetuity mandatory permanent pupil records (“official records”), which include the legal name of the student and the student’s sex as indicated on official government issued documents such as birth certificates and passports. The official records may include, but are not limited to, progress and grade reports, transcripts, assessment data, health records, discipline records, Individualized Educational Programs, Section 504 Plans and the student’s cumulative folder.
- b) The District will change a student’s name and gender on official records when provided with a request and proof of the permanency of the change in name and gender, such as by a change of name proceedings in court or through amendment of state or federally issued identification. The new name is the official legal name of the student for all purposes, including school registration. Upon the submission of adequate evidence of the court order, the student’s official name in all school records shall be changed to reflect the legal name change.
- c) Transgender alumni who transition after having completed high school may ask the District to amend school records or a diploma or transcript that include the student’s birth name and gender. Alumni will be asked to present proof of name change. When requested, the District should inform the alum of the formal request to change records as set forth in the FERPA regulations; the District should consider the circumstances presented and may change the record, or deny the request. If the request is denied, the alum is able to have his/her written statement placed into the education record.

IV. UNOFFICIAL RECORDS

- a) The District shall permit a transgender student with a plan to use a chosen name on unofficial records. The unofficial records may include but are not limited to ID cards, classroom rosters, certificates, programs, announcements, office communications, team and academic rosters, diplomas, newspapers, newsletters, school directories, yearbooks, and other site-generated unofficial records. The chosen name shall also appear on the student’s cumulative folder (official record) as “Also Known As” (AKA) or “Preferred Name.”
- b) The District shall input the student’s chosen name in the appropriate field of the District’s electronic data system to indicate how the student’s name will appear on unofficial records, which can be included as a “Preferred Name” filed in the Student Information System (SIS).
- c) For instances in which gender identity requires the use of a Preferred Name that is separate from a student’s name at birth, the plan shall include that designation, unless the district has reason to believe that notification of such a request to parties other than the student may jeopardize a student’s safety or wellbeing.

V. NAMES / PRONOUNS

- a) Students with a plan shall be addressed by the name and pronouns that correspond to their gender identity without obtaining a court order, changing their official records, or obtaining parent/legal guardian permission regardless of whether the official records modification process has been followed.
- b) If school personnel are unsure how a student wants to be addressed in communications to the home or in conferences with parents/legal guardians, they may privately ask the student or ask the school counselor to view the plan. For communications with a student's parent/legal guardian, school personnel should refer to this policy's prior section on "Privacy and Confidentiality."
- c) Every effort should be made to use the chosen names and pronouns consistent with a student's gender identity. While inadvertent slips or honest mistakes may occur, the intentional and persistent refusal to respect a student's gender identity is a violation of District Policy #103.

VI. BATHROOM AND LOCKER ROOM USE

- a) Schools maintain separate restroom facilities and locker rooms for male and female students. As a general rule, individuals must use the bathroom or locker room facility that aligns with their biological sex.
- b) Transgender students shall have access to the restroom that corresponds to their gender identity if they go through the process outlined in this AR and are approved for such bathroom use by the administration. Transgender students must have prior approval from the school before using a multi-use bathroom that aligns with their gender identity.
- c) Where available, a single stall restroom should be available to any student, transgender or not, who desires increased privacy, regardless of the underlying reason. A student does not need a plan or prior permission to use a single stall facility. The use of a single-stall restroom should be a matter of choice for any student, and no student shall be compelled to use such a restroom.
- d) Administrators or designee may take steps to designate single stall, "gender neutral" restrooms in the District.
- e) Students are permitted to use the locker room of the gender with which they identify so long as they have formally notified the District of their preference, been through the process outlined in this AR, and received approval.
- f) Students who have notified the District, have requested and been approved for specific restroom and/or locker room accommodations, must use the assigned bathrooms as long as the accommodations are in place.
- g) No specific student shall be compelled to use a separate, nonintegrated space.

- h) Any student who wants increased privacy will be provided access to an alternative restroom or changing area. This allows all students who may feel uncomfortable sharing the facility the option to make use of a separate restroom and/or locker room, and have their concerns addressed without stigmatizing any individual student.
- i) Examples of accommodations that may be used to address any student's request for increased privacy may include, but are not limited to, use of a private area within the public area of the locker room facility (e.g., nearby restroom stall with a door or an area separated by a curtain); use of a nearby private area (e.g., nearby restroom); or a separate changing schedule.

VII. STUDENT SAFETY

- a) School staff must ensure that students are provided with a safe school environment that is free of discrimination, harassment, bullying, and/or intimidation.
- b) School staff and families should work together to resolve complaints alleging discrimination, harassment, bullying and/or intimidation based on a student's actual or perceived gender, gender identity, or expression. Complaints of this nature should be promptly reported to the building principal and/or the Title IX Coordinator, and are to be handled in the same manner as other complaints. Consideration should be given as to whether a Sexual Harassment investigation is warranted. For more information, the District's policy prohibiting harassment by and of students and employees may be referenced.

References:

Doe v. Boyertown Area School District, 897 F.3d 518 (3d Cir. 2018)

Education Law Center: The Rights of LGBTQ and Gender-Nonconfirming Students - www.elcpa.org/wp-content/uploads/2021/08/Rights-of-LGBTQ-GNC-NonBinary-Students

Pennsylvania Human Relations Commission Guidance (PHRC): www.phrc.pa.gov

Pennsylvania Department of Education (PDE) Resources www.education.pa.gov/Schools/safe-schools/equityandinclusion/Pages/Gender.aspx

U.S. Department of Education Office of Civil Rights – Questions and Answers on Title IX and Sexual Violence

U.S. Department of Education Transgender Fact Sheet - Supporting Transgender Youth in School