Policies Governing Transgender Students' Participation in Interscholastic Athletics

Compiled and Annotated by
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Washington Interscholastic Athletic Association…….1

Colorado High School Activities Association (out of date) ……3

Colorado High School Activities Association (current) ……4

Nebraska School Activities Association ……..7

Illinois High School Association……10

Massachusetts Department of Elementary and Secondary Education……..12

Connecticut Interscholastic Athletic Conference (out of date)……18

Connecticut Interscholastic Athletic Conference (current)……19

Connecticut Commission on Human Rights and Opportunities ……20

Vermont Principals' Association…….23

California Interscholastic Federation …….25

Maine Principals' Association……30

18.13.2 The school in which this student is enrolled must have on file a statement (or prepared form) from a medical authority licensed to give a physical examination, certifying that the participant's physical condition is adequate for the activity or activities in which the student wishes to participate.

18.13.3 To resume participation following an illness and/or injury serious enough to require medical care, a participating student must present to the school officials a written release from a physician licensed to perform physical examinations as listed in 18.13.1 and/or a dentist as applicable.

18.13.4 The physical examination shall be valid for twenty-four (24) consecutive months to the date unless otherwise limited by local school district policy or when the physician indicates the physical is only good for less than twenty-four (24) consecutive months.

18.13.5 For each subsequent twenty-four month period the student shall furnish a statement or physical examination form signed by a medical authority licensed to perform a physical examination that provides clearance for continued athletic participation.

18.14.0 SEASON LIMITATIONS - After entering or being eligible to enter the seventh grade students shall have six (6) consecutive years of interscholastic eligibility. If the seventh or eighth grade is repeated, and such repetition is based upon documented academic deficiencies by the school principal, the repeated year shall not count against the student's six (6) interscholastic competitive years. Home school students are required to provide documentation of academic deficiency to be verified by the school principal.

After entering or being eligible to enter the ninth grade, a student shall have four (4) consecutive years of interscholastic eligibility.

For the purpose of this rule, consecutive shall mean starting on a designated date and continuing without delay or interruption for four (4) consecutive years. For the purpose of interpreting this rule, interscholastic eligibility exists for a maximum of six (6) years after entering or being eligible to enter the seventh grade and four (4) consecutive academic years after entering or being eligible to enter the ninth grade, and as long as the total years of eligibility (grades 7-12) do not exceed six (6) years. Application of this rule shall not be determined by years of participation in individual sports or sport seasons.

18.14.1 Students who do not attend school or who fail to, or are deemed ineligible to participate shall forfeit their eligibility during that period and shall not be provided any additional period of eligibility except as may be provided through the appeal process in Article 19. If additional eligibility is granted as provided through Article 19, under no circumstances will eligibility be extended longer than one (1) additional year beyond the fourth consecutive year of high school (grades 9-12.)

18.14.2 Students repeating the eighth grade at the middle level or ninth grade at the junior high level may participate in the senior high school of the same school district provided the principals of both schools involved agree. In such case, the middle level school principal shall provide certification of the student's scholastic eligibility to the high school principal.

18.14.3 Additional eligibility shall not be granted if the student has had six (6) years of interscholastic eligibility after entering or being eligible to enter the seventh grade or four (4) consecutive years of interscholastic eligibility after entering or being eligible to enter the ninth grade.

PHILOSOPHY OF GENDER IDENTITY PARTICIPATION: *The WIAA allows participation for all students regardless of their gender identity or expression. The purpose of this policy is to designate a set of criteria in which student-athletes are able to compete on a level playing field in a safe, competitive and friendly environment, free of discrimination. Fundamental fairness, as well as most local, state and federal rules and regulations, requires schools to provide intersex and transgender student-athletes with equal opportunities to participate in athletics. This policy creates a framework in which this participation may occur in a safe and healthy manner that is fair to all competitors.*

18.15.0 GENDER IDENTITY PARTICIPATION - All students should have the opportunity to participate in WIAA activities in a manner that is consistent with their gender identity, irrespective of the gender listed on a student's records. Should any questions arise whether a student's request to participate in a sex-segregated activity consistent with his or her gender identity is bona fide, a student may seek review of his or her eligibility for participation by working through the procedure set forth below: Once the student has been granted eligibility to participate in the sport consistent with his/her gender identity, the eligibility is granted for the duration of the student's participation and does not need to be renewed every sports season or school year. All discussion and documentation will be kept confidential, and the proceedings will be sealed unless the student and family make a specific request.

18.15.1 **NOTICE TO THE SCHOOL:** The student and/or parents shall contact the school administrator or athletic director indicating that the student has a consistent gender identity different than the

confidentiality and non-renewal are important components of inclusive policy

Notice; not approval

gender listed on the student's school registration records, and that the student desires to participate in activities in a manner consistent with his/her gender identity.

18.15.2 **NOTICE TO THE WIAA**: The school administrator shall contact the WIAA office, which will assign a facilitator who will assist the school and student in preparation and completion of the WIAA Gender Identity eligibility appeal process.

18.15.3 **FIRST LEVEL OF APPEAL:** The student will be scheduled for an appeal hearing before an eligibility committee specifically established to hear gender identity appeals. The WIAA shall schedule a hearing as expeditiously as possible, but in no case later than five (5) school business days of that member school prior to the first full interscholastic contest that is the subject of the petition, or within a reasonable time thereafter in cases of emergency, including, but not limited to, any unforeseeable late student enrollment. The Gender Identity Eligibility Committee will be comprised of a minimum of three of the following persons one of whom must be from the physician or mental health profession category:

Student is not required to have/ show medical documentation; no "competitive equity" issues taken into account

A. Physician with experience in gender identity health care and the World Professional Association for Transgender Health (WPATH) Standards of Care.

B. Psychiatrist, psychologist or licensed mental health professional familiar with the World Professional Association for Transgender Health (WPATH) Standards of Care.

C. School administrator from a non-appealing school

D. WIAA staff member

E. Advocate familiar with Gender Identity and Expression issues

18.15.4 **DOCUMENTATION:** The appealing student should provide the Eligibility Committee with the following documentation and information:

A. Current transcript and school registration information

B. Documentation of student's consistent gender identification (e.g., affirmed written statements from student and/or parent/guardian and /or health care provider)

C. Any other pertinent documentation or information

18.15.5 **SECOND LEVEL OF APPEAL**: An aggrieved student wishing to appeal the Gender Identity Eligibility Committee decision shall file notice of appeal with the Executive Director of the WIAA on or before the tenth (10th) school business day following the date of receipt of the written decision of the Gender Identity Eligibility Committee denying the petition. An appeal to the WIAA Executive Director shall require the Executive Director to schedule a hearing to commence on or before the tenth (10th) school business day following the date of receipt of the written notice of appeal. Written notice of the time and place of the hearing shall be delivered to the petitioned appellant in person or by certified mail, with return receipt requested, no later than five (5) school business days of that member school prior to the date of the hearing.

When there is confirmation of a student's consistent gender identity, the eligibility committee/WIAA Executive Director will affirm the student's eligibility to participate in WIAA activities consistent with the student's gender identification. The WIAA will facilitate the provision of resources and training for a member school seeking assistance regarding gender identity.

For Additional information on Gender Identity, refer to APPENDIX 6

18.16.0 FIFTH GRADE PARTICIPATION – If the total enrollment of the seventh and eighth grades in a middle school is not over forty (40) when the enrollment count is taken to determine the high school classification, the fifth grade students of the school may be permitted to participate on seventh and eighth grade volleyball, basketball and track teams for the next two (2) years. If the total enrollment of seventh and eighth grade students in a middle school is greater than forty (40) when the enrollment count was taken, but drops below forty (40) during the first two (2) weeks of any sports season, the fifth grade students of the school may be permitted to participate on seventh and eighth grade volleyball, basketball and track teams during that specific sports season.

18.16.1 This participation does not count against the student's middle level eligibility.

18.16.2 When a fifth grade student has participated in one such contest he/she is no longer eligible for that sport at the elementary level.

Article 3

Colorado High School Activities Association policy no longer in force.

300. Equity Code

300. The Colorado High School Activities Association in accordance with Equal Protection Clause of the United States Constitution does not prohibit transgender student-athletes from participation. It is understood that a confidential case-by-case evaluation of the perspective student-athlete will occur before eligibility to participate in the reassigned gender will occur. The CHSAA will follow approved policy procedures to ensure that gender-related advantages and safety concerns are minimized.

Policy Statement regarding Transgender participation:

Transgender is an umbrella term that describes people whose gender identity or expression does not conform to the prevailing social expectations and can be used to describe people whose gender identity or expression is different from their gender assigned at birth. The Colorado High School Activities Association Executive Committee approved a policy statement addressing the eligibility of transgender/transitioned student-athletes under the following policy statements.

- CHSAA rules do not prohibit transgender student-athletes from competing in CHSAA interscholastic participation.

- CHSAA guidelines are to follow the gender classification that student-athletes have from their state. The CHSAA will consider but are not limited to the following documentation to determine gender classification for participation purposes (birth certificate, legal, educational and medical documentation, driver's license, taxes, etc).

- The student-athlete who has undergone sex reassignment is eligible to compete in the reassigned gender when:

    1. The student-athlete has undergone sex reassignment before puberty.

    2. The student-athlete has undergone sex reassignment surgery after puberty. Surgical and anatomical changes have been completed, including genitalia changes and gonadectomy. All legal recognition of the sex reassignment has been conferred with all proper governmental agencies. Hormonal therapy appropriate for the assigned sex has been administered in a verifiable manner and sufficient length of time to minimize gender-related advantages.

Effective exclusion of most transgender HS students.

The CHSAA will conduct a confidential case-by-case evaluation of the perspective student-athlete before eligibility to participate in the re-assigned gender will occur. Accommodations for participation will be handled using best practices to ensure that all student-athletes are in a safe and appropriate environment.

Colorado High School Activities Association current policy

ARTICLE 3

300. EQUITY CODE

1. The Colorado High School Activities Association is committed to ensuring that all students have equal access and opportunities to participate in CHSAA sponsored activities and athletics.

2. Member schools shall ensure that all students have equal access and opportunities to participate in activities and athletics without unlawful discrimination based on disability, race, creed, color, gender, sexual orientation, religion, age, national origin, or ancestry.

3. The Colorado High School Activities Association recognizes the right of transgender student-athletes to participate in interscholastic activities free from unlawful discrimination based on sexual orientation. In order to insure appropriate gender assignment for purposes of athletic eligibility, a transgender student-athlete's home school will perform a confidential evaluation to determine the gender assignment for the prospective student-athlete. The CHSAA will review athletic eligibility decisions based on gender assignment of transgender student-athletes in accordance with its approved policies and appeals procedures.

C.R.S.A. § 24-34-301 (defining sexual orientation to include transgender status)

Policy Statement and School Recommendations Regarding Transgender Participation:

The Colorado High School Activities Association (CHSAA) **Board of Directors** approved this policy and process to address the eligibility of transgender/transitioned/student-participants in CHSAA sanctioned activities/athletics.

For the purposes of this policy, the following definitions will apply:

1. **The term "sexual orientation," as defined in the Law, means a person's orientation toward heterosexuality, homosexuality, bisexuality, transgender status or another person's perception thereof.**
2. **The term "transgender" means having a gender identity or gender expression that differs from societal expectations based on gender assigned at birth.**
3. **The term "gender identity" means an innate sense of one's own gender.**
4. **The term "gender expression" means external appearance, characteristics or behaviors typically associated with a specific gender.**
5. **The term "covered entity" means any person, business, or institution required to comply with the antidiscrimination provisions of the Law.**
6. **Unlawful harassment: severe or pervasive conduct that creates an environment that is subjectively and objectively hostile, intimidating, or offensive on the basis of sexual orientation. Prohibited conduct included, but is not limited to, the following:**
    a. **Asking unwelcome personal questions about an individual's sexual orientation;**
    b. **Intentionally causing distress to an individual by disclosing to others the individual's sexual orientation;**
    c. **Using offensive names or terminology regarding an individual's sexual orientation; or**
    d. **Deliberately misusing an individual's preferred name, form of address, or gender-related pronoun.**

Policy Privacy:
All discussions and documentation in each level of the process either by a member school, appeals panel and/or CHSAA shall be kept confidential unless the student and family make a specific request.

Procedures:

I. The student's member school will be the first point of contact for determining the student's eligibility to participate in CHSAA sanctioned event(s). The student and parent(s)/guardian must notify the school in writing that the student has a consistent gender identity different than the gender of the student's birth certificate and list the sanctioned event in which the student would like to participate. The school may use the following criteria to determine participation:
   - Current transcript and school registration information
   - **A written statement from the student affirming the consistent gender identity and expression to which the student self-relates.**
   - **Documentation from individuals such as, but not limited to parents, friends, and/or teacher, which affirm that the actions, attitudes, dress and manner demonstrate the student's consistent gender identification and expression.**
   - **Written verification from an appropriate health-care professional (doctor, psychiatrist, psychologist) of the student's consistent gender identification and expression.**
   - Medical documentation (hormonal therapy, sexual re-assignment surgery, counseling, medical personnel, etc.)

Once the member school has rendered a decision, the school administrator shall communicate with the CHSAA office in writing of the decision. The school shall list the student's classified gender and sanctioned activities in which the student-participant would like the opportunity to participate if he/she is selected through the team try-out process.

Better if this item was set off with "or" to make clear these are not requirements

"may" suggests that this list is guidance. Not all items are required.

CHSAA Equity Liaison and Appeals
The CHSAA Equity Liaison will become involved in the process if:

- A member school denies participation and the student, with parents/guardian, appeals to the CHSAA in writing.
- Another member school appeals, in writing, to the CHSAA Equity Liaison for a review of the student's member school decision.
- The CHSAA will not consider any appeals from outside organizations or non-member schools.

An appeal under this policy shall be submitted in writing to the CHSAA Commissioner's office within thirty (30) days after the school level decision that is being appealed. The procedures in this policy supersede the appeals procedures in CHSAA Bylaws 2520, 2530, and 2540.

Appeal Process:
The CHSAA will conduct a confidential review of the case in accordance with the procedures provided herein. A hearing will be scheduled by the CHSAA Equity Liaison before an Equity Appeals Panel (the Panel). The Panel will be assembled promptly after receipt of the written appeal. The Panel will be comprised of a minimum of three of the following persons, one of whom must be from the physician or mental health professional category:

A. A physician with experience in gender identity health care and the World Professions Association for Transgender Health (WPATH) standards of care.
B. A psychiatrist, psychologist, or licensed mental health professional familiar with the WPATH standards of care.

C. A school administrator representative of the student's league and from the non-appealing school.
D. Representative(s) from the CHSAA staff.
E. An advocate familiar with gender identity and expression Issues.

The student-participant with parent/guardian and/or appealing school will have the opportunity to address the panel and present evidence in writing and/or by testimony at the hearing. If the appeal is brought by a member school, the student-participant with parent/guardian shall have the right to participate and present evidence at the hearing. The hearing will be informal in nature. Any party may be represented by an attorney at his/her/its expense. If the CHSAA, the Panel, or a party requests in writing at least three (3) days in advance, the hearing will be recorded.

Documentation:

The appealing party shall provide the Panel with the following documentation:

A. The student-participant's current transcript and school registration information.
B. Documentation relevant to the student's consistent gender identification and/or expression (e.g., written statements from student and/or parent/guardian and/or health care provider).
C. All documentation presented to the student-participant's school in support of the request for participation.
D. Any other pertinent documentation or information.

The Panel will consider all aspects of the appeal when rendering a decision. The panel will forward their written decision to the Commissioner of the CHSAA. The Commissioner will forward the Panel's decision to the parties within three (3) business days after receipt of the decision.

The Appeals Panel decision may be appealed to the CHSAA Board of Directors according to CHSAA Bylaw 2550.

Areas of Awareness for Schools:

good idea to include these topics

- Have a plan in place.
- Use correct names/pronouns according to the student's self-identification.
- Ensure gender appropriate restroom accessibility.
- **Reasonable accommodate equitable** locker room accessibility
- Educate teachers, counselors, coaches, administrators, **parents** and students on transgender sensitivity in relation to students. **Also educate booster clubs as needed with regards to potential funding issues**.
- **Permit the student to** dress according to gender identity
- Provide all members of the school community with access to resources and accurate information.

vague

Resources:

- CHSAA Contact:
  Bethany Brookens, Assistant Commissioner
  14855 E. Second Avenue – Aurora, CO 80011
  Office Phone: 303-344-5050
  Office E-mail: bbrookens@chsaa.org

- Transgender Law Center (www.transgenderlaw.org)

300. EQUITY CODE

1. The Nebraska School Activities Association is committed to ensuring that all students have equal access and opportunities to participate in NSAA sponsored activities and athletics.

2. Member schools shall ensure that all students have equal access and opportunities to participate in activities and athletics without unlawful discrimination based on disability, race, creed, color, gender, sexual orientation, religion, age, national origin, or ancestry.

3. **The Nebraska School Activities Association recognizes the right of transgender student-athletes to participate in interscholastic activities free from unlawful discrimination based on sexual orientation. In order to insure appropriate gender assignment for purposes of athletic eligibility, a transgender student-athlete's home school will perform a confidential evaluation to determine the gender assignment for the prospective student-athlete. The NSAA will review athletic eligibility decisions based on gender assignment of transgender student-athletes in accordance with its approved policies and appeals procedures**.

Policy Statement and School Recommendations Regarding Transgender Participation:

The Nebraska School Activities Association (NSAA) **Board of Directors** approved this policy and process to address the eligibility of transgender/transitioned/student-participants in NSAA sanctioned activities/athletics.

For the purposes of this policy, the following definitions will apply:

Nebraska has no law prohibiting discrimination based on SO/GI

1. **The term "sexual orientation," as defined in the Law, means a person's orientation toward heterosexuality, homosexuality, bisexuality, transgender status or another person's perception thereof.**
2. **The term "transgender" means having a gender identity or gender expression that differs from societal expectations based on gender assigned at birth.**
3. **The term "gender identity" means an innate sense of one's own gender.**
4. **The term "gender expression" means external appearance, characteristics or behaviors typically associated with a specific gender.**
5. **The term "covered entity" means any person, business, or institution required to comply with the antidiscrimination provisions of the Law.**
6. **Unlawful harassment: severe or pervasive conduct that creates an environment that is subjectively and objectively hostile, intimidating, or offensive on the basis of sexual orientation. Prohibited conduct included, but is not limited to, the following:**
    a. **Asking unwelcome personal questions about an individual's sexual orientation;**
    b. **Intentionally causing distress to an individual by disclosing to others the individual's sexual orientation;**
    c. **Using offensive names or terminology regarding an individual's sexual orientation; or**
    d. **Deliberately misusing an individual's preferred name, form of address, or gender-related pronoun.**

Policy Privacy:
All discussions and documentation in each level of the process either by a member school, appeals panel and/or NSAA shall be kept confidential unless the student and family make a specific request.

Procedures:

I. The student's member school will be the first point of contact for determining the student's eligibility to participate in NSAA sanctioned event(s). The student and parent(s)/guardian must notify the school in writing that the student has a consistent gender identity different than the gender of the student's birth certificate and list the sanctioned event in which the student would like to participate. The school may use the following criteria to determine participation:
   - Current transcript and school registration information
   - **A written statement from the student affirming the consistent gender identity and expression to which the student self-relates.**
   - **Documentation from individuals such as, but not limited to parents, friends, and/or teacher, which affirm that the actions, attitudes, dress and manner demonstrate the student's consistent gender identification and expression.**
   - **Written verification from an appropriate health-care professional (doctor, psychiatrist, psychologist) of the student's consistent gender identification and expression.**
   - Medical documentation (hormonal therapy, sexual re-assignment surgery, counseling, medical personnel, etc.)

Once the member school has rendered a decision, the school administrator shall communicate with the NSAA office in writing of the decision. The school shall list the student's classified gender and sanctioned activities in which the student-participant would like the opportunity to participate if they are selected through the team try-out process.

NSAA:
The NSAA Executive Director or Designee will only become involved in the process if:
- A member school denies participation and the student, with parents/guardian, appeal to the NSAA in writing.
- Another member school appeals, in writing, to the NSAA Executive Director or Designee for a review of the student's member school decision.

The NSAA will not consider any appeals from outside organizations or non-member schools.

Appeal Process:
The NSAA will conduct a confidential case by case as expeditiously as possible. An appeal hearing will be scheduled by the NSAA Executive Director or Designee to address the written appeals either by student-participant with parent/guardian or member schools. An Equity Appeals Panel will be assembled with seven (7) business days of written appeal to NSAA. The equity appeals panel will be comprised of a minimum of three of the following persons, one of whom must be from the physician or mental health profession category.

A. Physician with experience in gender identity health care and the World Professions Association for Transgender Health (WPATH) standards of care.
B. Psychiatrist, psychologist, or licensed mental health professional familiar with the Word Professional Association for Transgender Health (WPATH) standards of care.
C. School administrator representative of the student's league and from the non-appealing school.
D. Representative(s) from the NSAA staff.
E. Advocate familiar with Gender Identity and Expression Issues.

The student-participant with parent/guardian and/or appealing school will have the opportunity to address the panel prior to a decision.

Documentation:

The appealing parties should provide the panel with the following documentation:

A. Current transcript and school registration information.
B. Documentation of student's consistent gender identification (e.g. affirmed written statements from student and/or parent/guardian and/or health care provider).
C. Any other pertinent documentation or information.

The Appeal's Panel will consider all aspects of the appeals procedures when rendering a decision. The panel will forward their decision to the Executive Director of the NSAA. The Executive Director will forward correspondence of the panel's decision to the appealing student-participant and parent/guardian or appealing member school within three (3) business days of the decision.

The Appeals Panel decision will be final under the parameters of the NSAA transgender participation eligibility process.

Areas of Awareness for Schools:

- Have a plan in place.
- Use correct names/pronouns – according to student's self-identification.
- Ensure gender appropriate restroom accessibility.
- **Reasonable accommodate equitable**locker room accessibility
- Educate teachers, counselors, coaches, administrators, **parents** and students on transgender sensitivity in relation to students.**Also educate booster clubs as needed with regards to potential funding issues**.
- **Ability to**dress according to gender identity
- Access to resources and accurate information.

Wrote Colorado HSAA's policy before joining NSAA

Resources:

- NSAA Contact:
  Rhonda Blanford-Green, Executive Director
  P.O. Box 85448, 500 Charleston St., Lincoln, NE 68501
  Office Phone: 402-489-0386
  Office E-mail: rblanfordfgreen@nsaahome.org

- Transgender Law Center (www.transgenderlaw.org)

Illinois High School Association policy

Policy and School Recommendations for Transgender Participation:

The Illinois High School Association approves this policy and process to address the participation of transgendered students in all IHSA state finals series in athletics and activities.

"transgender" is preferred term

For the purpose of this policy the following definitions will be in place:

- *Transgendered:* a person whose gender identity doesn't match the sex assigned to him or her at birth.
- *Intersex:* a person who is born with a reproductive or sexual anatomy and /or chromosome pattern that doesn't seem to fit the typical definitions of female or male.
- *Gender Identity:* a person's deeply-felt internal sense of being male or female.
- *Gender Expression:* a person's external characteristics and behaviors that are socially defined as either masculine or feminine (dress, speech, mannerisms, social interactions, etc)

Privacy Statement: All discussions and documents at all levels of the process either by a member school, appeals panel, and/or IHSA shall be kept confidential unless specifically requested by the student and family.

School Procedure:

vague and unnecessary

1) The student and/or parents shall contact the school administrator or athletic director at their member school notifying them that the student has a different gender identity than listed on the student's school registration card or birth certificate and that the student wishes to participate in athletics/activities in a manner consistent with their gender identity. The school shall collect the following for the participation ruling:
    a. Gender identity used for school registration records
    b. Medical documentation (hormonal treatments, sexual re-assignment surgery, counseling, medical personnel, etc.)
    c. Gender Identity related advantages for approved participation

better if language made clear this was not required

2) Once the school administrator has collected the relevant information, the member school shall contact the IHSA office in writing of the request for the ruling, the student's gender identity, and the selected athletics/activities that the student would like the opportunity to participate in if they are selected through the team try-out process.
    a. Once the student is approved, participation is granted through the duration of their high school career, it does not need to be annually renewed.

Heavy procedural burden just to try out.

IHSA Procedure:

IHSA will make final rulings on student participation. The IHSA will establish a group of medical personnel to act in an advisory role when reviewing rulings. Appealing parties should provide the following documentation:

1) A current transcript and school registration information
2) Documentation of the student's consistent gender identification (e.g. affirmation statements from student, parent/guardian, and/or health care provider.
3) Any other pertinent documentation or information

Appeal process is vague.

The IHSA will respond to the member school in writing the decision of the participation ruling.

Areas of Awareness:

Have a plan in place
Use correct names/pronouns- according to student's self-identification

Gender appropriate restroom accessibility
Locker room accessibility
Educational training for teachers, counselors, coaches, administrator and students on transgender sensitivity in relation to student
Manner of dress according to gender identity
Access to resources and accurate information

Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3000
TTY: N.E.T. Relay 1-800-439-2370

Redacted to focus on content most relevant to athletics

Guidance for Massachusetts Public Schools
Creating a Safe and Supportive School Environment

Nondiscrimination on the Basis of Gender Identity

An Act Relative to Gender Identity (Chapter 199 of the Acts of 2011),1 which became effective on July 1, 2012, amended several Massachusetts statutes prohibiting discrimination on the basis of specified categories, to include discrimination on the basis of gender identity. Among the statutes amended is G.L. c. 76, § 5, prohibiting discrimination on the basis of gender identity against students who enroll in or attend the public schools. G.L. c. 76, §5 now reads as follows:

> Every person shall have a right to attend the public schools of the town where he actually resides, subject to the following section. No school committee is required to enroll a person who does not actually reside in the town unless said enrollment is authorized by law or by the school committee. Any person who violates or assists in the violation of this provision may be required to remit full restitution to the town of the improperly-attended public schools. **No person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin or sexual orientation.** (Emphasis added)

In June 2012, the Massachusetts Board of Elementary and Secondary Education (Board) adopted revised Access to Equal Education Opportunity Regulations, 603 CMR 26.00, and Charter School Regulations, 603 CMR 1.00, to reflect the broadened student anti-discrimination provision in G.L. c. 76, §5. The Board also directed the Department of Elementary and Secondary Education (Department) to provide guidance to school districts to assist in implementing the gender identity provision.

All students need a safe and supportive school environment to progress academically and developmentally. Administrators, faculty, staff, and students each play an important part in creating and sustaining that environment. This guidance is intended to help school and district administrators take steps to create a culture in which transgender and gender nonconforming students feel safe, supported, and fully included, and to meet each school's obligation to provide equal educational opportunities for all students, in compliance with G.L. c. 76, §5 and the state regulations. The guidance sets out general principles based on the law, and addresses

1 The Act can be found at http://www.malegislature.gov/Laws/SessionLaws/Acts/2011/Chapter199,

common issues regarding transgender and gender nonconforming students. It offers case studies based on experiences of schools and students in Massachusetts, and reflects the need to consider issues on a case-by-case basis. The list of issues is not exhaustive, and the examples are intended to be illustrative, not prescriptive.

In preparing this guidance, the Department reviewed policies and guidance from several states, organizations, and athletic associations and consulted with the field. We appreciate the input we received from school and district administrators, advocacy groups, parents, students, and other interested constituents.

Definitions

Understanding the terminology associated with gender identity is important to providing a safe and supportive school environment for students whose rights are protected under the law. The following terms appear in this document and are defined to assist in understanding the guidance presented. Although these are the most commonly used terms, students may prefer other terms to describe their gender identity, appearance, or behavior. The term "gender identity" is specifically defined in the Mass. General Laws, as amended by *An Act Relative to Gender Identity* (the gender identity law).

- *Gender expression*: the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
- *Gender identity*: as defined in part at G.L. c. 4, § 7, is "a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth..."
- *Gender nonconforming*: a term used to describe people whose gender expression differs from stereotypic expectations. The terms "gender variant" or "gender atypical" are also used.
- *Transgender*: an umbrella term used to describe a person whose gender identity or gender expression is different from that traditionally associated with the assigned sex at birth.

The Law

The gender identity law amended G.L. c. 76, § 5,2 to establish that no person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of *gender identity*, among other characteristics. The amended Access to Equal Educational Opportunity regulations, 603 CMR 26.00, and the non-discrimination provision of the Charter School

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2 The Act amends several other statutes as well, including G.L. c. 151B (governing nondiscrimination in employment), to prohibit discrimination on the basis of gender identity.

regulations, 603 CMR 1.00, require schools to establish policies and procedures, provide training, and implement and monitor practices to ensure that obstacles to equal access to school programs are removed for all students, including transgender and gender nonconforming students.

All districts and schools should review existing policies, handbooks, and other written materials to ensure that they are updated to reflect the new law. At a minimum, this means including the category of "gender identity" within the identification of legally protected characteristics. For example*:*

> *The [ ] Public Schools strives to provide a safe, respectful, and supportive learning environment in which all students can thrive and succeed in its schools. The [ ] Public Schools prohibits discrimination on the basis of race, color, sex, gender identity, religion, national origin, or sexual orientation and ensures that all students have equal rights of access and equal enjoyment of the opportunities, advantages, privileges, and courses of study.*

The gender identity law reflects the reality that transgender and gender nonconforming students are enrolled in Massachusetts public schools. These students, because of widespread misunderstanding and lack of knowledge about their lives, are at a higher risk for peer ostracism, victimization, and bullying. The 2011 National School Climate Survey by the Gay, Lesbian & Straight Education Network (GLSEN), found that 75.4% of transgender students had been verbally harassed in the previous year, 32.1% had been physically harassed, and 16.8% had been physically assaulted. Educators play an essential role in advocating for the well-being of these students and creating a school culture that supports them.