

USBE Gender Identity Guidance

Table of Contents

- **Disclaimers**
- **Background**
- **Age Considerations**
- **Facilities**
- **Determination of Gender Identity**
- **Dress Code**
- **Overnight Trips**
- **Records/Privacy/Confidentiality**
- **Physical Education**
- **Other School Activities**
- **Preferred Names/Pronouns**
- **Taking Decision-Making Out of the Classroom**

State Policies Included:

- [Illinois 2020](#)
- [Virginia 2021](#)
- [Hawaii 2016](#)
- [Texas 2021](#)
- [Maryland 2015](#)
- [New Jersey 2018](#)

Disclaimers

USBE 1st Draft	<p>Questions are frequently asked about the rights of transgender, non-binary, and gender diverse students to be referred to by a different name or pronoun as their name on record in school. This guidance document enumerates laws, policies, and best practices to address these questions. This guidance does not anticipate every situation that may occur, and the needs of each student must be assessed on a case-by-case basis. Every student and school are unique and building administrators should discuss these issues with students and their families and draw on the experiences and expertise of their colleagues as well as external resources where appropriate.</p>
Hawaii	<p>This guidance provides assistance regarding common issues of concern that need to be addressed to provide appropriate supports for transgender students and the school community. These guidelines are designed to provide basic direction for schools. They will not cover every situation that arises. The intent is to provide immediate guidance for schools to create a safe and nurturing learning environment for all students and to provide school officials with awareness of best practices to address situations as they arise.</p> <p>Transgender students’ needs can be highly individualized depending upon the circumstances of the student. Each student’s needs should be assessed on a case-by case basis, which can be accomplished by meeting with the student and, if appropriate, with the student’s parents or guardians. School staff should let the student take the lead in determining and expressing their own gender identity and should be mindful of the student’s right to privacy and confidentiality with respect to their gender identity and expression.</p>
Texas	<p>This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject, nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.</p>
Maryland	<p>It is the hope of the Maryland State Department of Education that this document may provide technical guidance and assistance as each Maryland school system works to support the rights of all students, including those who are transgender and gender nonconforming. These guidelines are designed to serve as suggestions for consideration for school systems and administrators who may want to develop their own transgender policy, procedures, and/or guidelines. These non-discrimination guidelines are not intended to address every situation that might occur with respect to transgender or gender non-conforming students. In all cases, the goal is to provide equal educational opportunity and healthy development of students.</p>

Background

USBE 1st Draft	<p>The Utah State Board of Education recognizes that academic success depends on access to an educational environment that is safe, conducive to the learning process,</p>
-----------------------	--

	<p>and free from unnecessary disruption, discrimination, and harassment.¹ We value educational equity which the Board has defined as “acknowledging that all students are capable of learning, educational equity is the distribution of resources to provide equal opportunities based upon the needs of each individual student. Equitable resources include funding, programs, policies, initiatives and support that recognize each student’s unique background and school context to guarantee that all students have access to high-quality education.” Educators have a responsibility to create and maintain an environment of dignity and respect for all, and to strive for understanding.² They must foster a learning environment that is safe and respectful of all students by implementing principles and strategies of inclusion, as they pertain to students with varying abilities and backgrounds.³</p> <p>Many transgender, non-binary, and gender diverse students struggle to feel a sense of inclusion, belonging, and support in the educational environment. They are often at greater risk for negative outcomes due to perceptions of others regarding their gender identity. Transgender, non-binary, and gender diverse students are at increased risk of discrimination, prejudice, denial of civil and human rights, family rejection, homelessness, bullying/assault, depression, suicidal ideation/attempts/completion, substance abuse, HIV/AIDS, human trafficking, reduced academic achievement, absenteeism, and dropping out (SHARP Survey data, 2019; Murphy, L. T., 2017; Pollitt et al., 2019; Robinson & Espelage, 2011; Robinson & Espelage, 2012; Russell et al., 2018; Ryan et al., 2010; USDOJ & USDOE, 2021).</p>
Hawaii	<p>Recently, more students have felt comfortable expressing their transgender identity and requesting support in school. In addition, more and more parents have been asking schools to recognize and accommodate the needs of their transgender children. For many students, schools are seen as safe spaces for authentic expression. Consequently, it is important to determine what is most appropriate for our students, both those who identify as transgender and those who do not.</p> <p>While transgender student issues have moved to the forefront of the educational landscape, and many jurisdictions, including Hawai`i, have implemented guidance to support transgender students, it is important to remember these students still face many obstacles. The Gay, Lesbian, Straight Education Network (“GLSEN”) conducts a biennial national school climate survey focusing on the educational experiences of gay, lesbian, bisexual, and transgender students. GLSEN’s 2013 National School Climate Survey found that LGBT students who experienced LGBT related discrimination in school were three times more likely to have missed school in the past month, had lower GPAs than their peers, and had lower self-esteem, and higher levels of depression than their peers.¹ Examples of discrimination specific to transgender students included, but were not limited to, being prevented from using preferred names and pronouns, and being required to use the restroom/locker room of their assigned sex at birth.²</p> <p>Schools play a vital role in the development of students’ well-being, and it is important that we continue to work collaboratively with all students and their families.</p>
Maryland	<p>In “Growing Up LGBT (Lesbian, Gay, Bisexual, Transgender) in America,” the Human Rights Campaign Foundation’s groundbreaking survey of more than 10,000 LGBT youth,</p>

	<p>42 percent of gender non-conforming youth report “frequently” or “often” being called names and 40 percent report being excluded by peers “frequently” or “often”. More than half of gender nonconforming youth reported “never” participating in the majority of activities listed in the survey (e.g., sports, church/religious youth groups and service organizations) out of fear of discrimination.</p> <p>Additional research indicates that 80 percent of transgender students feel unsafe at school because of who they are. According to data from Center for Disease Control’s Youth Risk Behavior Survey (2011), the percentage of gay, lesbian, and bisexual students (across sites) who did not go to school at least one day during the 30 days before the survey because of safety concerns ranged from 11 percent to 30 percent of gay and lesbian students and 12 percent to 25 percent of bisexual students.</p> <p>The Journal of Adolescent Health (2015) reported that compared with non-transgender youth, transgender youth had an elevated probability of being diagnosed with depression (50.6 percent vs. 20.6 percent); suffering from anxiety (26.7 percent vs. 10 percent); attempting suicide (17.2 percent vs. 6.1 percent); and engaging in self-harming activities without lethal intent (16.7 percent vs. 4.4 percent).</p> <p>The need for protections for transgender and gender non-conforming students is clear. According to a 2011 report from the National Center for Transgender Equality and the National Gay and Lesbian Task Force, 132 Maryland respondents who expressed transgender identity or gender nonconformity while in grades K-12 reported alarming rates of harassment (81percent), physical assault (38 percent) and sexual violence (16 percent). A staggering 43 percent reported that they had attempted suicide at some point in their life, 27 times the rate of the general population of 1.6 percent. Harassment was so severe that it led 6 percent to leave a school in K12 settings or leave higher education. In addition, the Gay, Lesbian, and Straight Education Network (GLSEN, 2014) reports that students who experienced high levels of victimization based on gender expression were twice as likely as students who did not experience high levels of victimization to report that they did not plan to pursue post-secondary education.</p> <p>Rather than focusing on their education, many transgender and gender non-conforming students struggle for the ability to come to school and be themselves. The National Center for Transgender Equality reports that 59 percent of transgender students have been denied access to restrooms consistent with their gender identity. Some are denied opportunities to go on field trips or participate in sports. Together with bullying and victim-blaming, these conflicts can lead to disproportionate discipline and involvement in the juvenile justice system.</p>
<p>Virginia</p>	<p>The Virginia Department of Education continues to be committed to working with school divisions to ensure a positive, safe, and nurturing learning environment for all students. It is important that as education leaders we affirm our commitment to advancing equity in Virginia’s public schools. Efforts to advance equity priorities include developing a culturally competent workforce of educators, closing opportunity and achievement gaps among marginalized student groups, increasing access to high quality early learning opportunities, and maximizing the potential of every Virginia student. The key guiding</p>

principle of the model policies is that all children have a right to learn, free from discrimination and harassment.

For many people, their gender identity matches their sex assigned at birth. For others, their gender identity does not necessarily correspond to the sex assigned at birth, where the gender identity may be one in a range such as transgender, nonbinary, or gender-expansive. Gender identity is considered an innate characteristic that most children declare by age five to six (Lamb & Lerner, 2015). In 2020, the American Psychological Association (APA) and National 9 Association of School Psychologists (NASP) declared in a resolution that “all persons, including children and adolescents who are diverse in their sexuality and gender identities, expression, and/or presentation, have the inherent human right to equal opportunity and a physically and psychologically safe environment within all institutions.” The American Academy of Pediatrics (2018) also acknowledged that, “variations in gender identity and expression are normal aspects of human diversity.”

School divisions are encouraged to develop comprehensive policies, regulations, guidance and implementation plans to minimize social stigmatization for such students and maximize opportunities for social integration so that all students have an equal opportunity to attend school, be engaged, and achieve academic success. This process should be informed by the needs of students, and the strongest policies are developed when they include student participation. A recent study found that inclusive policies that focus on sexual orientation and gender identity were associated with more supportive school environments for LGBTQ+ youth and had a direct association with less truancy (Day, Ioverno, & Russell, 2019). While the terminology transgender is used throughout this document, it should be interpreted to include genderexpansive, nonbinary, and gender nonconforming individuals who do not identify on the cisgender binary.

Because of societal prejudice and lack of awareness or understanding, transgender students may experience rejection, criticism, or bullying, that affect their emotional health and academic achievement. A 2019 national survey by GLSEN found that 84 percent of transgender youth feel unsafe at school, and those who experience victimization have significantly lower GPAs, are more likely to miss school out of concern for their safety, and are less likely to plan on continuing their education (Kosciw, Clark, Truong, & Zongrone, 2020). Compared to their 10 cisgender and heterosexual peers, LGBTQ+ youth report much higher rates of depression, anxiety, alcohol and drug use, and lower self-esteem. LGBTQ+ youth of color may experience additional stress and adverse effects as a result of their intersecting identities, facing both bias against their gender identity or expression as well as racism. Research has shown that LGBTQ+ students experience higher levels of victimization because of their gender identity and/or gender expression and have more adverse outcomes compared to their cisgender and heterosexual peers (Human Rights Campaign Foundation, 2018):

- 73 percent of surveyed LGBTQ+ youth have experienced verbal threats because of their actual or perceived LGBTQ+ identity.

	<ul style="list-style-type: none"> ● 77 percent of surveyed LGBTQ+ youth report feeling depressed or down over the past week, and more than 70 percent report feelings of worthlessness and hopelessness in the past week. ● 95 percent of surveyed LGBTQ+ youth report trouble sleeping at night. <p>Furthermore, a recent study found that socially transitioned transgender children who are supported in their gender identity have no elevations in depression and only minimal elevations in anxiety relative to population averages (Olson, Durwood, DeMeules, & McLaughlin, 2016). According to the Office of Civil Rights (OCR), “in cases where a complaint alleges that a school’s action or policy excludes a person from participation in, denies a person the benefits of, or subjects a person to discrimination under an education program or activity, on the basis of sex, the Bostock opinion guides OCRs understanding that discrimination against a person based on their status as homosexual or transgender generally involves discrimination on the basis of their biological sex. “(OCR, 2020). For transgender students, acts of verbal harassment may include the intentional and persistent use of names and pronouns not consistent with their identity. Sexbased harassment may also include the disclosure of the student’s gender identity without their consent as this presents safety concerns for the student.</p>
--	--

Age Considerations	
<p>Utah LEA 1</p>	<p>The age of the student will impact the school’s involvement of parents; however, parental participation is not required for a student to request an accommodation. Students are informed that parents will be made aware of any accommodation that is granted and are encouraged to include their parents in the process.</p> <p>Parental involvement is addressed on a case-by-case basis. The paramount consideration is the health and safety of the student, while also making sure that the student’s gender identity is affirmed in a manner that maintains privacy and confidentiality. Grades K-5: Generally, the parent or guardian will inform the school of an impending transition. However, it would be appropriate to approach the parent of an elementary school student if school personnel believe that a gender identity or expression issue is presenting itself at school and creating difficulty for the student. Grades 6-12: Generally, notification from students’ parents about their students’ gender identity, gender expression, or transition is unnecessary.</p>
<p>Utah LEA 2</p>	<p>LEA will accommodate preferred name and/or gender change requests without legal documentation for unofficial records maintained by the LEA, such as report cards, class lists, other informal district documents, etc. Parent/legal guardian, 18+ student, or emancipated student needs to make the request through student services.</p>
<p>Hawaii</p>	<p>Be mindful of how students’ chronological and developmental age, as well as family support may affect the process. For preschool and elementary school-aged children, the level of parental involvement may look different than for middle school and high school-aged students. However, supporting a student’s health, well-being, and safety is always paramount. When a transgender, nonbinary, or gender nonconforming student does not</p>

	<p>have a supportive home environment, regardless of their age, the Gender Support Coordinator can work with the student to identify what course of action will prioritize their safety.</p>
Virginia	<p>In the situation when parents or guardians of a minor student (under 18 years of age) do not agree with the student’s request to adopt a new name and pronouns, school divisions will need to determine whether to respect the student’s request, abide by the parent’s wishes to continue using the student’s legal name and sex assigned at birth, or develop an alternative that respects both the student and the parents. This process will require consideration of short-term solutions to address the student’s emotional needs to be affirmed at school as well as the long-term goal of assisting the family in developing solutions in their child’s best interest. For example, a plan may include addressing the student at school with their name and pronoun consistent with their gender identity while using the legal name and pronoun associated with the sex assigned at birth when communicating with parents or guardians. Research has shown that transgender youth with supportive families experience a 52 percent decrease in recent suicidal thoughts and 46 percent decrease in suicide attempts (Ryan, Russell, Huebner, Diaz, & Sanchez, 2010) and that “chosen name used in more contexts was associated with lower depression, suicidal ideation, and suicidal behavior” (Russell, Pollitt, Li, & Grossman, 2018). Thus, school staff should be prepared to support the safety and welfare of transgender students when their families are not affirming. School staff should provide information and referral to resources to support the student in coping with the lack of support at home, provide information and resources to families about transgender issues, seek opportunities to foster a better relationship between the student and their family, and provide close follow-ups with the family and student. Before making a decision on policies relating to situations when parents or guardians are not accepting of the student’s gender identity, school divisions should consult their school board attorney.</p>

Facilities	
Hawaii	<p>Restrooms - Schools may maintain separate restroom facilities for male and female students. Students should have access to restrooms that correspond to their sincerely held gender identity.</p> <p>When a transgender student’s support includes access to a restroom that corresponds with their sincerely held gender identity, there may need to be accommodations made for other students. In this case, if any student, whether transgender or not, desires increased privacy, or feels uncomfortable, schools should make every effort to provide the student with reasonable access to an alternative restroom (e.g., single-stall restroom or the health office restroom). A transgender student should determine which restroom to use. A transgender student should not be compelled to use an alternative restroom. Schools may take steps to designate single stall “gender-neutral” restrooms on their campus.</p>

	<p>EXAMPLE ONE: A transgender male (female to male) student wants to use the boys' restrooms on campus. He should be allowed to use the boys' restroom since this is consistent with his sincerely held gender identity.</p> <p>EXAMPLE TWO: A non-transgender female student is uncomfortable because a transgender female (male to female) has been using the girls' restroom. The nontransgender female student should be allowed to use an alternative restroom.</p> <p>EXAMPLE THREE: A transgender female (male to female) is uncomfortable using the girls' restroom, but does not want to use the boys' restroom since she feels unsafe in that environment. The student should be allowed to use an alternative restroom as in the example above.</p> <p>EXAMPLE FOUR: A student who appears to be male is seen walking into the girl's restroom. When approached by school personnel, the student indicates that their sincerely held gender identity is female. The student should be allowed to use the restroom of the gender with which the student identifies. Inform the student that, upon request, the school will work with the student regarding support and accommodations.</p> <p>Locker Rooms - Schools may maintain separate locker room facilities for male and female students. Students should have access to the locker room facility that corresponds to their sincerely held gender identity. When a transgender student's support includes access to a locker room that corresponds to their sincerely held gender identity, there may need to be accommodations made for them or other students. If any student, whether transgender or not, desires increased privacy, regardless of the underlying reason, schools should provide access to a reasonable alternative, such as: (1) Assignment of a student locker in close proximity to the coaches' office or a supportive peer group; (2) Use of a private area within the public area of the locker room facility; (3) Use of a nearby private area; or (4) A separate changing schedule.</p> <p>EXAMPLE ONE: A transgender male (female to male) wants to change in the boys' locker room. As long as the student feels safe, he should be allowed to change in the boys' locker room.</p> <p>EXAMPLE TWO: A transgender male (female to male) is uncomfortable changing in the boy's locker room, but does not want to change in the girls' locker room because he identifies as male and feels that it would be inappropriate. The school should attempt to accommodate the student using one of the alternatives listed in the Guidance or another similar alternative.</p> <p>EXAMPLE THREE: A transgender female (male to female) has chosen to change in the girls' locker room. Several non-transgender female students are uncomfortable with this situation. The non-transgender female students should be provided one of the alternatives listed in this Guidance or other, similar alternatives.</p>
Illinois	Both state and federal law have clearly defined that all students must be able to fully and equally access facilities in alignment with their gender identity.

F-1. *May a school require that a transgender, nonbinary, or gender nonconforming student use the restroom or locker room that corresponds with the student's sex assigned at birth?* No. Students must be allowed to use the facilities that correspond with their gender identity. Schools cannot impose on transgender, nonbinary, and gender nonconforming students conditions on the use of facilities that are not required of other students.

F-2. *What legal provisions apply to the use of school facilities by transgender, nonbinary, and gender nonconforming students?* The IHRA expressly guarantees “the full and equal enjoyment of . . . facilities” which means that transgender, nonbinary, and gender nonconforming students have the right to use a school’s physical facilities consistent with their gender identity. 775 ILCS 5/1-102(A); 1-103(O1). Under state law, a school must provide students “full and equal” use of all school facilities; it is not enough to provide students mere “access”. Federal law likewise protects a student’s right to use school facilities that correspond with the student’s gender identity. School policies that deny students use of restrooms, locker rooms, changing rooms, or other facilities that correspond with their gender identity violate Title IX and the Equal Protection Clause. See, e.g., *J.A.W. v. Evansville Vanderburgh Sch. Corp.*, 396 F. Supp. 3d 833 (S.D. Ind. 2019) (denial of restroom use violates Title IX and the Constitution); *Whitaker*, at 1049 (school required to allow transgender boy to use male restrooms); *Doe by & through Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 526-32 (3d Cir. 2018) (affirming district court's denial of plaintiffs’ motion for preliminary injunction, stating “There is simply nothing inappropriate about transgender students using the restrooms or locker rooms that correspond to their gender identity.”). These protections apply to students of all genders, including nonbinary and gender nonconforming students.

F-3. *What if some students or parents are uncomfortable with transgender, nonbinary, and gender nonconforming students using school facilities that correspond with their gender identity?* Under state and federal law, the discomfort or privacy concerns of students, teachers, or parents are not valid reasons to deny or limit the equal use of facilities by transgender, nonbinary, and gender nonconforming students. Rather, the interest of any student seeking more privacy should be addressed by providing that student a more private option upon their request. “The prejudices of others are part of what the [Human Rights Act] was meant to prevent.” *P.S. and Komarek Sch. Dist. 94, ALS No. 16-0003* (Ill. Hum Rts. Comm’n March 15, 2018 and February 4, 2019). “[T]here is no right that insulates a student from coming in contact with others who are different than them or a Bathroom Privacy Act, unless the behavior violates a school policy or is criminal.” *Id.* The presence of a transgender student in a locker room simply does not “implicate the constitutional privacy rights of others with whom such facilities are shared.” *Students & Parents for Privacy v. United States Dep’t of Educ.*, 16-CV-4945, 2017 WL 6629520, at *5 (N.D. Ill. Dec. 29, 2017). If school districts are found to have violated the IHRA or Title IX, they will be subjected to significant monetary liability, including damages, attorneys’ fees, and costs.

F-4. *What are the best practices for ensuring all students have access to school facilities that correspond with their gender identity?* Facilities should be safe and accessible. Facilities include, but are not limited to, locker rooms, restrooms, showering facilities, costume rooms/backstage areas, nurse’s offices, and athletic training rooms. Facilities

	<p>also include any communal area where a student may be required to undress, such as a gym used for a scoliosis screening or a weigh-in for a wrestling match. Districts that designate all-gender and/or secure-access restrooms should ensure that these facilities are safe and accessible, and not located in a place that will cause interference with a student’s academics or other school-related activities. Gender-neutral restrooms are sometimes located in inconvenient locations, resulting in lost instructional time for transgender students. Any alternative arrangement should be provided in a way that protects the student’s privacy and is consistent with the student’s Gender Support Plan, if one exists. Allow additional time to use facilities, if necessary. If using an alternative facility would cause a student to be late, the student should be allotted additional time to use the facilities and not be punished for tardiness. Provide options for all students. If any student desires more privacy when using a facility, that student should be allowed to use the appropriate facilities. Increase single-occupancy facilities. Districts are encouraged to incorporate single-occupancy facilities and to increase privacy for all facilities when considering new construction or renovation.</p>
<p>Maryland</p>	<p>Restrooms - The following suggestions may assist school systems in creating a non-discriminatory and equitable school environment.</p> <ul style="list-style-type: none"> • Provide access to the restroom that corresponds to the student’s gender identity. • Designate any available single stall restroom with a locking door as a unisex/gender neutral restroom and as available to all students. If a single stall student restroom is not generally available, designate a private restroom such as one in the health suites for any student who requests increased privacy and safety, for any reason. This accommodation may be offered to all students. • Permit transgender and gender non-conforming students whose gender identity is not exclusively male or female to use facilities they believe are the most consistent with their safety and gender identity. <p>Locker Rooms - Respectful and careful review of all relevant factors and concerns is essential when considering the locker room issue.</p> <ul style="list-style-type: none"> • Provide access to the locker room that corresponds to the student’s gender identity. • Provide the option to use a safe and non-stigmatizing private alternative space for any student who is uncomfortable using shared facilities. • Provide reasonable alternative arrangements for any student who expresses a need or desire for increased privacy. Alternative arrangements should be provided in a way that protects the transgender student’s ability to keep his or her transgender status confidential. <ul style="list-style-type: none"> ○ Based on availability and appropriateness to address privacy concerns, such arrangements could include, but are not limited to: <ul style="list-style-type: none"> ▪ Assignment of a student locker in near proximity to the coaches’ office or a supportive peer group. ▪ 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).

	<ul style="list-style-type: none"> ▪ Use of a nearby private area (e.g. nearby restroom or a health office restroom). ▪ A separate changing schedule (either utilizing the locker room before or after the other students)
<p>Texas</p>	<p>What should a school district do if a transgender student requests to use sex-specific restrooms or locker rooms based on the student’s gender identity? [Legal background is provided asserting that the legal trend strongly supports a student’s right to use the facilities corresponding to the student’s gender identity.] Due to the legal background described they state—It remains clear that the transgender student has a right to be free from discrimination or harassment based on gender identity, while other students may claim a right to privacy or raise a safety concern about sharing a sex-specific facility with a transgender student. Districts are tasked with finding a reasonable resolution that addresses each situation as best as possible, in light of nondiscrimination principles and practical options.</p> <p>As an initial step, the school district should communicate with the transgender student and the student’s parents to determine the student’s preference as to gender-specific facilities. Some school officials who have worked with parents and transgender students have found that the student voluntarily agrees to or prefers a separate unisex restroom, shower and changing area. If available, the district may make individual-user facilities an option for any student seeking greater privacy. Such facilities should be selected with safety, accessibility, and lack of educational disruption in mind.</p> <p>While separate unisex facilities may work for some transgender students, others may feel that such an arrangement negatively singles them out and isolates them from their peers. Consequently, the transgender student may request to use communal sexspecific facilities that match the student’s gender identity. There is no law that prohibits a district from granting the transgender student’s request to use these facilities. If other students or their parents object to the use of a sex-specific facility by a transgender student, a school district may be able to amicably address the competing interests by making individual-user facilities and private areas available for all students.</p> <p>If the transgender student’s requests are not granted, then a school district will need to be prepared to demonstrate all the options considered and attempted, and to articulate a reasonable, non-discriminatory rationale for denying any requests.</p> <p>Due to the potential risk of litigation, a district should promptly consult with legal counsel in order to determine a defensible plan of action, including documentation of the district’s efforts to address legitimate safety and privacy concerns while upholding the principles of nondiscrimination.</p>
<p>New Jersey</p>	<p>All students are entitled to have access to restrooms, locker rooms and changing facilities in accordance with their gender identity to allow for involvement in various school programs and activities.</p> <p>In all cases, the school principal must work with the student and staff so all parties are aware of facility policies and understand that the student may access the restroom, locker room, and changing facility that corresponds to the student's gender identity.</p>

	<p>While some transgender students will want that arrangement, others may be uncomfortable with it. Transgender students who are uncomfortable using a sex-segregated restroom should be provided with a safe and adequate alternative, such as a single "unisex" restroom or the nurse's restroom. Similarly, some transgender students may be uncomfortable using the changing facilities that correspond to the student's gender identity. Non-transgender students should also be afforded the option to use a private facility, such as a unisex facility or the nurse's restroom, should they feel uncomfortable.</p> <ul style="list-style-type: none"> • School districts shall allow a transgender student to use a restroom or locker room based on the student's gender identity. • Reasonable alternative arrangements shall be made if needed to ensure a student's safety and comfort. This direction for accommodations should come from the student.
<p>Virginia</p>	<p>All students are entitled to have access to restrooms, locker rooms, and changing facilities that are sanitary, safe, and adequate, so that they can comfortably and fully engage in their school programs and activities. Schools frequently maintain separate restrooms, locker rooms or other facilities for males and females. Students should be allowed to use the facility that corresponds to their gender identity. While some transgender students will want that access, others may want alternatives that afford more privacy. Taking into account existing school facilities, administrators should take steps to designate gender-inclusive or single-user restrooms commensurate with the size of the school. When schools have available gender-inclusive or single-user restrooms or private changing areas, these restrooms or areas should be accessible to all students without special codes or keys. This would allow for any students seeking privacy to access single-user restrooms and private changing areas voluntarily. For locker room facilities without private changing areas, school divisions should make reasonable accommodations for requests for increased privacy. At the request of any student, schools should offer alternative arrangements such as a separate changing schedule, use of a nearby private area, access to a staff member's office, not requiring students to dress in uniform for physical education, or offering alternatives to in-person physical education. Any accommodations offered should be nonstigmatizing and minimize lost instructional time. Also, note that any information related to accommodations should be handled in such a way as to protect the student's privacy relating to their gender identity.</p> <p>It can be emotionally harmful for a transgender student to be questioned regarding the use of restrooms and facilities. School staff should not confront students about their gender identity upon entry into the restroom. Furthermore, as school divisions plan for new school facilities or renovations, they should consider generally accommodating students who want more privacy such as designing additional single-user or gender-inclusive restrooms or changing areas. Additionally, § 22.1-6.1 of the Code of Virginia requires each school board to make menstrual supplies available at all times and at no cost to students in accessible locations in each elementary school and in the bathrooms of each middle and high school. Accordingly, these supplies should be made available in all bathrooms to be gender-inclusive.</p>

Determination of Gender Identity	
Hawaii	<p>Schools should accept a student’s sincerely held gender identity. A student does not need a medical or mental health diagnosis or treatment threshold to have his or her gender identity recognized and respected.</p> <p>A transgender student who is ready to socially transition, regardless of whether the student is undergoing medical transition, may initiate a process to change how the student is addressed (preferred name, preferred pronoun), their attire, and access to preferred activities and facilities.</p> <p>EXAMPLE ONE: A student who appears to be male is consistently seen wearing clothing that is traditionally considered female, such as skirts and dresses. The student regularly uses facilities designated for males and has never requested to do otherwise. The student continues to use the student’s legal name, which is a traditionally male name. In this instance, it may not be necessary to do anything. This student appears to be gender nonconforming and may or may not identify as transgender. If the student is experiencing bullying or harassment, a counselor or other appropriate school official should intervene with supports to address the bullying or harassment.</p> <p>EXAMPLE TWO: A student and the student’s parents request a meeting with the principal. The student has documentation from a medical professional regarding the student’s gender identity. This instance is much more straightforward. Again, this meeting, or a subsequent meeting, can be used to establish a Student Support Plan for Gender Identity for the transgender student. The counselor or school administrator should then follow up with the appropriate school personnel to inform them of the student’s gender identity and the agreed upon supports.</p> <p>EXAMPLE THREE: A student who appears female approaches a teacher and gives a male name and requests to be referred to using male pronouns. The teacher should agree to use the student’s preferred name and pronouns and inform the student that, upon request, the school will work with the student regarding support and accommodations.</p>
Illinois	<p>In their definitions: <i>Gender Identity</i>. A person’s internal, deeply held sense or psychological knowledge of their own gender that can include being female, male, another gender, nonbinary, gender nonconforming, or no gender, and is unrelated to the person’s sex assigned at birth. Gender identity is an innate part of a person’s identity, and the responsibility for determining an individual’s gender identity rests with the individual. Unlike gender expression, gender identity is not visible to others.</p> <p>E-3: Provide all students with opportunities to indicate how they wish to be addressed. Schools should survey all students on an annual basis to determine how they wish to identify themselves during school-related functions and how they wish to be addressed in communications with their parent(s)/guardian(s), including on all documents sent to their parent(s)/guardian(s). In addition, students should be allowed to update this information upon request.</p>

Maryland	<p>Modify forms that allow families and students the ability to self-identify their gender and preferred names and pronouns. Multiple federal and state agencies have adopted a two-part question that asks separately about current gender identity and sex assigned at birth.</p> <p>Privately ask students how they want to be addressed in class and whether this will be different when in correspondence to the home or at conferences with the student’s parents or guardians.</p> <p>Permit transgender and gender non-conforming students to discuss and express their gender identity openly and to decide when, with whom, and how much private information may be shared.</p>
New Jersey	<p>A school district shall accept a student’s asserted gender identity; parental consent is not required. Further, a student need not meet any threshold diagnosis or treatment requirements to have his or her gender identity recognized and respected by the district, school or school personnel. Nor is a legal or court-ordered name change required. There is no affirmative duty for any school district personnel to notify a student’s parent or guardian of the student’s gender identity or expression.</p> <p>Communication with the student is paramount. Schools and school districts are encouraged to communicate openly, albeit confidentially, with students regarding their transgender status or gender identity. Proper communication with the student will ensure that appropriate steps are taken to determine a student’s preferences and address potential privacy concerns and associated risks to the student’s well-being.</p>
Virginia	<p>School divisions should accept a student’s assertion of their gender identity without requiring any particular substantiating evidence, including diagnosis, treatment, or legal documents. A student is considered transgender if, at school, the student consistently asserts a gender identity different from the sex assigned at birth. This should involve more than a casual declaration of gender identity, but it does not necessarily require any substantiating evidence nor any required minimum duration of expressed gender identity. Establishing gender identity can present differently from student to student, including, but not limited to: uniform assertion of such an identity, indication that the identity is sincerely held as part of the student’s core identity, or that the student is not asserting such an identity for an improper purpose. Schools should work with a student to address any concern that an asserted gender identity may be for an improper purpose, such as permitting the student to respond with information that supports the request to be treated consistent with their gender identity.</p>

Dress Code	
Hawaii	<p>All students should be permitted to wear the clothing of their choice, regardless of whether it conforms to traditional gender stereotypes, provided that such clothing does not violate the school’s dress code. Dress codes should be gender neutral. Students may dress in accordance with their gender identity and gender expression. School personnel should not enforce a school’s dress code more strictly against transgender and gender</p>

	<p>nonconforming students. This applies to dress at school as well as at a school’s co- and extracurricular activities.</p> <p>EXAMPLE ONE: A student who appears to be male arrives at school in a dress. Unless the dress violates the school’s dress code, the student should not be required to change.</p> <p>EXAMPLE TWO: A student who appears to be male is accepted onto the cheerleading team and wants to wear the girl’s cheerleading uniform. Regardless of whether the student is transgender or not, the student should be allowed to wear the uniform of his choice. This does not necessarily mean that the student should also have access to the girls’ restrooms or locker rooms. A student who is gender nonconforming may not be transgender. A meeting with the student to better understand the student’s gender identity would be a good next step.</p> <p>EXAMPLE THREE: A student who appears to be female is seen by school staff to be wearing baggy jeans that expose the student’s undergarments. Since this may be in violation of the dress code, regardless of gender, the student may be subject to consequences for violating the dress code.</p> <p>EXAMPLE FOUR: A student who appears to be male comes to school in a tank top. The school dress code considers tank tops inappropriate for boys, but acceptable for girls as long as the straps are thick enough. The straps on the student’s tank top would not be considered inappropriate if a student who appeared to be female was wearing it. In this instance, the student should be allowed to wear the tank top and the school should amend its dress code toward gender neutrality.</p>
<p>Illinois</p>	<p>While districts are encouraged to adopt gender-neutral dress codes, any policies that are based on gender differences must permit students to dress in a manner that corresponds with their gender identity and expression.</p> <p><i>G-1. May a district enforce dress codes based on gender stereotypes?</i> For example, can a school enforce a policy by which only people assigned female at birth are allowed to wear dresses? Under the IHRA, dress codes cannot be applied in a discriminatory way. The First Amendment also protects students’ rights to express their gender identity through their appearance. Likewise, schools cannot prevent students from wearing clothing that expresses written messages or otherwise conveys one’s gender identity or support for the LGBT community.</p> <p><i>G-2. What are the best practices with respect to dress codes?</i></p> <p>Students must be allowed to wear gender-affirming clothing. A student whose gender expression is different from societal expectations should not be considered disruptive.</p> <ul style="list-style-type: none"> • Adopt a gender-neutral dress code. Districts should reframe dress codes to describe what it considers appropriate clothing without assigning clothing options to particular genders. For example, districts should consider language such as the following: “Certain body parts must be covered for all students: Clothing must be worn so that genitals, buttocks, and nipples are covered with opaque material.”

	<p>Dress code booklets should not contain pictures of students in certain clothing - if pictures must be used, only display the garment itself.</p> <ul style="list-style-type: none"> • Consistently apply dress code regulations. Students should not be disciplined for wearing clothing or makeup that is appropriate under the dress code but that does not conform to gender-based stereotypes. For example, if dresses or pants are appropriate attire, teachers and other school officials cannot determine which students are permitted to wear dresses or pants. In addition, districts should consistently apply dress codes regardless of body shape or type. • Do not impose inappropriate discipline. Districts should not discipline transgender, nonbinary, and gender nonconforming students for wearing gender-affirming clothing. • Extend gender-neutral dress code to special events. Gender-neutral dress code guidelines should apply to regular school days as well as any special events, such as graduation ceremonies, game days, concerts, and dances. For example, schools may require formal attire for all students at a ceremony, but should not specify that girls must wear dresses and boys must wear ties. If a school wishes to maintain a previously gender-specific tradition, such as graduation gown colors or spirit day teams, administrators should consider dividing students using another marker, such as last name (e.g., last names from A-M wear blue and last names from N-Z wear gold). • Ensure athletic uniforms are appropriate and modified if requested. All student athletes should be able to wear uniforms that are appropriate for their sport. For example, swimmers should be allowed to modify their swim uniform, provided it does not provide any competitive advantage. Similar accommodations should be made for equipment, such as cups, bras, or other undergarment safety requirements.
Maryland	<p>Review dress codes to describe what the school considers appropriate clothing without referencing gender.</p> <ul style="list-style-type: none"> • Old Practice: male: pants and shorts must cover their underwear; female: pants, shirts or dresses must cover their underwear • New Practice: —All outer clothing must completely cover underwear • Consider gender neutral dress codes for class or yearbook photos, honor society ceremonies, graduation ceremonies, or dances. <p>Review dress codes to describe what the school considers appropriate clothing.</p> <ul style="list-style-type: none"> • Permit all students to wear any clothing that is appropriate for students under the school dress code, regardless of the student’s gender or gender identity. This includes school extracurricular activities, as well as events, such as school dances, choral concerts, the wearing of uniforms, or graduation.

	<ul style="list-style-type: none"> • If a school has two separate gender-specific dress codes, any student should be permitted to dress consistently with the dress code for either gender. So long as the student is compliant with one of the dress codes, the student should not be subject to discipline or a requirement to change clothing on the grounds that the student is wearing the —wrong dress code for the student’s gender or gender identity
<p>Texas</p>	<p>Do students have a legal right to wear attire that does not match their assigned sex at birth?</p> <p>Yes, a legal right exists to the extent that a court is likely to conclude that dressing in accordance with a student’s expression of gender or sexual orientation is a form of protected expression. Courts have found that wearing gender-nonconforming clothing may be protected by the First Amendment as free speech, by the Fourteenth Amendment with regard to equal protection, and by Title IX.¹¹ In light of this legal authority, a school district could permit a transgender male student to wear a tuxedo for his yearbook photo consistent with his expressed gender identity. Or, similarly, a district might allow a transgender female student to attend the prom in feminine attire.</p> <p>Transgender and gender-nonconforming students are still subject to the established student dress code for the student’s preferred gender attire. The dress code must be applied equally to all students. For example, if feminine attire at the prom requires dresses with a certain neckline and length, then all students who dress in feminine attire must abide by those requirements, including a transgender female. At the same time, these students should not be asked to “tone it down” or be required to dress in a different manner than other students in the expressed gender.</p>
<p>Virginia</p>	<p>Local school board policies regarding dress code should serve to support equitable educational access for all students. The goal of dress or grooming codes should be to ensure the health and safety of students and not contribute to a hostile or intimidating atmosphere for any student. Dress codes, including hairstyles, should encompass broad guidelines that are not gender specific and free of gender stereotypes. For example, gender-inclusive language such as “clothing must be worn in a way such that genitals, buttocks, and nipples are covered with opaque material” should be used rather than prohibiting certain types of clothing typically associated with one gender (e.g., “a mini skirt” or “camisole”). Transgender students have the right to dress in a manner consistent with their gender identity or gender expression, and any student has the right to expression free from gender expectations, as long as the student’s attire complies with the school’s dress code. Dress codes should be written, enforced, and applied consistently and equally to all students regardless of gender. In addition, § 22.1-279.6 of the Code of Virginia permits any school board to include in its code of student conduct a dress or grooming code. For school divisions who do include dress and grooming standards for students, the amendment explicitly states that any dress or grooming code shall “maintain gender neutrality by subjecting any student to the same set of rules and standards regardless of gender;...not have a disparate impact on students of a particular gender.”</p>

	<p>School divisions should further examine and eliminate provisions for gender-specific attire relating to school activities and events such as physical education uniforms, school ceremony attires, gender-specific graduation gowns, band uniforms, or orchestra uniforms when these provisions are not necessary for educational purposes. For example, schools may require formal attire for all students at a choral concert but should not specify that girls must wear dresses and boys must wear ties.</p> <p>Dress and grooming codes shall be written relating to the attire or articles of attire without limits on gender expectations. Students have a right to dress in a manner consistent with their gender identity or gender expression. Schools shall administer and enforce dress and grooming codes consistently across the student body, regardless of actual or perceived gender identity or gender expression. Requirements for attire for school-related programs, activities, and events shall be gender neutral.</p>
--	--

Overnight trips	
Texas	<p>For field trips involving overnight stays, an administrator or counselor may ask the student to identify other students with whom the student feels comfortable sharing a room. In this case, the administrator should seek written consent from the parent of a minor transgender student (or the student, if 18 years old) allowing the district to share information with the other students and their parents.²⁹</p>
Hawaii	<p>Schools must allow transgender students to access housing accommodations that are consistent with the student’s sincerely held gender identity. Schools cannot require a transgender student to stay in single-occupancy accommodations or to disclose personal information when not required of other students. A school is, however, not prohibited from honoring a student’s voluntary request for single-occupancy accommodations, if the student so chooses.</p>
Illinois	<p>Overnight school trips with classmates and school staff can present unique barriers to full access to educational programs if schools are not vigilant in attending to the needs of transgender, non-binary and gender non-conforming students.</p> <p>I-1. What state and/or federal provisions protect the rights of transgender, nonbinary, and gender nonconforming students with respect to overnight school trips? The same state and federal laws that require schools to respect a student’s gender identity with respect to using facilities and participating in activities also apply to transgender, nonbinary, and gender nonconforming students’ room arrangements and facility use during overnight trips. To deny a student the accommodations afforded to other students – consistent with their gender identity – would be discrimination prohibited by Title IX and the IHRA.</p> <p>The law protects not only the use of physical facilities, but also equal and full access to all school programs and activities. The IHRA prohibits denying anyone the “full and equal enjoyment” of “services” based on a person’s gender identity (or expression or other protected traits). 775 ILCS 5/5-102(A). “The Illinois Human Rights Act is remedial legislation that [has been and] must be construed liberally to effectuate its purpose.” See</p>

	<p>Sommerville v. Hobby Lobby Stores, ALS. No. 13-0060C (Ill. Hum. Rts. Comm’n May 15, 2015.) The terms “facilities” and “services” are identified separately and demonstrate the intent to prohibit not only discrimination in enjoyment of the physical school grounds, but enjoyment of all programs and activities. Likewise, under federal law, students cannot be excluded from or discriminated against in school programs and activities such as trips on the basis of their gender identity. See e.g., Logan, 2008 WL 4411518 (dress code and clothes at prom); see also, Fricke v. Lynch, 491 F. Supp. 381, 385 (D.R.I. 1980) (gay student’s choice of male prom date protected by the Constitution); Gay Students Org. of Univ. of New Hampshire v. Bonner, 509 F.2d 652 (1st Cir. 1974) (gay students’ social events are protected).</p> <p>I-2. How do privacy concerns of other students relate to a transgender, nonbinary, or gender nonconforming student’s right to full and equal access to overnight school trips? As with school facilities, any student seeking more privacy may be provided that privacy. But any claimed privacy concern of another student is not a reason to limit use by a transgender, nonbinary, or gender nonconforming student. Similarly, confidentiality laws and requirements continue to apply to students in the context of overnight trips. A trip is not a basis to disclose or require disclosure of a student’s transgender, nonbinary, or gender nonconforming identity.</p> <p>I-3. What are the best practices for ensuring that transgender, nonbinary, and gender nonconforming students are able to participate freely in overnight school trips? <u>Ask the student in advance of the trip.</u> In planning for overnight trips, ask the student what type of arrangements will make the student feel safe, supported, and included.</p> <p><u>Maintain privacy.</u> Schools must set clear expectations about respecting one another’s privacy and boundaries.</p> <p><u>School policies for facility use should carryover to overnight trips and should allow for privacy.</u> The district should inquire whether there are any single stall or other private shower facilities available if showering facilities are communal while on the trip. Do not send notifications or permission slips.</p> <p><u>Do not send notifications or permission slips</u> to parents and/or students regarding a student’s transgender, nonbinary, or gender nonconforming identity.</p>
Maryland	<p>Student comfort is paramount in the decisions around overnight field trips. Maximizing the student’s social integration may be achieved by the integration of these guidelines: Make arrangements in consultation with the student. If the transgender student’s parents or guardians are involved and supportive they may also be consulted. Be sensitive to the need to maintain the student’s privacy and not disclose or require disclosure of the student’s transgender status to the other students or their parents without the consent of the transgender student and/or the student’s parent. Allow students the opportunity to room with others according to their gender identity. Make efforts to accommodate any student who desires greater privacy; however, transgender or gender non-conforming students should not be isolated.</p>

Records/Privacy/Confidentiality

Hawaii	<p>At this time, schools are required to use a student’s legal name and assigned sex at birth on standardized tests and official reports. School staff should be mindful that a transgender student’s gender identity and preferred name may not conform with the official records and protect the student’s privacy by avoiding inadvertent disclosure of the student’s legal name and assigned sex at birth, whenever possible.</p> <p>Information about transgender student’s legal identity, transgender gender identity, and assigned sex at birth should be treated as confidential information. Disclosing such information to other students, their parents, or other third parties may violate privacy laws, such as FERPA. Do not disclose information that may reveal a transgender student’s status to others, unless legally required to do so, or unless the student has authorized such disclosure. To the extent that the record or directory information provided about the student is not a legal record or the school is not legally required to use a student’s legal name or sex, the school should use the name, pronouns, and gender marker requested by the student.</p> <p>EXAMPLE ONE: A transgender male (female to male) has a female legal name and a male preferred name. On the first day of class, the teacher puts all of the students’ names on cards on their desks. The student approaches the teacher to explain that he would like his preferred name on the desk. The teacher should make a new card with the student’s preferred name. The teacher should further assist the student by setting up a meeting with a counselor or administrator. During this initial meeting, the counselor or administrator should also try to discover to what extent the student’s parents are aware of the student’s gender identity. A Student Support Plan for Gender Identity should be established at a follow up meeting. The counselor or administrator should then follow up with the teacher and other appropriate school personnel to inform them of the agreed upon supports.</p> <p>EXAMPLE TWO: In order to distribute standardized test booklets, a teacher reads off the legal name of each student, as printed on the test booklets and the transgender student has already asserted the student’s preferred name and pronouns to the teacher. Since the teacher knows that the student goes by a different name, the teacher should call the student by the student’s preferred name and keep the student’s legal name confidential, regardless of whether a Student Support Plan for Gender Identity has been established.</p> <p>EXAMPLES OF UNOFFICIAL RECORDS: Class lists, student identification cards, yearbooks, club rosters and documents, student work, and graduation programs.</p>
Illinois	<p>The Illinois School Student Records Act (“ISSRA”) and federal Family Educational Rights and Privacy Act (“FERPA”) serve to protect student privacy and the confidentiality of student records, which includes a student’s gender identity and whether the student is transgender, nonbinary, or gender nonconforming. Student information and records must be kept confidential and not disclosed without permission of the student’s parent(s)/guardian(s), except to employees as needed for their work with a student, and in certain other listed circumstances permitted by law (such as to law enforcement or to comply with a court order). Disclosure of private information related to a student’s sex or</p>

gender can also violate FERPA and sex or gender identity discrimination laws such as the IHRA and Title IX. Further, students have a Constitutional right to privacy and to share or withhold information about their sexual orientation and gender identity. E.g. *Love v. Johnson*, 146 F. Supp. 3d 848 (E.D. Mich. 2015); *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir. 1999); *Wolfe v. Schaefer*, 619 F.3d 782, 785 (7th Cir. 2010) (citing *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977) (recognizing constitutional rights to highly personal information, including medical and sexual information)). ISSRA and FERPA contain exceptions to the privacy requirement for “directory information,” such as student names, grade level, or participation in sports teams. 23 IAC 375.80; 20 U.S.C. § 1232g(b). Schools can generally disclose directory information unless parent(s)/guardian(s) opt out. Directory information does not include a student’s gender or transgender, nonbinary, or gender nonconforming identity, which should not be disclosed without consent or educational need.

Students and parents have a right to access and review school student records. 105 ILCS 10/5(a). In this context, “school student records” means “any writing or other recorded information concerning a student and by which a student may be individually identified, maintained by a school or at its direction or by an employee of a school, regardless of how or where the information is stored,” except for the records of an employee maintained only for their use and not “related or disclosed to any person.” 105 ILCS 10/2(d). ISSRA, however, does not require the disclosure of: (i) “information which is communicated by a student or parent in confidence to school personnel,” (ii) records of an employee maintained only for their use and not “related or disclosed to any person,” or (iii) “communications otherwise protected by law,” which may include some records of a school social worker or psychologist. 105 ILCS 10/2(d) and 5(f). Under both ISSRA and FERPA, parents have a right to challenge the “accuracy, relevance or propriety” of a student record. 105 ILCS 10/7; 34 C.F.R. § 99.20-22. Schools are required to have a process in place for parents to challenge and seek correction of school records, including a right to a hearing.

Students have the right to be addressed at school by their affirmed name and pronouns and to update their school records to reflect their identity. Schools may not require a legal name change or change of a gender marker on a birth certificate before the school addresses a student by their affirmed name and pronouns or before updating most school records to properly reflect the student’s identity.

Records should be adjusted to reflect a student’s affirmed name and pronouns. When updating a student’s school records, district staff should be cognizant of the many school information systems (e.g., state/local testing platforms, electronic databases, school website, class rosters, attendance systems, transcripts, school reporting programs, substitute teacher rosters, school IDs, yearbooks, honor roll lists, school issued email addresses and technology logins, and club rosters) present in the school system and work diligently to ensure accuracy of information across information systems. Schools should not place cumbersome and/or undue barriers that discourage, prolong, or prohibit the process of ensuring a student’s school records accurately reflect a student’s affirmed name and gender identity. As parent(s)/guardian(s) may have a legal right to inspect their student’s school records, the Gender Support Coordinator should ensure that changes to a student’s school records are a part of the support process for students.

<p>Maryland</p>	<p>Use the student’s preferred name for classroom rosters, identification badges, announcements, certificates, newspapers, newsletters, yearbooks and any other record where the use of the legal name is not specifically required by law. Create a process so a student or parent/legal guardian may request a change of name and/or gender so that a student may be registered in school under a name and gender that corresponds with the student’s gender identity. Provide a means to protect the student’s previous identity once a legal name change has occurred and current records are amended to show the change. Store historical records where they are safe from inadvertent disclosure. Implement practices that safeguard confidential information from inadvertent disclosure when school staff or administrators are required by law to use or to report a student’s legal name or gender as it appears in the official record. Consider that while information in official student records must be disclosed upon the request of parents, sensitive information related to gender identity generally need not be disclosed without the student’s consent.</p> <p>Upon request, amend and re-issue a diploma in a former student’s name once the former student secures a legal name change, being sure that the fact that the student’s name was changed is not indicated in any way on the diploma.</p>
<p>Texas</p>	<p>Should a district change school records to reflect a transgender student’s preferred name and gender? At least one federal circuit court has found that a school district’s refusal to change a transgender student’s records to reflect his male gender identity violated Title IX and the Equal Protection Clause. While the Fourth Circuit case is not binding legal authority in Texas, it reflects a legal trend that may be persuasive in a Texas court. Texas law does not definitively resolve this issue, but a district does have some flexibility with regard to requests to change a student’s name and gender.</p> <p>Texas Education Code section 25.0021 requires that a student be identified by his or her legal surname, or last name, as that name appears (1) on the student’s birth certificate or other document suitable as proof for the student’s identity, or (2) in a court order changing the student’s name. However, Section 25.0021 does not address students’ first names or genders.</p> <p>In general, a student’s legal name is used on permanent records, especially when required by state or federal laws and regulations. For example, Texas school districts are required to complete and maintain permanently the academic achievement record, or “AAR” of high school students (often referred to as a “transcript”), including full legal name and gender. Following guidelines developed by the Texas commissioner of education, the AAR must have the complete name from the student’s birth certificate or other legal document, without use of nicknames or abbreviations. The student’s legal name, the name submitted to Public Education Information Management System (PEIMS) at the Texas Education Agency (TEA), and the name recorded on the AAR must be identical. Any changes in the AAR must be dated, explained and kept as part of the student’s permanent file. TEA has informally stated that it will accept the student gender that a district reports through PEIMS, including a report that changes the student’s gender following a student and/or parent request to alter the record.</p> <p>In contrast to permanent school records, however, teachers and other school district employees often informally address students by, and have non-permanent school</p>

records that reflect, preferred names or nicknames that are not a student’s legal first name. A school district should apply this practice equally with transgender students. For example, the transgender student’s preferred first name and gender should be used in speaking with the student and for class rosters, identification badges, awards, and any other similar purpose. OCR and DOJ’s 2021 guidance cites a failure to address a transgender student by the student’s chosen name and pronouns as an example of sexbased discrimination within the agencies’ enforcement authority under Title IX.

Following a gender transition, a student or the student’s parents may request that a district change the student’s name and gender in educational records based upon a claim that such records are incorrect, misleading, or a violation of privacy under the Family Educational Rights and Privacy Act (FERPA). In a 1991 letter regarding a former male student who had graduated from a school district and thereafter transitioned to female, the U.S. Department of Education advised that “whether to amend the students’ education records to reflect a name and gender other than that of the students’ [name and gender] during their attendance would be considered a substantive decision of the District” and not a matter of required amendment under FERPA. In other words, the district had the option of complying with the former student’s request. Some districts in Texas have opted to change a former student’s records with appropriate documentation. Doing so may be a matter of significant personal safety; tragically, some transgender individuals have been subjected to harassment and even violence when their assigned-at-birth sex is revealed.

In assessing a request to change or correct records, school district officials may wish to seek specific guidance from the district’s legal counsel. The district should also communicate and coordinate with any other agency that has authority related to the record at issue, such as TEA.

For most students, name and gender are categorized under FERPA regulations and local policy as directory information, which may be released without parental consent. For the transgender student, however, the former name and gender noted in the previous district’s records would not meet the definition of directory information because its release could be considered harmful or an invasion of privacy. In addition, note that all parents, and students aged 18 and older, have the right to opt out of disclosure of directory information and the district must provide annual notice of this right.

<p>New Jersey</p>	<p>If a student has expressed a preference to be called by a name other than their birth name, permanent student records containing the student’s birth name should be kept in a separate, confidential file. This file should only be shared with appropriate school staff after consultation with a student. A separate file containing records bearing the student’s chosen name may also be kept. If the student has previously been known at school or in school records by a birth name, the principal should direct school personnel to use the student’s chosen name and not the student’s birth name. To ensure consistency among teachers, school administrators, substitute teachers and other staff, every effort should be made to immediately update student education records (for example, attendance records, transcripts, Individualized Education Programs, etc.) with the student’s chosen name and gender pronouns, consistent with the student’s gender identity and expression, and not circulate records with the student’s birth name, unless directed by the student. Districts shall report to the New Jersey Department of Education through NJ SMART a student’s name or gender based upon that student’s chosen name and corresponding gender identity. Changing the name or gender identity from what was reported in previous years will not affect the reliability of the data reported. If a district changes a student’s name or gender identity, it must also maintain locally a separate record reflecting the student’s legal name and sex assigned at birth until receipt of documentation of a legal change of name or gender.</p> <p>Disclosure of personally identifiable information from a student’s education record to other school officials within the district, whom the district has determined have a legitimate educational interest in the information, may be permissible under FERPA (34 C.F.R. § 99.31(a)(1)). The school district shall make a concerted effort to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. School districts shall comply with all laws and regulations regarding the confidentiality of student records and student privacy, including the requirements set forth at 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act; 34 CFR Part 99, Family Educational Rights and Privacy; 20 U.S.C. § 1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR Part 160, General Administrative Requirements; 20 U.S.C. § 7917, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupils, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as all other existing Federal and State laws and rules pertaining to student records and confidentiality.</p>
<p>Virginia</p>	<p>Student privacy/confidentiality - Regarding student privacy within the school community, a student’s gender identity may be public or private, and the degree to which others are aware of the student’s gender identity will influence plans to support the student. Given the potential for discrimination, sharing this information could expose a student to harassment and abuse from peers or adults within the school community. School staff should discuss with the student about how they prefer information about</p>

their gender identity to be shared. Some students may wish the information to remain private while others may prefer that the gender identity is shared or even discussed in class. If the student is in a setting where they have been known by their assigned sex at birth, options for privacy may be limited. In some situations, the student's move to a new school setting (e.g., starting middle school, transferring to a different school) affords the opportunity to confirm their gender identity with more privacy. Regardless of the circumstances, the school should support the student's need for privacy and safety and not disclose a student's gender identity to other students or other parents. Additionally, school staff should treat a student's gender identity as being particularly sensitive information that should not be shared even internally among school personnel except to those with a legitimate educational interest or need to know. When a student publicly shares their gender identity, schools should work proactively to set clear boundaries about being gender inclusive and respond to negative reactions from the school community should they arise.

Regarding student privacy outside of the school community, a student's gender identity, legal name, or sex assigned at birth may be considered confidential medical information and protected Personally Identifiable Information (PII). Disclosure of that information may violate the school's obligations under the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Although school divisions may disclose a student's name and gender as directory information, parents and eligible students have the right to refuse the designation of that information as directory information, pursuant to § 22.1-287.1 of the Code of Virginia. Absent an explicit legal obligation, permission, or authorization from the appropriate party, such information should not be shared with anyone, and the local policy should explicitly prevent such disclosures. In order to maintain confidentiality, school divisions may need to consider additional policies related to record keeping. Refer to additional discussions on the separation of confidential information under the Student Records section. Any unauthorized disclosure of protected student information should be addressed according to existing policies and regulations in accordance with FERPA and HIPAA.

Additionally, privacy and confidentiality are critical for transgender students who do not have supportive families. Disclosing a student's gender identity can pose imminent safety risks, such as losing family support or housing. According to a recent study, LGBT youth have a 120 percent increased risk of experiencing homelessness compared to youth who identified as heterosexual and cisgender (Morton, Dworsky, & Samuels, 2017). School divisions will need to consider the health and safety of the student in situations where students may not want their parents to know about their gender identity, and schools should address this on a case-by-case basis. If a student is not ready or able to safely share with their family about their gender identity, schools should address this on a case-by-case basis. If a student is not ready or able to safely share with their family about their gender identity, this should be respected. There are no regulations requiring school staff to notify a parent or guardian of a student's request to affirm their gender identity, and school staff should work with students to help them share the information with their family when they are ready to do so.

School Records - Schools' student information systems typically use the student's legal name and sex assigned at birth as reflected on their birth certificate, required at the time of school registration (§ 22.1-3.1 of the Code of Virginia), and some documents attached to student records may require the use of the legal name and sex assigned at birth. Information in the student information systems is then used for a variety of documents and processes such as a unique student identification number needed for proper student accounting (i.e., for purposes of funding and accountability indicators), communication with parents, class rosters, attendance records, student identification cards, library cards, standardized tests, year books, and school photos. Not all transgender students update legal documents to align with their new name and gender, but they may wish to use the name and gender consistent with their gender identity in their school documents and processes. Record keeping that does not include the legal name and sex assigned at birth as well as the name and gender consistent with the gender identity may pose risks of inadvertently disclosing the student's gender identity as well as cause potential emotional trauma for a transgender student.

School divisions should develop solutions to support a transgender student's wishes for privacy. For example, schools could consider maintaining the student's legal name and sex assigned at birth as sensitive information in their student information system that requires additional privilege to access. The student information system can then separately include the name and gender consistent with the gender identity as additional information that is used to the greatest extent possible to populate school-related documents and are available to other users. The protection of the student's legal name and gender as sensitive information would prevent a student's gender identity from being disclosed, such as by a substitute teacher. In situations where school divisions are required to use or to report a transgender student's legal name or sex assigned at birth, such as for purposes of standardized testing or student data reporting to the VDOE, school staff should adopt practices to avoid the inadvertent disclosure of such information. Additionally, schools should eliminate gender markers from their forms, documents, and records when feasible. While the topic of transgender students usually focuses on transgender males or transgender females, there are students who identify as nonbinary or gender-expansive. Since the concept of gender is increasingly being viewed as a gender spectrum, it may be beneficial to remove gender from forms and documents or provide a broader, more inclusive range of options. For purposes of data collection, the VDOE has expanded gender choices to include nonbinary as a third option if the student or parent wishes to use this option.

When a student or parent requests to change the student's name or gender on school records, the extent to which records are modified will depend on the type of record and the substantiation of the change. Local school boards may need to revise or clarify current policies relating to the process to change any element of a student's record, including the appeals process for decisions made regarding a change to the student's record.

School divisions will also need to consider policies relating to records for former students. When a student transitions after they are no longer enrolled in the school division, they may request amendments to school records reflecting a new name and gender that are different from those during their attendance. Former students may want to ensure that

	<p>information on their records such as transcripts and standardized test scores are consistent with information they are submitting such as those on college or job applications. School divisions could consider respecting a former student’s request to amend records retroactively and may consider processing those requests in the same way other student record amendment requests are processed. If a former student obtains a court order changing their name or amend other legal documents such as their birth certificate, state-or federal-issued identifications, or passports, school divisions, when requested, should amend the student’s record, including reissuing a high school diploma or transcript, to reflect the student’s current name and gender. Before making a decision on policies relating to changes to school records, transcripts, and diplomas, school divisions should consult their school board attorney.</p>
--	--

<p>Physical Education</p>	
----------------------------------	--

<p>Hawaii</p>	<p>Transgender students should not be denied the opportunity to participate in physical education. Students should be allowed to participate in gender-segregated recreational gym class activities and sports in accordance with their sincerely held gender identity.</p> <p>EXAMPLE ONE: A transgender female (male to female) wants to dance the girl’s part during a PE ballroom section. The student should be allowed to dance the girl’s part.</p> <p>EXAMPLE TWO: During a PE unit on soccer, the teacher divides the class by gender for individual games. A non-transgender female wants to play on one of the boy’s teams. The student should be allowed to play on the boy’s team.</p>
----------------------	---

<p>Illinois</p>	<p>Must districts allow transgender, nonbinary, and gender nonconforming students to participate in school-sponsored events, clubs and athletics consistent with the student’s gender identity? Yes. The IHRA requires schools to allow students who are transgender, nonbinary, and gender nonconforming to participate in school activities, physical education, and sports teams consistent with their gender identity. Physical education and school sports teams are covered by the public accommodations provisions of the IHRA, as they are both a “place of education” and “place of exercise or recreation.” Do not divide physical education classes by gender. Physical education classes should not be separated by gender. If two groups are necessary, consider separating into competitive and recreational groups. Districts should allow students to participate in physical education classes in the way that makes them feel safe and included. Provide training to coaches and volunteers. Athletic coaches and event staff can have a particularly hard time removing gendered language from their activities. Coaches and athletic teams should receive training to help with the culture adjustment. The training should include how to ensure things such as inspirational speeches, motivational phrases, locker-room talk, pep rallies, and team chants are inclusive and gender neutral. Examples of phrases that should be eliminated include “man-up” or “don’t be a sissy.”</p>
------------------------	--

<p>Maryland</p>	<p>Include transgender students in sex-segregated athletic activities based on their gender identity. Allow athletic participation without medical or legal documentation regarding gender. Protect the student athlete’s privacy rights. Personal information regarding</p>
------------------------	--

	transgender status, medical history, or sex assigned at birth should not be disclosed to teammates, or to staff or students of other schools without the student’s consent. Follow Maryland Public Secondary Schools Athletic Association Guidelines/COMAR for participation in Interscholastic Athletics. Each school system should develop and apply criteria for students to participate on interscholastic athletic teams consistent with their bona fide gender identity. All students who participate in interscholastic athletics must meet eligibility standards in COMAR 13A.06.03.
New Jersey	With respect to gender-segregated classes or athletic activities, including intramural and interscholastic athletics, all students must be allowed to participate in a manner consistent with their gender identity. School districts shall provide transgender students with the same opportunities to participate in physical education as other students in accordance with their gender identity.
Virginia	Whenever schools provide gender-specific activities such as physical education classes, students should be allowed to participate in a manner consistent with their gender identity. It is important that school divisions adopt policies and procedures that are focused on the safety of all students and seek to address privacy interests in situations involving individuals undressing or showering.

Other School Activities	
Hawaii	<p>Students should be permitted to participate in any gender-based activity and conform to any rule, policy, or practice consistent with their sincerely held gender identity.</p> <p>EXAMPLE ONE: A transgender female (male to female) student wants to run for prom queen. The student should be allowed to run for prom queen and should not be compelled to run for prom king because of the student’s assigned sex at birth.</p> <p>EXAMPLE TWO: Students have organized a class performance for all Juniors during a pep rally. The performance has different groups performing different roles based on gender. Transgender students should be allowed to participate with the gender group with which they identify, e.g., a transgender female (male to female) should be allowed to be with the girls’ group, while a transgender male (female to male) should be allowed to participate in the boys’ group.</p> <p>EXAMPLE THREE: A transgender female (male to female) wants to audition for Women’s Ensemble, an elite choral group on campus. The advisor/teacher should permit the student to audition and should not evaluate the student more or less critically than any other female student.</p> <p>EXAMPLE FOUR: A transgender female (male to female) requests to wear the color of the graduation attire associated with the female student population. The student should be allowed to wear the graduation attire associated with females.</p>
Illinois	The IHRA requires schools to allow students who are transgender, nonbinary, and gender nonconforming to participate in school activities, physical education, and sports teams consistent with their gender identity. If a school allows any student clubs, students have

	<p>the right to form LGBTQ+-affirming clubs, such as GSAs, on the same terms as any other student group. <i>Colin ex rel. Colin v. Orange Unified Sch. Dist.</i>, 83 F. Supp. 2d 1135 (C.D. Cal. 2000) (holding that students had the rights to form GSAs, meet at school, use the school’s public address system, and be featured in the school yearbook like other student clubs). Under the federal Equal Access Act, secondary schools that allow meetings of other non-curricular student clubs (clubs that do not directly relate to school classes) are also prohibited from discriminating against any student group based on its viewpoint, including GSAs. 20 U.S.C. § 4071. All student clubs must be treated the same, regardless of purpose. Thus, for example, GSAs may not be singled out for parental permission requirements before students can join the club.</p> <p>Review and reframe gender-based activities. Districts should evaluate all gender-based activities, rules, policies, traditions, and practices—including classroom activities, school ceremonies, athletics, dances, proms, school photos—and eliminate or reframe them to be gender-neutral. For example, replacing “prom king and queen” with “prom royalty” or providing school awards to any set of two students instead of “best male/female.” If certain genderspecific activities do continue, students shall be permitted to participate consistent with their gender identity. For example, allowing students to self-select into a “girls in STEM” program.</p>
Maryland	<p>Non-discrimination and equity consideration in this area may address the following issues: Any single-sex classes or extracurricular activities must be consistent with Title IX and applicable regulations, including that the decision to offer a single-sex class or activity generally must be substantially related to an important educational objective. The USDE interprets Title IX to mean that schools generally must treat students consistent with their gender identity in all aspects of the single-sex classes and extracurricular activities.</p>
Texas	<p>Districts must not deny a transgender student an equal opportunity to participate in field trips, or any other curricular or extracurricular activity, in which students are segregated by sex. School officials can reduce the risk of complaints by addressing accommodations for individual transgender students in advance with the goals of maximizing the student’s opportunity to learn and socialize with peers while ensuring safety and privacy interests for all students. When the district agrees on an arrangement for the student’s use of private, unisex, or sex-specific facilities at school, school officials must be prepared to ensure that the student has a safe place to use the restroom when away from campus. For example, when planning an event that will occur off-campus, a district employee may be assigned to call the location in advance to get information about private or alternative bathrooms or locker rooms.</p>
New Jersey	<p>With respect to gender-segregated classes or athletic activities, including intramural and interscholastic athletics, all students must be allowed to participate in a manner consistent with their gender identity. School districts shall: Provide transgender students with the same opportunities to participate in physical education as other students in accordance with their gender identity; Permit a transgender student to participate in gender-segregated school activities in accordance with the student’s gender identity; Permit and support the formation of student clubs or programs regarding issues related</p>

	to lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ) youth; and Offer support in the creation of peer led educational groups.
Virginia	In general, school divisions should make efforts to eliminate gender-based practices to the extent possible. Gender-based policies, rules, and practices can have the effect of marginalizing, stigmatizing, and excluding students, regardless of their gender identity or gender expression. Examples of practices that may be based on gender include grouping students for class activities, gender-based homecoming or prom courts, limitations on who can attend as “couples” at school dances, and gender-based events such as father-daughter dances. School divisions should review any gender-based policies, rules, and practices to determine whether they serve a legitimate educational goal or otherwise non-discriminatory purpose. School activities and practices should be gender-neutral and avoid dividing students by gender in the absence of an educational purpose. Any single-gender activity or program should not be premised on generalizations or stereotypes about the different talents, capacities, or preferences of any gender. For example, the composition of choruses should be gender-inclusive and based only on vocal range or quality requirements. Whenever schools provide gender-specific activities such as physical education classes, students should be allowed to participate in a manner consistent with their gender identity. Students have the right to equitable access to programs, activities, and events that include but are not limited to acknowledgements, dances, assemblies, after-school programs, extracurricular activities, intramurals, non-competitive sports leagues, and field trips.

Preferred Names/Pronouns	
USBE 1st Draft	<p>Engaging in supportive practices, such as honoring the use of a requested name/pronoun of a transgender, non-binary, or gender diverse student leads to better educational outcomes and the overall safety and wellbeing of students (Pollitt et al., 2018; Pollitt et al., 2019).</p> <p>When determining a student’s request to use a different name or pronoun in school, educators must consider the rights of the student’s parent(s) or guardian(s). The interpretation of the Utah statute regarding the rights of parents⁴, requires permission from a legal parent or guardian to use a different name/pronoun (even a nickname) other than the name/pronoun on record for <u>all</u> students regardless of gender identity. A student's request to be referred to by a different name should be granted if they ask the educator to use a derivation of their name on record (i.e., first, middle, last, initials, abbreviations, or common substitute – e.g., William/Bill, Charlotte/Charlie). The pronouns they/them/theirs have been established as gender-neutral, singular pronouns and may be used when addressing all students.</p> <p>School staff should consult with the student before reaching out to the student’s legal parent(s) or guardian(s). Sometimes students have not revealed their transgender or non-binary identity to their families. There may be safety concerns for the student and fear of rejection. Students should be provided with the option to inform parents independently. It can also be supportive for staff to offer to be</p>

	<p>present during the conversation to help facilitate. School counselors, social workers, and school psychologists are often skilled facilitators who can serve in this role. If there are serious safety concerns it might be necessary for school staff to contact DCFS (Division of Child and Family Services). Under these circumstances the student’s parent(s) or guardian(s) should not be contacted.</p> <p>Except as set forth herein, school personnel should not disclose information that may reveal a student’s transgender, non-binary, and gender diverse status. Under the Family Education Rights Privacy Act (FERPA)⁵, only those school employees with a legitimate educational need should have access to a student’s records or the information contained within those records. Disclosing confidential student information to other employees, students, parents of other students, or other third parties may violate privacy laws, including but not limited to FERPA. Transgender, non-binary, and gender diverse students have the ability, as do all students, to discuss and express their gender identity and expression openly and decide when, with whom, and how much of their private information to share with others.</p>
<p>Hawaii</p>	<p>Schools should accept a student’s sincerely held gender identity. A student does not need a medical or mental health diagnosis or treatment threshold to have his or her gender identity recognized and respected.</p> <p>A transgender student who is ready to socially transition, regardless of whether the student is undergoing medical transition, may initiate a process to change how the student is addressed (preferred name, preferred pronoun), their attire, and access to preferred activities and facilities.</p> <p>Transgender students have the right to be addressed by a name and pronouns that correspond to their sincerely held gender identities. If requested by the students, staff should address them by the name and pronouns that correspond to each of their sincerely held gender identities. Transgender students are not required to obtain a legal name or gender change or to change their official records. This does not prohibit inadvertent slips or honest mistakes, but does apply to intentional or persistent refusal to respect a student’s gender identity, which should be considered an act of discrimination.</p> <p>Teachers and other school staff should be informed of the student’s preferred name on student rosters and of the preferred pronouns to use when addressing the student. When the DOE’s student information system (e.g., SIS) accommodates a “preferred name,” the student’s preferred name should be noted. Teachers and other school staff should take care to ensure that a transgender student’s legal name, if different from the student’s preferred name, is kept confidential.</p> <p>EXAMPLE: A student approaches a teacher and gives a female name and requests to be referred to using female pronouns, even though the student’s assigned sex at birth is listed as male and legal name is traditionally male. The teacher should agree to use the student’s preferred name and pronouns and then assist the student to set up a meeting with a counselor or administrator. During this initial meeting, the counselor or administrator should also try to discover to what extent the student’s parents are aware</p>

	<p>of the student’s gender identity. A Student Support Plan for Gender Identity should be established at a follow up meeting. The counselor or administrator should then follow up with the teacher and other appropriate school personnel to inform them of the agreed upon supports.</p> <p>EXAMPLE: A student who appears female approaches a teacher and gives a male name and requests to be referred to using male pronouns. The teacher should agree to use the student’s preferred name and pronouns and inform the student that, upon request, the school will work with the student regarding supports and accommodations.</p>
<p>Illinois</p>	<p>Provide all students with opportunities to indicate how they wish to be addressed. Schools should survey all students on an annual basis to determine how they wish to identify themselves during school-related functions and how they wish to be addressed in communications with their parent(s)/guardian(s), including on all documents sent to their parent(s)/guardian(s). In addition, students should be allowed to update this information upon request.</p> <p>In many instances, schools are not required to seek parental consent to support transgender, nonbinary, and gender nonconforming students, especially when the safety of the student is a concern. For example, just as a school would not typically seek parent/guardian permission to use a child’s nickname at school, affirmative permission from a parent/guardian is not necessary to use a student’s affirmed name. In contrast, involvement of a parent or guardian is required for a legal name change in court, some actions under the Individuals with Disabilities Education Act (“IDEA”) and Section 504 of the Rehabilitation Act (“Section 504”) related to disability supports, and certain legal enforcement actions. In addition, both parent(s)/guardian(s) and students have specific rights to access school student records under ISSRA, 105 ILCS 10/4-7. Districts should be cognizant of, be prepared to address, and work to minimize the barriers faced by transgender, nonbinary, and gender nonconforming students when using their affirmed name and pronouns at school.</p> <p>E-1. Does a student have the legal right to be addressed by their affirmed name and pronouns? Yes. Students have the right to be addressed at school by their affirmed name and pronouns and to update their school records to reflect their identity. Schools may not require a legal name change or change of a gender marker on a birth certificate before the school addresses a student by their affirmed name and pronouns or before updating most school records to properly reflect the student’s identity.</p> <p>Ensure accountability for inclusive practices. When an employee fails to meet the expectations of the district’s policy and procedures, the district should hold the employee accountable and subject the employee to appropriate disciplinary action in a manner that is both effective and prompt. Intentional or persistent refusal to respect a student’s gender identity after notification of the student’s affirmed name and pronouns violates the harassment and non-discrimination policy and/or procedures required of every district.</p>
<p>Maryland</p>	<p>Address every student by a name and pronoun that corresponds to the student’s gender identity. Privately ask students how they want to be addressed in class and whether this</p>

	<p>will be different when in correspondence to the home or at conferences with the student’s parents or guardians. Train all teachers, staff, and school administrators to use the student’s preferred name, pronouns and gender.</p>
<p>New Jersey</p>	<p>One of the most important factors in ensuring a safe and supportive environment for transgender students is communication between the school/district and student. School district personnel should have an open, but confidential discussion with the student to ascertain the student’s preference on matters such as chosen name, chosen pronoun to use, and parental communications. School districts shall ensure that a transgender student is addressed at school by the name and pronoun chosen by the student, regardless of whether a legal name change or change in official school records has occurred. School districts shall issue school documentation for a transgender student, such as student identification cards, in the name chosen by the student.</p> <p>There may be instances where a parent or guardian of a minor student disagrees with the student regarding the name and pronoun to be used at school and in the student’s education records. A parent or guardian may object to the minor student’s name change request. School districts should consult their board attorney regarding the minor student’s civil rights and protections under the NJLAD. Staff should continue to refer to the student in accordance with the student’s chosen name and pronoun at school and may consider providing resource information regarding family counseling and support services outside of the school district.</p>
<p>Texas</p>	<p>In contrast to permanent school records, however, teachers and other school district employees often informally address students by, and have non-permanent school records that reflect, preferred names or nicknames that are not a student’s legal first name. A school district should apply this practice equally with transgender students. For example, the transgender student’s preferred first name and gender should be used in speaking with the student and for class rosters, identification badges, awards, and any other similar purpose. OCR and DOJ’s 2021 guidance cites a failure to address a transgender student by the student’s chosen name and pronouns as an example of sexbased discrimination within the agencies’ enforcement authority under Title IX.17</p> <p>What if a parent does not support a student’s gender transition? The law does not provide a clear path for educators in this difficult situation, but some principles are clear. Under FERPA, parents have a right of access to their minor students’ education records; this right transfers when the student turns 18. The Texas Education Code also gives parents the right to “full information” about their child’s school activities, except for in child abuse investigations, and employees who encourage or coerce a child to withhold information from the child’s parent may be subject to discipline, including termination. In 2016, the Texas attorney general opined that a district’s guidelines for transgender student accommodations violated the Texas Education Code to the extent that the guidelines could have limited parental access to full information.</p> <p>In light of these parameters, Texas educators typically work with parents to decide on appropriate accommodations for transgender students. Nonetheless, it is important to keep in mind that transgender students are at particular risk of harm, including self-harm, when a parent disagrees with the student’s gender identity. The National</p>

	<p>Association of School Psychologists has advised that transgender youth who experience low family acceptance of their gender identity are more likely than peers to experience depression, substance abuse, and suicidal thoughts. As such, a student may request that a district employee not tell his or her parent about the student’s gender identity. School officials should proceed with caution in this case, in accordance with district policy regarding student counseling, crisis intervention, and child abuse. It may be possible to reach an agreement with the student and parent that satisfies everyone: for example, schools have instructed staff to call a transgender student by the student’s preferred name at school but to refer to the student by the name on the birth certificate in all communications with parents. Ultimately, the best advice is to assess each situation as it comes, working closely with the student, parents and district counsel to reach a resolution that protects the learning environment for all.</p>
<p>Virginia</p>	<p>For many transgender students, their daily emotional and psychosocial wellness are dependent on receiving support and recognition for their gender identity. A transgender student may adopt a name that is different from their legal name on their birth certificate and use pronouns reflective of their gender identity. Many transgender students will adopt the gender pronouns typically associated with their gender identity. For example, most transgender girls will use she/her/hers pronouns, while most transgender boys will use he/him/his pronouns. There may be a less common pattern of pronoun usage among nonbinary students. Nonbinary students, as well as transgender students, may use gendered pronouns like she/her/hers or he/him/his, use genderneutral pronouns such as they/them/their or ze/hir/hirs, use multiple sets of pronouns interchangeably, or use their name in place of any pronoun. School divisions should accept a student’s assertion of their gender identity without requiring any particular substantiating evidence, including diagnosis, treatment, or legal documents. A student is considered transgender if, at school, the student consistently asserts a gender identity different from the sex assigned at birth. This should involve more than a casual declaration of gender identity, but it does not necessarily require any substantiating evidence nor any required minimum duration of expressed gender identity. Establishing gender identity can present differently from student to student, including, but not limited to: uniform assertion of such an identity, indication that the identity is sincerely held as part of the student’s core identity, or that the student is not asserting such an identity for an improper purpose. Schools should work with a student to address any concern that an asserted gender identity may be for an improper purpose, such as permitting the student to respond with information that supports the request to be treated consistent with their gender identity.</p> <p>When a student asserts that they have a name and/or pronoun affirming their gender identity, school staff should abide by the student’s wishes as to how to address the student. All school employees shall treat all students with respect and dignity. In accepting employment with a school district, a school staff member agrees to abide by and uphold their school board’s policies and procedures, as well as federal and state laws. A school administrator may need to direct school staff to abide by the wishes of a student on their name and pronoun. A school employee’s intentional and persistent refusal to respect a student’s name and pronoun is considered discriminatory. Schools also should be prepared for genuinely innocent confusion or uncertainty that may come</p>

	<p>up from school staff and students. Existing school board policies, including antidiscrimination, harassment, and bullying policies, may need to be adjusted or clarified relating to processes that address when a school staff member fails to comply with the student’s request or an administrator’s directive to use the name and pronoun consistent with their gender identity.</p> <p>In the situation when parents or guardians of a minor student (under 18 years of age) do not agree with the student’s request to adopt a new name and pronouns, school divisions will need to determine whether to respect the student’s request, abide by the parent’s wishes to continue using the student’s legal name and sex assigned at birth, or develop an alternative that respects both the student and the parents. This process will require consideration of short-term solutions to address the student’s emotional needs to be affirmed at school as well as the long-term goal of assisting the family in developing solutions in their child’s best interest. For example, a plan may include addressing the student at school with their name and pronoun consistent with their gender identity while using the legal name and pronoun associated with the sex assigned at birth when communicating with parents or guardians. Research has shown that transgender youth with supportive families experience a 52 percent decrease in recent suicidal thoughts and 46 percent decrease in suicide attempts (Ryan, Russell, Huebner, Diaz, & Sanchez, 2010) and that “chosen name used in more contexts was associated with lower depression, suicidal ideation, and suicidal behavior” (Russell, Pollitt, Li, & Grossman, 2018). Thus, school staff should be prepared to support the safety and welfare of transgender students when their families are not affirming. School staff should provide information and referral to resources to support the student in coping with the lack of support at home, provide information and resources to families about transgender issues, seek opportunities to foster a better relationship between the student and their family, and provide close follow-ups with the family and student.</p>
--	--

Taking Decision Making Out of the Classroom

USBE 1st Draft	<p>School staff should consult with the student before reaching out to the student’s legal parent(s) or guardian(s). Sometimes students have not revealed their transgender or non-binary identity to their families. There may be safety concerns for the student and fear of rejection. Students should be provided with the option to inform parents independently. It can also be supportive for staff to offer to be present during the conversation to help facilitate. School counselors, social workers, and school psychologists are often skilled facilitators who can serve in this role. If there are serious safety concerns it might be necessary for school staff to contact DCFS (Division of Child and Family Services). Under these circumstances the student’s parent(s) or guardian(s) should not be contacted.</p>
Hawaii	<p>Every student’s situation is different, so this process [of social transition] should begin with a meeting between the student and an administrator, counselor to discuss the type of supports the student is requesting. During this initial meeting, the counselor or administrator should also try to discover the extent to which the student’s parents are aware of the student’s gender identity. An initial meeting may or may not include the</p>

student's parents, depending on individual circumstances and how the meeting was initiated. There may be situations where a student has not yet talked to their parents about their transgender status, but still makes a request for supports. These instances may be more common at the middle and high school levels, than at the elementary school level.

Schools should customize supports to optimize each student's integration, and the supports must be documented. Both the student and the school should sign the document describing agreed-upon supports. Once a plan is established, the counselor or administrator should then follow up with the appropriate school personnel (as appropriate to the agreed-upon supports) to inform them of the student's asserted gender identity and agreed-upon supports. As a student's identity develops, their appropriate supports may change. The student or their parent/guardian may initiate a meeting with a counselor or school administrator to change the support plan, particularly if requested supports related to sex-segregated facilities will be affected by the change. A counselor or administrator should revisit the plan as needed, with the student (and parent, if involved) for continued appropriateness. Supports for transgender students should be applied consistently.

EXAMPLE ONE: A student who appears to be male is consistently seen wearing clothing that is traditionally considered female, such as skirts and dresses. The student regularly uses facilities designated for males and has never requested to do otherwise. The student continues to use the student's legal name, which is a traditionally male name. In this instance, it may not be necessary to do anything. This student appears to be gender nonconforming and may or may not identify as transgender. If the student is experiencing bullying or harassment, a counselor or other appropriate school official should intervene with supports to address the bullying or harassment.

EXAMPLE TWO: A student and the student's parents request a meeting with the principal. The student has documentation from a medical professional regarding the student's gender identity. This instance is much more straightforward. Again, this meeting, or a subsequent meeting, can be used to establish a Student Support Plan for Gender Identity for the transgender student. The counselor or school administrator should then follow up with the appropriate school personnel to inform them of the student's gender identity and the agreed upon supports.

EXAMPLE ONE: A transgender male (female to male) has a female legal name and a male preferred name. On the first day of class, the teacher puts all of the students' names on cards on their desks. The student approaches the teacher to explain that he would like his preferred name on the desk. The teacher should make a new card with the student's preferred name. The teacher should further assist the student by setting up a meeting with a counselor or administrator. During this initial meeting, the counselor or administrator should also try to discover to what extent the student's parents are aware of the student's gender identity. A Student Support Plan for Gender Identity should be established at a follow up meeting. The counselor or administrator should then follow up with the teacher and other appropriate school personnel to inform them of the agreed upon supports.

	<p>Schools should do the following: 1. Send out an annual notice to all students, including their parents/guardians, informing them of the rights of transgender students to request supports. The notice should also include language directing any student with privacy concerns to contact the school. This annual notice will serve as notice to (a) transgender students and their families of their rights and how to initiate such supports; and (b) nontransgender students and their families that such supports will be in place for transgender students. The annual notice should be sent at the beginning of each school year. Waiting to send out the notice only when a transgender student initiates a request for support will have the effect of inadvertently identifying such student, resulting in possible privacy violations for the transgender student. 2. Include the following statement in their handbooks to inform the school community: Transgender students should talk with their counselor if they have questions or concerns about supports for their own gender identity, including name, pronouns, gender expression, use of facilities, or participation in sex-segregated activities.</p> <p>As schools begin to develop and employ supports for transgender students, there will be a period of adjustment for faculty, staff, students, and parents. Schools should make counselors and administrators available to discuss any concerns that a student may have and should work as a school community toward education and raising awareness of the reasons for these guidelines while protecting the privacy and confidentiality of each individual transgender student.</p>
Illinois	<p>In order to provide the appropriate support to students, districts should designate Gender Support Coordinators who are properly trained in providing gender-affirming support for transgender, nonbinary, and gender nonconforming students. The Gender Support Coordinator can serve as the point person for the student and the student’s parent(s)/guardian(s) to ensure appropriate support is provided. The Gender Support Coordinator can assist with drafting a Gender Support Plan. If desired by the student, the Gender Support Plan can be the guiding document to address a variety of issues, including use of facilities, student records, and confidentiality. Drafting a Gender Support Plan provides an opportunity for the Gender Support Coordinator and student to discuss significant issues and make a plan for informing the appropriate district staff regarding the student’s preferences.</p> <p>District employees should be aware that many transgender, nonbinary, and gender nonconforming students experience family rejection. School officials should work with students, and whoever else is appropriate, to develop a plan regarding the confidentiality of the student’s identity.</p>
New Jersey	<p>One of the most important factors in ensuring a safe and supportive environment for transgender students is communication <u>between the school/district and student</u>. School district personnel should have an open, but confidential discussion with the student to ascertain the student’s preference on matters such as chosen name, chosen pronoun to use, and parental communications. School districts shall ensure that a transgender student is addressed at school by the name and pronoun chosen by the student, regardless of whether a legal name change or change in official school records has occurred. School districts shall issue school documentation for a transgender student, such as student identification cards, in the name chosen by the student. School districts</p>

	<p>should discuss with the student, and any other individuals at the student’s request, the risks associated with the student’s transgender status being inadvertently disclosed. For example, school districts should inform the student that the transgender status may be revealed due to other students’ discussions at home. The school district should work with the transgender student to ensure awareness of activities and events that may inadvertently disclose the transgender student’s status.</p>
<p>Virginia</p>	<p>Students and staff each have their own unique religious and personal experiences, views, and opinions. Local school boards have an opportunity to lead discussions on issues of gender identity. It will be important to engage communities regarding policies, regulations, and procedures to ensure equal access to education. Involving appropriate community members should help to reconcile sometimes deeply conflicting community views. For example, engaging students and parents will be critical in developing policies and procedures relating to student privacy and addressing situations where parents are not affirming their child’s gender identity. Additionally, local school boards may need to review agreements and processes with community partners for any activities taking place on school grounds to ensure consistency in practices.</p> <p>In order for the policies to be effective, local school boards should consider developing detailed guidelines and processes for the implementation of these policies. For example, to ensure consistency across the division, guidelines for the implementation of policies should include processes to update student classroom records and other school records with the student’s name and, if necessary, appropriate gender marker that are consistent with their gender identity. Such a process will require clear procedures and coordination across the school division by all personnel with responsibilities related to student information and records, including but not limited to registrars, technology support personnel managing student information systems, administrative support personnel, and test administrators. Additionally, processes, including forms or templates, should be developed to support students or parents requesting a name and gender change and requesting an action plan to support the student’s transition. School divisions are recommended to establish and designate a point-of-contact or team of knowledgeable and affirming staff members to support transgender students. When a student informs the school about their transition or requests a change to their name and gender, it is recommended that a point-of-contact, or a multi-disciplinary school team if needed, meet with the student (and parents/guardians if the parents/guardians are affirming of the student’s gender identity) to develop a plan to accommodate the student’s needs and requests. A template may be helpful to develop a plan that includes areas to be addressed such as names and pronouns, privacy concerns, communication plans, student information and records, access to facilities and activities, and other considerations.</p> <p>In addition to policies that address the areas discussed above, local school boards should consider developing additional policies, regulations, or guidelines that foster an inclusive school climate. For example, school divisions may consider ensuring LGBTQ+-inclusive curricula. According to GLSEN, schools with LGBTQ+-inclusive and affirming curricula have students who have less-hostile school experiences, increased feelings of connectedness to the school community, better academic and mental health outcomes, and are less likely to miss school (GLSEN, 2019). School divisions may take an inclusive approach by incorporating educational content that is transgender affirming into the general education</p>

	<p>curriculum, such as history, literature, and science. For example, material may feature or include transgender people or highlight the contributions of LGBTQ+ people in state and US history curricula. School divisions should also initiate efforts to curate an inclusive library collection. As with many curricular choices, school divisions should involve key stakeholders in making those decisions.</p>
--	---