

ATTORNEY WORK PRODUCT  
DRAFT TRANSGENDER POLICY REVISED

**Section 1-6.2:1. Purpose Stated; Definitions; Discrimination, Harassment and Bullying Prohibited; Counseling Services; Use of Name and Gender Pronouns; Access to Student Records; Dress and Grooming Codes; Extracurricular Activities & Overnight Travel; Student Participation in Activities Determined by Sex,; Access to Restrooms & Locker Rooms —** A. ~~The following definitions are not meant to label individuals but to enhance the division's understanding of transgender issues and guide actions and discussion of related topics: The intent of this policy is to establish clear and useful guidance for Suffolk Public Schools in order to fulfill the requirements of Virginia Code § 22.1-23.3 in accordance with the plain meaning of its provisions.~~

B. The following definitions apply to this policy:

***Cisgender:*** ~~An adjective describing a person whose gender identity corresponds with the gender society typically associates with the sex they were assigned at birth.~~

***Eligible Student:*** ~~A student or former student who is 18 years of age or older or a student under the age of 18 who is emancipated.~~

***Gender:*** ~~A set of social, psychological, and emotional traits that classify an individual as typically masculine or feminine, although the social construct of gender may be more diverse across a continuum rather than as a binary system.~~

***Gender-expansive/ gender-diverse/ gender-fluid/ gender-nonbinary/ agender/ gender queer:*** ~~Terms that convey a wider, more inclusive range of gender identity and/or expression than typically associated with the social construct of a binary (two discrete and opposite categories of male and female) gender system.~~

***Gender Expression:*** ~~The manner in which a person represents or expresses their gender identity or role to others, often through appearance, clothing, hairstyles, behavior, activities, voice, or mannerisms. Gender expression may change over time and from day-to-day and is not necessarily related to the person's gender identity.~~

***Gender Identity:*** ~~A person's internal sense of their own identity as a boy/man, girl/woman, another gender, no gender, or outside the male/female binary. Gender identity is an innate part of a person's identity and can be the same or different from society's expectations with the sex they were assigned at birth.~~

***Gender Nonconforming:*** ~~A person who does not conform to gender stereotypes. Their gender expression differs from society's expectations associated with the sex assigned at birth. Being gender nonconforming is distinct from being transgender, though some transgender people may consider themselves to be gender non-conforming.~~

***Gender Transition:*** ~~The process of shifting toward living according to their gender identity, rather than the sex assigned at birth. Transitions can be at different levels, including social transition, such as new names, pronouns, appearance, and clothing. Some people may undergo medical transitions, such as hormone therapy or surgery.~~

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~~**LGBTQ+:** An acronym for “lesbian, gay, bisexual, transgender, queer/questioning, and others.” • **Nonbinary:** a term used to refer to people whose gender identity is not exclusively male or female, including those who identify with different gender, a combination of genders, or no gender.~~

~~**Nonbinary** may be considered a subset of transgender or a distinct 7 identity. Other similar terms may include genderqueer, gender fluid, agender, or Two Spirit (for Native American Indian, Alaska Native, First Nation, or Indigenous communities).~~

**Parent or Parents:** Any parent, guardian, legal custodian, or other person having control or charge of a child.

**Sex:** The word “sex” means biological sex.

~~**Sex Assignment:** A label, generally “male” or “female,” that is typically assigned at birth on the basis of a cluster of physical and anatomical features. Intersex refers to someone whose combination of chromosomes, gonads, hormones, internal sex organs, and genitals differs from the two expected patterns of male or female.~~

~~**Transgender:** A self-identifying term that describes a person whose gender identity is different from their sex assigned at birth. A transgender girl is a girl who was presumed to be male when she was born, and a transgender boy is a boy who was presumed to be female when he was born. Note that there is a wide range of gender identities in addition to transgender male and transgender female, such as nonbinary.~~

**Transgender Student:** A public school student whose parent has stated in writing that the student’s gender differs from the student’s sex, or an eligible student who states in writing that his or her gender differs from his or her sex.

C. Suffolk Public Schools complies with all applicable federal and state nondiscrimination laws including Title IX of the Education Amendments of 1972, the Virginia Human Rights Act. and prohibits any and all discrimination, harassment, and bullying based on an individual’s actual or perceived race, color, national origin, religion, sex, sexual orientation, gender identity, disability, or any other characteristic protected by law. Any incident or complaint of discrimination, harassment, or bullying will be given prompt attention, including investigating the incident and taking appropriate corrective action, by the school administrator. Suffolk Public Schools provides bullying prevention education in accordance with the Code of Virginia § 22.1-208.01. Bullying of any student by another student, for any reason, cannot be tolerated in Suffolk Public Schools. Intervening immediately to stop bullying on the spot can help ensure a safer school environment for all students. Complaints alleging discrimination, harassment, or bullying based on a student’s actual or perceived gender identity will be handled in the same manner as other discrimination or harassment complaints. The Chief of Operations for Suffolk Public Schools will be available to hear concerns from students and parents when complaints are not resolved at the school level. Suffolk Public Schools will inform parents of any bullying incidents that involve their child within 24 hours of learning of the allegation of bullying, as required by Virginia Code § 22.1-279.6(D).

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D. ~~Each school in Suffolk Public Schools will make reasonably available, with available resources, guidance and counseling services to all students as provided in 8-VAC20-620-10. Students may participate in counseling services that may benefit the student's overall well-being. To the extent possible, parents will be given the opportunity to object before counseling services pertaining to gender are given, unless Suffolk Public Schools is of the opinion that to require parental consent would pose a danger to the student's health and mental wellness.~~ Each school in Suffolk Public Schools will make reasonably available, with available resources, guidance and counseling services to all students as provided in 8 VAC20-620-10 and pursuant to parental notification requirements therein, including that, no student will be required to participate in any counseling program to which the student's parent object. Except with regard to eligible students, parents must be informed and given an opportunity to object before counseling services pertaining to gender are given. All school personnel must adhere to legal standards of confidentiality relating to information about a student's gender identity, legal name, or sex assigned at birth. In addition to adhering to all legal standards of confidentiality, school personnel must treat information relating to a student's gender identity as being particularly sensitive, must not disclose it to other students and other parents, but must disclose to the parent of any student, ~~unless such disclosure would pose a danger to the student's health and mental wellness,~~ and to other school personnel with a legitimate educational interest. No policy, guidance, training, or other written material issued by Suffolk Public Schools may encourage or instruct teachers to conceal material information about a student from the student's parents. ~~unless the student for health and safety reasons has requested that information not be disclosed to the student's parents.~~ Suffolk Public Schools will also comply with all laws that prohibit disclosure of information to parents, including but not limited to Virginia Code § 22.1-272.1(B) that prohibits parental contact where student is at imminent risk of suicide related to parental abuse or neglect. At the request of parents, Suffolk Public Schools ~~may~~ should designate an administrator or counselor to speak directly with the student and the student's parents regarding any questions or concerns that the student may have pertaining to gender. ~~if requested to do so by the student.~~ This provision does not apply with regard to eligible students.

E. Employees of Suffolk Public Schools will refer to each student using only (i) the name that appears in the student's official record, or (ii) if the student prefers, using any nickname commonly associated with the name that appears in the student's official record. Nothing in this policy will prevent employees of Suffolk Public Schools from using a different name for a student when it is necessary for the student's academic instruction, such as using a name more common in a foreign country while in a foreign-language course. Employees of Suffolk Public Schools will refer to each student using only the pronouns appropriate to the sex appearing in the student's official record — that is male pronouns for a student whose sex is male, and female pronouns for a student whose sex is female. ~~unless there is documentation from a licensed psychiatrist or psychologist that it would pose an unreasonable risk to the student's health and mental wellness to address the student by use of a pronoun that corresponds to the sex of the student appearing in the student's official record.~~

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However, an employee of Suffolk Public Schools may refer to a student by a name other than the one appearing in the student's official record, or by pronouns other than those appropriate to the sex appearing in the student's official record, if requested by an eligible student in writing or when a student's parent has instructed Suffolk Public Schools in writing that such other name or other pronouns are to be used. Any written instruction from a parent or eligible student must be placed in the student's official record and subject to the same retention, disclosure, and confidentiality requirements as the official record itself. The legal name and sex of a student cannot be changed, even upon the written instruction of a parent or eligible student, unless the requirements of subsection E are satisfied.

Only when instructed by an eligible student or parent of a student that some other name or pronoun is to be used, Suffolk Public Schools will use the preferred pronoun. No employee of Suffolk Public Schools can be compelled to address or refer to any student in any manner that would violate the employees constitutionally protected rights.

F. Suffolk Public Schools will:

- (a) Comply with the limitations on access to student records provided in Virginia Code §§ 22.1-287 through 22.1-289.01;
- (b) Adhere to legal standards of confidentiality relating to sensitive student information and personally identifiable data covered by the Family Educational Rights and Privacy Act found at 20 U.S.C. § 1232g.
- (c) Disclose sensitive student information (including any survey or evaluation related to the student's gender) only (i) to the student; (ii) the student parents; ~~but only if to do so would not pose an unreasonable risk to the student's health and mental wellness~~ (iii) school personnel with a legitimate educational interest; or (iv) when required by law.

Suffolk Public Schools is required to maintain a record that includes a student's legal name and sex assigned at birth and may be required to use or report the legal name and sex assigned at birth in some situations. In situations where school staff is required to use or to report a transgender student's legal name or sex assigned at birth, such as for purposes of standardized testing, school staff and administrators should adopt practices to avoid the inadvertent disclosure of such information. Upon the request of a student or parent, schools will use the name and gender consistent with the student's gender identity on other school records or documents. Schools will change a student's name and gender designation upon verification or submission of a legal document such as a birth certificate, state or federal issued identifications, passport, or court order substantiating the student or former student's change of legal name or sex. Records of former students may also be re-issued with the submission of legal documents substantiating the amended name and gender. Every effort should be made to ensure that a transgender student wishing to change his or her gender is treated with respect, compassion, and dignity in the classroom and school environment.

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G. Dress and grooming codes must 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 maintaining a respectful, distraction-free environment which supports a focus on learning for all students. Students are not required to dress in a gender-neutral manner. However, any dress or grooming policy, regulation or guideline must provide the same set of rules and standards regardless of gender, as required by Virginia Code § 22.1-279.6.

H. For any school program, event, or activity (including extracurricular activities) that are separated by sex, the appropriate participation of students will be determined by sex, rather than gender or gender identity. Suffolk Public Schools will provide reasonable modifications to this policy only to the extent required by law.

Overnight travel accommodations, locker rooms, rooms, and other intimate spaces used for school-related activities and events will be based on sex. Suffolk Public Schools will provide reasonable modifications to this policy only to the extent required by law. Students with a diagnosis of gender dysphoria made by a licensed health care provider should consult with Americans with Disability Act (ADA) Coordinator for Suffolk Public Schools.

~~I. Athletic participation regulated by the Virginia High School League (VHSL) or another organization must be in compliance with policies and rules outlined by those organizations. For any athletic program or activity that is separated by sex, the appropriate participation of students will be determined by sex rather than gender or gender identity. Suffolk Public Schools must provide reasonable modifications to this policy only to the extent required by law.~~

~~J. 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. 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. Access to facilities such as restrooms and locker rooms that correspond to a student's gender identity will be available to all students. Upon request, single-user or gender-inclusive facilities or other reasonable alternatives will be made available to any student who seeks privacy. Students must use bathrooms that correspond to his or her sex, except to the extent that federal law otherwise requires. Where state or federal law requires schools to permit transgender students to share otherwise sex-segregated facilities (such as bathrooms or locker rooms) with students of the opposite sex, parents must be given the right to opt their child out of using such facilities, and the child must be given access to alternative facilities that promote the child's privacy and safety. Eligible students must also be given the right to opt out of using such facilities and be given access to alternative facilities. Single-user bathrooms and facilities should be made available in~~

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accessible areas and provided with appropriate signage, indicating accessibility for all students. Any options offered will be non-stigmatizing and minimize lost instructional time. For locker room facilities without private changing areas, schools 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 non-stigmatizing 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.

I. ~~All school mental health professionals will be trained annually on topics relating to LGBTQ+ students, including safety and support for LGBTQ+ students and health and mental wellness support to, and safety of, all students. Training should include, but not be limited to the following:~~

- ~~(1) Key LGBTQ+ terminology and the use of unbiased language to promote equality and justice for LGBTQ+ students;~~
- ~~(2) Challenges and barriers frequently faced by LGBTQ+ students. This should heighten awareness of the implicit bias and discrimination that transgender students may encounter and identify the need for a gender-inclusive school;~~
- ~~(3) Federal and state laws and local school board policies and regulations relating to the rights of all students to a safe learning environment. This should include expectations relating to preventing, identifying, and responding to bullying and harassment of transgender students. Another area to address is the student's rights to privacy and how unauthorized disclosures to peers, parents, school staff, and other third parties may negatively impact the student's safety and well-being;~~
- ~~(4) Practices to create a safe, inclusive environment for all students. This should include strategies to promote understanding and foster positive relationships between LGBTQ+ students and their peers and the school community and steps to affirm LGBTQ+ students;~~
- ~~(5) Knowledge of LGBTQ+ affirming resources for students and families.~~
- ~~(6) Strategies to engage parents and other stakeholders regarding an inclusive school community that affirms LGBTQ+ students.~~

J. ~~The school superintendent is authorized to establish regulations and/or guidelines consistent with this policy. (Adopted: August 12, 2021, Ordinance 21/22-19; Revised/Reviewed: November 9, 2023, Ordinance 23/24-14)~~

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**Legal Authority** – Virginia Code Section 22.1-23.3 (1950), as amended; Equal Protection Clause of the 14<sup>th</sup> Amendment; Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Equal Access Act; Family Educational Rights and Privacy Act.