

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 9.2

Meeting Date: September 2, 2021

Subject: Revised Board Policy 5145.31 (Transgender and Gender Non-Conforming Students)

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: _____)
- Conference/Action
- Action
- Public Hearing

Division: Legal Services and Student Support & Health Services

Recommendation: Approve revisions to Board Policy 5145.31

Background/Rationale: Title IX of the Education Amendments of 1972 requires that all educational programs and activities be conducted without discrimination based on sex or gender. Additional state and/or federal laws and regulations require that all educational programs and activities be conducted without discrimination based on additional factors, including but not limited to actual or perceived sexual orientation, gender identity and expression, or marital status. State law also directs that students shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with their gender identity, irrespective of the gender listed on the student's records.

In order to address the safety needs of all students, revisions to the policy concerning transgender and gender non-conforming students is necessary and specifically, to ensure students' comfort and healthy development while maximizing students' social integration into the school setting and minimizing stigmatization of the student. No prior updates to BP 5146 have occurred since its adoption in 2018. Such updates and enactment include language in the CSBA Gamut model policy with Equal Rights Advocates' input as well.

Estimated Time of Presentation: 10 Minutes
Submitted by: Raoul Bozio, In House Counsel and Victoria Flores,
Director III, Student Support & Health Services
Approved by : Jorge A. Aguilar, Superintendent

Board of Education Executive Summary

Legal Department



IV. Goals, Objectives and Measures:

V. Major Initiatives:

VI. Results:

VII. Lessons Learned/Next Steps:

Sacramento City USD

Board Policy

Transgender And Gender Non-Conforming Students

BP 5145.31

Students

PURPOSE

The purpose of this Board Policy is to set out guidelines to District staff regarding issues related to transgender and gender non-conforming students. The Governing Board is committed to addressing the safety needs of all students, including those needs related to a student's actual or perceived sexual orientation or gender identity. The Board recognizes that a safe and civil environment is necessary for students to have equal access to all school programs and activities and is integral to student success. The Board acknowledges its role in providing students with an understanding of and respect for differences in the gender identity and gender expression of others.

This policy sets out guidelines for schools to follow in order to address the needs of transgender and gender non-conforming students. This policy sets forth how schools should respond to the needs of these students where questions may arise regarding how to protect the legal rights or safety of such students. This policy does not anticipate every situation that might occur and, therefore, the needs of each student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort and healthy development of the transgender or gender non-conforming student while maximizing the student's social integration into the school setting and minimizing stigmatization of the student.

(cf. 0200 - Goals for the School District)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5137 - Positive School Climate)

(cf. 5142 - Safety)

(cf. 5145.3 - Nondiscrimination/Harassment/Intimidation/Bullying)

(cf. 5145.4 - Anti-bullying)

(cf. 5145.7 - Sexual Harassment)

Title VI of the Civil Rights Act of 1964 requires that all educational programs and activities be conducted without discrimination based on race, color, and national origin. Title IX of the Education Amendments of 1972 requires that all educational programs and activities be conducted without discrimination based on sex or gender. Additional state and/or federal laws and regulations require that all educational programs and activities be conducted without discrimination based on the above factors as well as additional factors, including but not limited to

11135, 11138; Penal Code 422.55, 422.6) State law also directs that students shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with their gender identity, irrespective of the gender listed on the student's records. (Education Code 221.5(f), effective Jan. 1, 2014)

Transgender and gender non-conforming students shall be assured that they need not endure, for any reason, any bullying (including cyber bullying) or harassment which impairs the educational environment or the student's emotional wellbeing in school. Harassment involves unwelcome comments (written or spoken), or conduct which creates an intimidating, hostile or offensive environment, or which violates an individual's rights.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 5145.3 - Nondiscrimination and harassment)
(cf. 5145.4 - Anti-

questioning, or may use other terms.

Transgender: An umbrella term used to describe an individual whose gender identity is different from their assigned sex at birth.

STATEMENT ON NON-BINARY INCLUSION

The Governing Board recognizes that many gender-segregated activities and facilities do not include a gender affirming option for students who identify outside of the gender binary (i.e. who do not identify as either a boy or a girl) acceptance and inclusion. Schools shall make reasonable efforts to create gender affirming options for non-binary students whenever possible. In the absence of such an option, schools should endeavor to permit non-binary students to choose the available option that is best suited for them based on individual circumstances.

DETERMINING A STUDENT'S GENDER IDENTITY

Schools should avoid assuming the role of gatekeeper and ~~should accept a student's~~shall respect _____ asserted gender identity ~~unless there is a credible, they shall discuss the~~ basis for ~~believing that the student is asserting a particular gender identity for some improper purpose. In such cases, the decision to deny a student's asserted gender identity will be made in consultation~~their concern with the ~~district's~~ _____ LGBTQ Support Services program.

There is no medical, mental health or legal threshold requirement that any student must meet in order to have their gender identity recognized and respected by a school.

The district will work with transgender and gender non-conforming students to provide protections in the following areas:

GENDER TRANSITION SUPPORT

Schools ~~should~~shall be prepared to support transgender students who choose to transition while in school. Schools ~~should~~shall not discourage transgender students or their families from a public transition simply because it requires additional planning. Regardless of whether a student's transition is public or private, schools ~~should~~shall be prepared for a variety of contingencies that could occur. Schools should continue to support students beyond their transition to ensure that the school environment remains a safe and supportive place to learn. Consultation and resources are available within the district (Connect Center - LGBTQ Support Services Program) to assist schools with how to appropriately support transgender students with their transition whether this is done publicly or privately.

PRIVACY AND SCHOOL RECORDS/STUDENT INFORMATION SYSTEMS

Transgender and gender non-conforming students have a right to privacy, including keeping their sexual orientation, gender identity, transgender status or gender non-conforming presentation at

school private. School personnel should not discuss information that may disclose a student's transgender or gender non-conforming status to others, including parents/legal guardians and other school personnel, unless legally required to do so or unless the student has authorized such disclosure. Transgender and gender non-conforming students have the right to discuss and express their gender identity and expression openly and to decide when, with whom, and how much personal information one wants to share about oneself to others.

The Governing Board recognizes the importance of keeping accurate, comprehensive student records as required by law. The District is required to maintain an official, permanent pupil record with the legal name and gender appearing on the student's birth certificate. In addition, the District is required to have procedures for maintaining the confidentiality of student records which shall be consistent with state and federal law. In terms of privacy for transgender and gender non-conforming students, it is important to note the distinction between school records and legal documents, as not all school records are legal documents.

Transgender and gender non-conforming students have the right to have their requested name and/or gender marker and/or gender pronoun(s) reflected on all (non-legal) school physical records and documents (e.g. yearbooks, school IDs, library cards, lunch cards, class rosters, diplomas, other certificates of advancement, etc.) and in after-school programs. Transgender and gender non-conforming students are also able to have their requested name and/or gender marker reflected in the district's electronic Student Information Systems (e.g. Infinite Campus) via the Infinite Campus Name & Gender Update Form. Legal documents (e.g. official transcripts, IEPs, 504s, etc.) must have a student's legal name and gender marker; however,

policy.

RESTROOM ACCESS

Schools may maintain separate restroom facilities for male and female students. (Education Code 231) Transgender and gender non-conforming students should be allowed access to restroom facilities that align with their gender identity. Ensuring access to restroom facilities that match a student's gender identity allows transgender and gender non-conforming students to maintain their right to privacy. Transgender and gender non-conforming students shall not be forced to use the restroom corresponding to their assigned sex at birth. If a transgender or gender non-conforming student or the student's parent/guardian provides notice to school officials of a request for the student to use the restroom that matches the student's gender identity, school officials shall permit the student to use said restroom. (Education Code 221.5(f), effective Jan. 1, 2014)

If a transgender or gender non-conforming student or the student's parent/guardian provides notice to school officials of a **reason or desire for increased privacy and/or safety with**

affe or learning opportunities.

transferring student. Schools should not offer or propose a transfer to another school on the assumption that a transgender or gender non-conforming student should expect to be harassed or bullied as a result of being open about their gender identity or gender expression.

GENDER SEPARATION IN OTHER ACTIVITIES

As a general rule, in any circumstances where students are separated by gender in school activities (e.g. classroom discussions, overnight field trips, national physical fitness testing, health and physical education classes, school dances and proms, etc.), transgender and gender non-conforming students shall be permitted to participate in accordance with their gender identity and/or gender expression. (Education Code 221.5(f), effective Jan. 1, 2014).

National Physical Fitness Testing (Fitness Gram) - Schools should allow transgender and gender non-conforming students the option to choose to test under the fitness guidelines that align with their assigned sex at birth or to test under the guidelines that align with their gender identity. Schools should inform students prior to making this choice of the differential standards for fitness testing for each gender. Transgender and gender non-conforming students shall not be forced to be assessed under the standard corresponding to their assigned sex at birth.

Overnight field trips - Transgender and gender non-conforming students should be allowed

under the district's Anti-Bullying Board Policy 5145.4 and the procedures set forth therein. A student or a student's parent/guardian may also submit a formal written complaint of discrimination, harassment, intimidation or bullying through the district's Uniform Complaint Procedures pursuant to District policy and regulation 1312.3. A student's actual or perceived characteristics as set forth in Penal Code 422.55 and Education Code sections 220 and 234.1, which includes disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics, are protected classes. (5 CCR 4600-4671)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5145.3 - Nondiscrimination and harassment)

(cf. 5145.4 - Anti-bullying)

(cf. 5145.7 - Sexual Harassment)

