

<b>POLICY</b>	<b>BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND</b>
<b>CREATING WELCOMING AND AFFIRMING SCHOOLS FOR TRANSGENDER AND GENDER NONCONFORMING STUDENTS</b>	<b>POLICY 443</b>

#### **443.1 Purpose**

Gender identity is a protected status in Frederick County Public Schools (FCPS). The purpose of this policy is to prevent discrimination, stigmatization, harassment, and bullying of students who are transgender or who are gender nonconforming and to create school cultures that are safe, welcoming, and affirming for all students. This policy is also designed to ensure that all students have the opportunity to express themselves and live authentically.

Bullying, harassment, and intimidation based on perceived or real sex, sexual orientation, or gender identity or expression is prohibited in FCPS (see Board Policy 437). FCPS addresses bullying, harassment, and intimidation in compliance with its disciplinary policies and regulations, which includes education and providing students and staff with appropriate resources and supports. The Board of Education (Board) acknowledges that the transfer of students who are victims of bullying, harassment, or intimidation to a different school is not a preferred mode of responding and such response should only be considered in consultation, agreement, or at the request of the victim and his/her parent or legal guardian.

#### **443.2 Definitions**

*Bullying/Harassment/Intimidation*<sup>1</sup> - Intentional conduct, including verbal, physical, or written conduct, or intentional electronic communication that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is: (a) motivated by an actual or a perceived personal characteristic of sex, sexual orientation, gender identity, or gender expression; or (b) threatening or seriously intimidating; and (c) occurs on school property, at a school activity or event, or on a school bus; or (d) substantially disrupts the orderly operation of a school.

*Gender Expression* - The manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.

*Gender Identity* - A person's deeply held sense or psychological knowledge of their own gender, which can include being female, male, another gender, or no gender. Gender identity is an innate and largely inflexible part of a person's identity. One's gender identity can be the same or different than the gender assigned at birth. The responsibility for determining an individual's gender identity rests with the individual.

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<sup>1</sup> Board Policy 437 *Bullying – Harassment - Intimidation*

*Gender Nonconforming* – A term for people whose gender expression differs from stereotypical expectations, such as “feminine” boys, “masculine” girls, and those who are perceived as androgynous. This includes people who identify outside traditional gender categories or identify as multiple genders. Other terms that can have similar meanings include gender diverse or gender expansive.

*Non-binary/Genderqueer* – Terms used by those who identify with neither, both, or a combination of genders.

*Sexual Orientation* – A person’s romantic and/or physical attraction to people of the same or opposite gender or other genders. Transgender and gender nonconforming people may have any sexual orientation.

*Transgender* – An adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned gender at birth.

*Transition* – The process in which a person goes from living and identifying as one gender to living and identifying as another. Transition is a process that is different for everyone, and it may or may not involve social, legal, or physical changes. There is no one step or set of steps that an individual must undergo in order to have their gender identity affirmed and respected.

### **443.3 Policy Statement**

Flexibility – This policy is designed to provide an overarching framework and assurances that all students will be safe, welcomed, and affirmed. Depending on privacy needs or a transgender student’s own personal transition, school staff are authorized to work with students (and their families, if students explicitly wish) to provide options that may support a student’s needs.

### **443.4 Privacy/Confidentiality**

FCPS respects the rights of students to express their gender identity or expression as they wish. Transgender and gender nonconforming students have the right to discuss and express their gender identity and expression openly and to decide where, when, and with whom to share private information. The fact that a student may wish to use a different name or pronoun at school, or to disclose their transgender or gender nonconforming status to school staff, does not authorize school staff to disclose a student’s personally identifiable or medical information. FCPS will ensure all personally identifiable and medical information relating to transgender and gender nonconforming students will be kept confidential according to applicable federal, state and local privacy and student records laws.

### **443.5 Use of Preferred Name/Official Records**

#### **(a) Names/Pronouns**

FCPS recognizes the right of every student to be referred to by their preferred name and pronoun. All staff who work with students will have access to a current and complete list of preferred names and pronouns for all students and will use them in

every interaction, unless the interaction could compromise student privacy (see Section 443.4).

(b) Student Records

Each school is required to maintain an official student record of each student, which includes the legal name of the student and birth gender. Official student records can be modified as stipulated under Maryland law <sup>2</sup> and/or in accordance with Maryland State Department of Education (MSDE) guidelines. <sup>3</sup> (See also FCPS Regulation 400-20 *Student Records*, Section E “Procedures to Request Amendment of Student Records”)

**443.6 Access to Gender-Segregated Facilities**

Students, including non-binary students, should determine which facilities are consistent with their gender identity. All students must have access to facilities, including rest rooms, locker rooms, or changing facilities, that correspond to their gender identity. Access is provided without any additional complicating procedure.

Any student, regardless of gender or gender identity or expression, who is uncomfortable for any reason using a gender-segregated facility will be provided a safe and nonstigmatizing alternative. Options include, but are not limited to, privacy curtains, provisions to use private restrooms or office restrooms, or a separate changing schedule. These options are provided to any student without question or complicating procedures required. Under no circumstance is any student required or directed to use a private use facility.

**443.7 Participation in Sports and Physical Education Classes**

Students are permitted participation in FCPS sports and physical education classes in a manner consistent with their gender identity. The gender identity of student-athletes is not required to be disclosed to coaches, teammates, opponent’s coaches, or anyone else if not authorized by the student. If special events, such as out-of-state tournaments or competitions specify particular disclosures, those will be discussed in advance and confidentially with the student.

**443.8 Overnight Field Trips**

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<sup>2</sup> §4-211(f), General Article, *Annotated Code of Maryland*

<sup>3</sup> MSDE Guidelines 10/6/17 – Documentation Needed for Name and/or Gender Change

Requests for name and/or gender changes on official school records shall be honored if the parent/legal guardian submits:

- a. A new amended birth certificate with name and gender change;
- b. A court order changing the student’s name; or
- c. A statement signed, under penalty of perjury, by a healthcare practitioner who treated or evaluated the student for gender identity issues, requesting name and/or gender change be made on the “official school record” and explaining the health-related reasons for the request.

Notification of the change must be communicated to the Unique Student Identification Specialist in the Division of Curriculum, Assessment, and Accountability at MSDE. **NOTE:** Changing an official student record under option “c” does not involve a court order or court action and is applicable for FCPS and MSDE student record purposes only. Other agencies (i.e. state, federal, college institutions) may still require a court order to recognize an official name change.

The comfort of all students is paramount in the decisions around overnight field trips. Maximizing students' social integration may be achieved by applying these guidelines:

- Make arrangements in consultation with the student. If the transgender or gender nonconforming 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 or gender nonconforming status to the other students or their parents without the consent of the transgender or gender nonconforming 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, no student should be isolated.

#### **443.9 Other Activities**

Dress codes designated for school events like dances, graduations, and other ceremonies shall be gender neutral.

#### **443.10 Training and Professional Development**

All FCPS personnel who work directly with students are required to participate in, or have access to, annual training that includes:

- The importance of privacy for all students, as well as an overview of the legal and other implications of disclosing gender identity to parents.
- Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents.
- Developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy.
- Developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyberbullying.
- Classroom management practices, curriculum, and resources that educators can integrate into their classrooms to foster a more gender-inclusive environment for all students.
- This policy.

<b>Legal Reference</b>	Title IX, Education Amendments of 1972, 20 U.S.C. 1681		
	U.S. Constitution, Equal Protection Clause, 14 <sup>th</sup> Amendment and 1 <sup>st</sup> Amendment		
	FERPA 20 U.S.C. 1232		
	COMAR 13A.08.02 "Student Records"/FCPS Regulation 400-20 <i>Student Records</i>		
	HIPPA 45 C.F.R. 160		
	COMAR 13A.01.04.03 "School Safety"		
	§7-424, Education Article, Annotated Code of Maryland		
	COMAR 13A.06.03 "Interscholastic Athletics in the State"		
<b>Source Documents</b>	GLSEN (Gay, Lesbian and Straight Education Network) <i>Model District Policy on Transgender and Gender Nonconforming Students</i> , Revised February 2016		
	MSDE (Maryland State Department of Education) <i>Providing Safe Spaces for Transgender and Gender Nonconforming Youth: Guidelines for Gender Identity Non-Discrimination</i> , October 2015		
	NSBA (National School Boards Association) <i>2016 Transgender Students in Schools: Frequently Asked Questions and Answers for Public School Boards and Staff</i> , Version 9.0 Updated March 9, 2017		
	MPSSAA (Maryland Public Secondary Schools Athletic Association) <i>Guidance for Participation of Transgender Youth in Interscholastic Athletics</i> , Revised August 2016		
<b>Policy History</b>	Reviewed: 2018	Adopted: 6/14/17	Revised: 1/9/19