

EDUCATING AND ACCOMMODATING TRANSGENDER STUDENTS

Presented by Heidi A. Katz
Robbins, Schwartz, Nicholas, Lifton & Taylor, Ltd.

The education and accommodation of transgender students poses complex legal issues for school districts. Decisions made and actions taken (or not) by school districts in this sensitive realm often gain attention and comment from parents, students, advocacy groups, new media, and community members.

These materials recap key laws which prohibit discrimination against transgender students, and then highlight cases which illustrate common social and academic climate challenges which transgender students encounter in the educational environment. It also offers guidance on how districts should respond to these challenges, in light of current legal requirements and practical or “political” considerations.

I. FIRST: UNDERSTANDING THE TERMINOLOGY

A. **Gender expression:**

The ways in which a person communicates gender identity, including through voice and choice of clothing, hairstyle, or grooming. Refers to all external characteristics and behaviors that are traditionally defined by a culture as either masculine or feminine, such as dress, mannerisms, physical characteristics, social interaction and speech patterns.

B. **Gender identity**

A person’s identification as male or female, which may or may not correspond to the person’s physical characteristics or sex assigned at birth.

C. **Intersexed**

One who is born with sex chromosomes, external genitalia or an internal reproduction system that is not considered “standard” for either male or female. At least one in every 2,000 children is born with mixed sexual anatomy that makes it difficult to label them male or female.

D. **Sexual orientation**

The preferred term for referring to an individual’s physical and/or emotional attraction to the same and/or opposite gender.

E. **Transgender**

A general term referring to a person whose gender identity or gender presentation falls outside of stereotypical gender norms.

F. **LGBT**

Acronym for lesbian, gay, bi-sexual, transgender.

Although the information contained herein is considered accurate, it is not, nor should it be construed to be legal advice. If you have an individual problem or incident that involves a topic covered in this document, please seek a legal opinion that is based upon the facts of your particular case.

II. LAWS WHICH PROHIBIT AND MAY BE USED TO REDRESS DISCRIMINATION AGAINST TRANSGENDER STUDENTS

Transgender students may be subjected to sexual harassment or bullying from staff or other students because the transgender student does not conform his/her behavior to the student's biological sex, or because of the student's perceived sexual orientation. In these cases, students may turn to federal and state statutes for a remedy.

A. Federal Laws

1. Fourteenth Amendment

At the federal level there are no explicit legal protections for transgender students. However, all students, including transgender students, are guaranteed equal protection of the law under the Fourteenth Amendment to the U.S. Constitution and the right to free speech and association under the First Amendment. The equal protection clause may be used to impose a duty on schools to protect LGBT students from harassment on an equal basis with other students.

See Nabozny v. Podlesny, 92 F. 3d 446 (7th Cir. 1996).

During his middle and high school years in the Ashland Public School District in northern Wisconsin, fellow students continually harassed and physically abused plaintiff Jamie Nabozny because he was a homosexual. By his account, school administrators failed to adequately investigate and take appropriate actions to address Nabozny's repeated complaints of ongoing harassment and his requests for protection.

Nabozny sued the district and several school officials, alleging equal protection violations arising from their alleged failure to protect him from harassment and harm by peers due to his sexual orientation. Specifically, Nabozny argued that he was treated differently than female students who suffered similar harassment, and that the district's different treatment of his harassment was based on his gender. The school defendants did not deny that they aggressively punished male-on-female battery and harassment, and maintained that they investigated and punished all complaints of battery and harassment regardless of the victim's gender.

Yet in one instance, when Nabozny's report to the middle school principal that his most insistent tormenters had held him to the floor and performed a mock rape as 20 other students looked on and laughed, she allegedly made the "somewhat astonishing" response (as the court of appeals characterized it) that "boys will be boys" and that if Nabozny "was going to be so openly gay" he should "expect" such behavior from his fellow classmates. The court commented, "We find it impossible to believe that a female lodging a similar complaint would have received the same response."

Viewed most favorably to Nabozny on the defendants' motion for summary judgment, the evidence demonstrated that the district treated

Nabozny differently, and that the discriminatory treatment was motivated by the school administrators' disapproval of his sexual orientation.

2. Title IX

Title IX guarantees that no person in the United States shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. 20 U.S.C. Section 1681(a). Although Title IX does not specifically prohibit discrimination on the basis of sexual orientation, gender identity or gender expression, it has been invoked to redress sexual or gender-based harassment in schools when the harassment arises from gender stereotypes.

- a. *Montgomery v. Indep. Sch. Dist. No 709*, 109 F.Supp.2d 1081 (D. Minn. 2000).

The court held that a district's failure to protect a gay student from peer harassment violated the Equal Protection Clause. The court also held that the student was protected by Title IX's prohibition on sex discrimination because he alleged that the harassment was based on his failure to conform to male stereotypes.

- b. *Doe v. Brimfield Grade School*, 552 F.Supp.2d 816 (C.D. Ill. 2008).

An elementary school boy stated a claim under Title IX for gender stereotyping, based on allegations that when he complained that peers repeatedly struck him on the testicles, the school told him to "toughen up", "stick up for himself", and "stop acting like a girl."

- c. *And see Carmichael v. Galbraith*, 547 Fed.Appx. 286 (5th Cir. 2014), unpublished decision holding that parents had stated a Title IX claim against the school defendants for alleged "deliberate indifference" to a campaign of sexual harassment of their middle school son, who committed suicide after male peers bullied him incessantly for being insufficiently "masculine" (on one occasion stripping him nude and placing him in a trash can while calling him a "fag", "queer" and "homo").

3. Equal Access Act

LGBT student groups are guaranteed equal treatment and access under the *Equal Access Act* (1984). The Act requires any public secondary school that receives federal money and has a "limited open forum" to provide LGBT-oriented clubs formed by students the same access to school facilities that other student groups enjoy.

A school district cannot refuse to allow a group like the Gay Straight Alliance to meet because other students, teachers, administrators,

parents or community members object to the formation of the club or the content of the speech occurring at the meetings.

However, a school which allows only curriculum-related clubs is not required to grant access to any non-curriculum related group. "Curriculum-related" means the club must relate directly to courses offered by the school (e.g., Science Club, Horticulture Club).

In addition, the clubs must be initiated at the request of students to fall under the purview of the *Equal Access Act*. Equal access has been interpreted to mean access to meeting space, funding, and channels of communication such as school bulletin boards, yearbook photos, and other media.

B. State Laws

1. *Illinois Human Rights Act*

The *Human Rights Act* prohibits schools from discriminating against students on the basis of sexual orientation and gender identity. Under the Act, sexual orientation is defined as actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity whether or not traditionally associated with the person's designated sex at birth. 775 ILCS 5/1-103(O-1).

2. ISBE Regulations

All students within a school district must be provided equal opportunities in all education programs and services provided by the system. 23 Ill. Admin Code 1.240(a). No school system may exclude or segregate any pupil, or discriminate against any pupil on the basis of sex, sexual orientation or gender identity. 23 Ill. Admin. Code 1.240(b).

3. Bullying Prevention Statute

Illinois law regarding bullying prevention also prohibits bullying on the basis of sex, sexual orientation, gender-related identity or expression and association with a person or group with one or more of these characteristics, whether actual or perceived. 105 ILCS 5/27-23.7(a).

Under the statute no student shall be subjected to bullying:

- 1) During any school-sponsored education program or activity;
- 2) While in school, or on school property, on school buses or other school vehicles, at designated school bus stops waiting for the bus, or at school-sponsored or -sanctioned events or activities;
- 3) Through transmission of information from a school computer or school computer network; or

- 4) [As of January 2015, see P.A. 98-801] Through transmission of information from a computer accessed at a nonschool-related location, activity, function or program or from the use of technology or an electronic device that is not owned, based or used by a school district or school, if the bullying substantially disrupts the educational process or orderly operation of a school.

NB: This last provision applies only when a school administrator or teacher receives a report that bullying through this means has occurred, and it does not require a school to staff or monitor any nonschool-related activity.

III. STUDENT RECORDS CONSIDERATIONS

Questions about amending student records arise when a current transgender student or a former student asks that his or her student records be changed to reflect a change in name or gender consistent with the student's self-identification. As outlined below, at present school districts have latitude to develop policy in this area, but should be cautioned that a refusal to change records could result in a claim under Title IX or state anti-discrimination laws, as discussed above.

A. Concerns When Transgender Students Seek to Amend Student Records

Amending a former student's records allows the student the option of not having to disclose his or her transgender or transsexual status to employers or colleges, and thereby to minimize the risk of possible discrimination. School district concerns would include maintaining accurate historical records, and the potential administrative burden and cost involved in changing them.

B. Laws Affecting the District's Options

1. *Family Educational Rights and Privacy Act ("FERPA")*

FERPA allows students to have corrections made to school records that are inaccurate or misleading. 20 U.S.C. 1232g(2). This may imply that a student can seek to have his or her record amended if the student's name and gender are no longer accurate, and are now misleading.

Nonetheless, a 1991 opinion letter issued by the Family Policy Compliance Office stated that FERPA does not apply to a transgender former student's request to have education records amended to reflect a name and gender change, because the request is not to correct an error, but arises from the student's wish to have the education records changed to reflect the student's gender identity or surgical change of gender identity. *Letter from FPCO Director LeRoy S. Rooker to Karol Johnson, Superintendent, Great Falls Public Schools* (Nov. 13, 1991).

Thus, although FERPA does require a school district to altering student's records in this situation, neither does it prohibit a district from doing so.

2. *Illinois School Student Records Act* (“ISSRA”)

ISSRA entitles students to challenge the accuracy, relevance or propriety of any entry in school student records maintained by a district. 105 ILCS 10/7(a). The statute does not indicate that it applies only to students currently attending the district. Therefore, presumably, a transgender former student could request that his or her records be amended to reflect a name or gender change, and could invoke the right to a hearing if the request is denied.

3. *Vital Records Act*

Under Illinois’ *Vital Records Act*, the State Registrar of Vital Records is to issue a new birth certificate upon receipt of a physician’s affidavit that the physician has performed an operation on a person, and that by reason of the operation the sex designation on that person’s birth record should be changed. 410 ILCS 535/17(1)(d). If a new birth certificate is issued, the original birth certificate and the evidence of the sex change are subject to inspection or certification except upon order of the circuit court. 410 ILCS 535/17(2)(a).

A school district could implement a policy providing that the sex of a current or former student will be revised in the student’s school records upon presentation of the new birth certificate.

4. Legal Process for Changing a Name

A person may petition for a change of legal name in the circuit court of the county in which he or she resides. 735 ILCS 5/21-101. If the court grants the name change, a written order will be entered and signed by the judge. The court will enter a change of name for a minor only if upon finding by clear and convincing evidence that the change is needed to serve the child’s best interest.

The *Vital Records Act* provides that upon receipt of a certified copy of a court order changing the name of a person born in Illinois, the official records custodian shall amend the original certificate of birth to reflect the change. 410 ILCS 535/22.

School board policies and procedures may prescribe what documentation is required from any student or former student who requests a name change on the official school records. *The requirements should be applied uniformly to all students.*

IV. COURT AND AGENCY DECISIONS IN CASES PRESENTING ISSUES WHICH COMMONLY AFFECT TRANSGENDER STUDENTS

A. Dress Codes

Transgender students may choose to dress in a manner that more closely expresses the gender the student identifies with, rather than the student’s

biological gender. School districts routinely adopt dress codes to minimize potential disruption to the school environment. These two interests are sometimes in conflict. Dress codes that impose restrictions based on the student's gender (e.g., prohibiting boys but not girls from wearing earrings or requiring girls to wear dresses to prom) may draw challenges that the school is discriminating on the basis of sex.

1. *McMillen v. Itawamba County Sch. Dist.*, 702 F.Supp.2d 699 (N.D.Miss. 2010)

The court held that the district violated a lesbian student's First Amendment right of free expression when it refused to allow her to attend prom wearing a tuxedo and bringing a same-sex date.

2. *Doe v. Yunits*, 2000 WL 33162199 (Mass. Super. Ct. 2000)

A male junior high school student with female gender identity began to express her female identity by wearing girls' make-up, shirts and fashion accessories to school. The district's dress code prohibited clothing which could be disruptive or distracting to the educational process, or affect students' safety. The school told the student she would not be allowed to enroll if she wore girls' clothing or accessories to school.

When the student sued the district, the court awarded her injunctive relief, finding that student was likely to establish that by dressing in clothing and accessories traditionally associated with the female gender, she was engaging in protected speech. The district's action was a direct suppression of her speech, because school officials did not discipline biological females who wore the same types of clothing to school.

3. *Doe v. Brockton Sch. Comm.*, 2000 WL 33342399 (Mass. App. Ct. Nov. 30, 2000).

The Court held a school could not prohibit a male student who identified himself as female from wearing girls' clothes where the district had no specific evidence that the student's manner of dress, and not the student's behavior, caused substantial disruption.

4. *Compare Oleson v Bd. of Educ. of Sch. Dist. No. 228*, 676 F. Supp. 820 (N.D. Ill. 1987) (upholding ban on boys' wearing of earrings in district with gang problems where earrings sometimes denoted gang symbols).

B. Restroom and Locker Room Issues

Requests of transgender students to use bathrooms or locker rooms designated for use by students of the gender with which they identify, rather than facilities designated for use by students of the same biological sex, has also sparked debate in school settings. Providing use of gender-neutral restrooms may not be a satisfactory alternative in every case. Each transgender student's needs must be addressed on an individual basis.

1. *Doe v. Regional School Unit 26*, 86 A.3d 600, 2014 ME 11 (Sup. Jud. Ct. Me. 2014)

Susan (a pseudonym used in court filings) is a transgender child born male. Her parents sued under the Maine Human Rights Act for unlawful discrimination in education and in a place of public accommodation, after Susan's school in Orono excluded her from the girls' restroom when she entered 5th grade. The student had begun to express a female gender identity at age two, and dressed and appeared exclusively as a girl by 4th grade. In 3rd and 4th grade, she used the girls' restroom at her school with the encouragement of school staff, who were aware that Susan was transgender. Teachers and classmates referred to Susan as "she".

By 5th grade, she had received a diagnosis of gender dysphoria (the medical term for psychological distress resulting from having a person's having gender identity different from the sex assigned at birth). School officials recognized that it was important to her psychological health that she live socially as a female. Although a provision of Maine's "Health, Nutrition and Safety" statute required that schools provide toilets in all school buildings "separated according to sex", school staff did not interpret that provision, or any other law, as prohibiting a person with Susan's diagnosis from using the girls' bathroom.

A team including Susan's mother, teachers, school guidance counselor and director of special services met in March before her 5th grade year to develop a 504 plan. The team agreed that staff should refer to Susan by her female name, and encourage students to do so. The team agreed with the counselor's recommendation that for a transgender child, using the girls' restroom was the best practice, and that requiring her to use the boys' bathroom was not an acceptable option (or even safe, as the principal later testified). The meeting minutes also noted that a unisex staff bathroom was available to Susan, if her use of the girls' bathroom became "an issue",

Susan began 5th grade without incident, until a male student followed her into the restroom on two occasions, claiming that he was also entitled to use the girls' facility. The boy was acting on instructions from his grandfather (his guardian), who strongly opposed the school's decision to let Susan to use the girls restroom. The controversy hit the newspapers and thereafter, over the Does' objections, the school changed course and required Susan to use the unisex staff bathroom – the only student who was instructed to do so. Thereafter, Susan experienced harassment from other students until the end of her sixth grade year, when her parents moved her to another district.

The Maine Human Rights Commission found that the school had discriminated unlawfully against Susan. (That state's Human Rights Act, like that of Illinois, prohibits discrimination on account of "sexual orientation".) However, after the parents and Commission filed suit in state court, a judge granted summary judgment to the district, agreeing

with its argument that the “segregated-by-sex” requirement in the “Health Nutrition, and Safety” law supported the school district’s action.

The Maine Supreme Judicial Court reversed, holding that the statutory provisions involved were not irreconcilable: the health statute, which predated the inclusion of sexual orientation in the MHRA by 20 years, did not define “sex”, and its purpose was to establish the layout of school bathrooms, not to mandate how schools prescribe and monitor the bathrooms’ use. In finding that the school violated the MHRA’s prohibition of discrimination on the basis of sexual orientation, the court relied heavily on Susan’s psychological and educational needs as determined by her doctors, family, and – originally – the school itself.

2. 2013 Colorado Civil Rights Division case – *Coy M.*

Facts: Parents of kindergarten student Coy Mathis informed the school that their child identified as a girl and should be treated as one. The school initially agreed but a few months into the child’s first grade year, they barred her from using the girls’ bathroom, telling her parents that Coy’s presence there would discomfit some students and parents. The school then required the student to use staff bathrooms or a gender-neutral restroom in the school’s health office. Parents removed Coy from school and filed a complaint with the Colorado Civil Rights Division in February 2013, claiming that the district violated the state’s 2008 anti-discrimination statute which expanded provisions for transgender people.

Ruling: The school discriminated against the student when it refused to let Coy use the girls’ bathroom. The district needlessly created a situation in which the student was subject to harassment, when it barred her from the girls’ bathroom even though she clearly identified as female. The Division Director’s ruling stated that to tell the student that she must disregard her identity while performing one of the most essential human functions constituted severe and pervasive treatment and created an environment that was objectively and subjectively hostile, intimidating or offensive.

Moreover, although the student’s birth certificate stated she was male, more recent medical and legal documents identified her as a female. The Division found it clear that Coy had completely integrated into society as a female – wearing girls’ clothing, standing in the girls’ line at school and choosing to play with girls. The Division’s determination letter concluded that the district’s grounds for denying Coy access to the girls’ bathroom were not credible and a pretext for denying Coy equal protection. The Division also rejected the district’s alternative solution of allowing Coy to use the gender-neutral staff bathroom, calling this approach “reminiscent of the ‘separate but equal’ philosophy.”

2. 2013 OCR Case

The Arcadia Unified School District in California entered into a Resolution Agreement with the U.S. Department of Education Office for Civil Rights

and the U.S. Department of Justice, Civil Rights Division, concerning allegations of discrimination against a transgender student. The female student, who has identified as a boy from a young age, attended Arcadia since kindergarten and was entering 9th grade at the time of the Agreement.

The student began to transition to living as a male during 5th grade. Among other things, he adopted a new, traditionally male first name, expressed a desire to be referred to with male pronouns, and continued outwardly to present as a male, including in his clothing and hairstyle. Parents, his teacher, and school administrators worked together to ensure a smooth transition. According to the district and the student's family, when notified by the teacher of the student's transition, his classmates accepted him as male immediately and treated him as a boy. For the rest of that school year, with parents' consent, he used a gender-neutral restroom.

When the student began sixth grade in the 2010-11 school year, parents met with middle school and district administrators to discuss his transgender status and asked that he be permitted to use male-designated restrooms and locker rooms at the middle school, in keeping with the medically appropriate standard of care for a transgendered adolescent as explained by the student's health care providers – *i.e.*, for the young person to be supported during the social transition to his or her self-identified gender, and therefore for schools to treat the transgender student as the gender consistent with his or her gender identity in all setting, including routine activities and access to sex-specific facilities.

However, the district refused. Citing generalized concerns about safety and privacy, it instead required the student to use the private restroom in the school health office as both a restroom and changing area for P.E. class. The distance between the health office from the gym and his classrooms and other logistics related to complying with this requirement led to embarrassing questions and encounters for the student, who eventually avoided using the restroom altogether.

The refusal of access to boys' restrooms was followed by an October 2011 incident in which the district conditioned the student's participation in an overnight academic camping trip on his staying in a private cabin on his own, separate from all of his classmates (including male friends who were aware of his transgender status and had requested him as a cabin-mate). The student took part, but faced questions from other students about his cabin arrangement, and was sad and upset throughout the trip. At that point, his parents filed a discrimination complaint with OCR and DOJ.

In February of 2012, the student obtained a judicially approved revised birth certificate identifying his sex as male. At that point the school began allowing him to use the boys' bathroom and to treat him in all respects as male. Thereafter, the district voluntarily entered into a Resolution

Agreement under which it agreed to continue treating the student like all other male students. The Agreement also required the district to:

- 1) Work with a consultant to create a safe non-discriminatory learning environment for students who are transgender or do not conform to gender stereotypes;
- 2) Amend its policies to designate gender identity as a form of discrimination; and
- 3) Provide annual training on preventing gender based discrimination.

Of note, the Resolution Agreement provisions pertaining to restroom usage specifically apply only to this student. The Agreement does not require the district to adopt this change system wide, and future decisions will be made on a case-by-case basis.

C. Athletic Participation

Participation of transgender students on competitive sports teams that are opposite from the student's biological gender raise several areas of concern. Those opposed to such participation argue that it infringes on the privacy rights of students who might not be comfortable with members of the opposite sex sharing their showers and locker rooms, or that allowing such participation could be exploited by a student who simply wants a competitive advantage.

1. Policy of the Illinois High School Athletic Association (IHSA)

The IHSA's policy addressing participation of transgender students in IHSA state finals includes the following definition section:

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

Procedurally, to request participation in a sport on the team of the opposite sex as the student's biological sex, the student and/or parents must notify the school administrator or athletic director at the student's member school that the student has a different gender identity than listed on the student's school registration card or birth certificate, and that the

student wishes to participate in athletics/activities in a manner consistent with his or her gender identity.

The school must then collect the following for the participation ruling by the IHSA:

- a. Gender identity used for school registration records;
- b. Medical documentation (hormonal treatments, sexual re-assignment surgery, counseling, medical personnel, etc.); and
- c. Gender-identity related advantages for approved participation.

Once it has collected the relevant information, the member school is to write to the IHSA office, outlining the student's gender identity, listing the athletics or activities that the student wishes to participate in if selected through the team try-out process, and requesting a ruling regarding same.

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

- a. A current transcript and school registration information;
- b. Documentation of the student's consistent gender identification (such as affirmation statements from student, parent/guardian, and/or health care provider); and
- c. Any other pertinent documentation or information.

The IHSA will communicate its participation ruling to the member school in writing. Once a student is approved, participation is granted through the duration of his or her high school career.

The IHSA policy also identifies the following "Areas of Awareness", without providing any specific guidance on how problems concerning any of these areas can or should be resolved:

- Have a plan in place;
- Use correct names and pronouns corresponding to the student's self-identification;
- Gender-appropriate restroom and locker room accessibility;
- Educational training for teachers, counselors, coaches, administrators and students on transgender sensitivity in relation to student;
- Manner of dress according to gender identity; and

- Access to resources and accurate information.

V. RECOMMENDED STEPS AND STRATEGIES FOR SCHOOL DISTRICTS

The analysis and rulings of courts and agencies in the decisions discussed in Part IV discuss and point the way to emerging understandings of the legal requirements and best practices for educating and accommodating transgender students. At the end of these materials, we have included citations to other sources useful in gaining more perspective on this subject.

The recommended steps and strategies outlined below commended steps and strategies for school districts to implement to promote a positive, non-hostile educational environment for transgender students and their families, and to reduce the likelihood of misunderstandings which can lead to litigation.

A. EDUCATE STAFF ABOUT BULLYING AND TRANSGENDER ISSUES

- Ensure that staff are knowledgeable about the district's bullying policy and how to appropriately respond to instances of harassment or bullying based on gender identity or expression.
- Make staff members aware that when students are permitted to call each other demeaning terms (*e.g.*, *sissy*, *faggot*, *dyke*, *homo*, *freak*, *he-she*, or *"it"*), and school personnel fail to intervene, these words are perceived as acceptable in the school environment, further alienate transgender and gender non-conforming students and create a hostile climate.
- Train staff to avoid sex-role stereotyping (*e.g.*, discouraging boys from playing with dolls or telling female students to act more "ladylike").
- Emphasize modeling by teachers of positive, respectful and supportive behavior toward students.
- Encourage teachers to use classroom strategies that enable students to learn to work together in a collaborative and supportive atmosphere, and to continually reinforce with all students the need to accept differences in people.

B. INVESTIGATE AND RESPOND PROMPTLY TO COMPLAINTS

- Investigate all complaints promptly and conduct a full, fair and impartial investigation in compliance with the district's formal complaint procedure (*i.e.*, Uniform Grievance Procedure).
- If an investigation finds that harassment has occurred, take prompt and effective steps to end the harassment, eliminate any hostile environment and prevent its recurrence. During the investigation, interim measures should be implemented to ensure that harassment is not continuing;
- Inform students that retaliation for making a complaint about harassment is prohibited;
- After the investigation is completed, closely monitor all involved students and conduct regular check-ins with the transgender student to ensure there is no retaliation, the

harassment has ended, and the student is not having difficulties accessing their school environment; and

- Provide intervention strategies for a student who has been the subject of harassment. These may include; counseling, increased supervision and monitoring to observe and intervene where appropriate, peer mediation where appropriate, and a student safety or support plan.

C. OTHER DISTRICT-WIDE SUPPORTS AND STRATEGIES

- Include age-appropriate bullying/harassment education prevention curricula for students in grades K-12.
- Designate a staff person within the school or school district who can act in an extended advocacy role for transgender students.
- Implement gender neutral dress codes.
- Use a student's preferred or chosen name on class lists and other unofficial records and refer to the student by the name and pronoun he/she prefers.
- Create an easily accessible, all gender single stall washroom for use by any student who desires increased privacy regardless of the underlying reason.
- Provide a private or enclosed changing area in locker rooms.
- Provide adequate adult supervision of outdoor areas, hallways, lunchroom, restrooms, locker rooms and other areas where bullying is more likely to occur.
- Establish a uniform set of rules regarding the establishment of student organizations and ensure the rules are applied equally to all groups.
- If necessary, work with a consultant to assist in the creation of safe, non-discriminatory learning environment for students who are transgender or do not conform to gender stereotypes.

D. COMMUNICATE WITH COMMUNITY STAKEHOLDERS

- Consider engaging the community in a discussion on transgender issues, with the objective of focusing on common ground: the need for student safety, civility, and respect in order to provide a school environment in which all students have the opportunity to learn, feel secure, and be free from hurtful and humiliating harassment.
- Inform the community about federal and state discrimination and anti-bullying laws, and the legal rights of transgendered students.

VI. OTHER RESOURCES

Amici Brief submitted in *Doe v. Regional School Unit 26* (cited in Part IV.B., above), by groups including the Maine Chapter of American Academy of Pediatrics, Maine Psychological Association, National Association of Social Workers-Maine Chapter, and the Maine Women’s Lobby, available at <http://www.glad.org/uploads/docs/cases/doe-v-clenchy/2013-05-03-doe-v-clenchy-amicus-brief-final.pdf>.

Be Yourself: A Resource for LGBT Youth and Allies in Illinois Schools, American Civil Liberties Union of Illinois and the Illinois Safe Schools Alliance, with support from the Chicago Bar Foundation, available at www.illinoissafeschools.org.

Developments in the Law – Sexual Orientation and Gender Identity (Chapter Two: “Transgender Youth and Access to Gendered Spaces in Education”), Harvard Law Review April 2014 (127 Harv.L.Rev. 1722, available on Westlaw).

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