

Arlington School Committee
Standing Subcommittee: Policies and Procedures
Monday, July 24, 2023 2:30 p.m.
Superintendent’s Office - Hybrid
Sixth Floor, Arlington High School
869 Massachusetts Avenue
Arlington, MA 02476
Draft Minutes

Open Meeting

The meeting was called to order at 2:34 p.m.

Members present:

Paul Schlichtman, subcommittee chair

Laura Gitelson (remote)

Jeff Thielman (remote)

Other school committee members present:

Kirsi Allison-Ampe

Jane Morgan

District staff present:

Elizabeth Homan, Superintendent, Rob

Spiegel, Director of Human Resources

Members of the public:

John DiModica 106 Bartlett Avenue

Mark Kaepplein, 11 Palmer Street

Gina Carme, 55 Claremont Avenue

Eric Reed, 158 Jerome Street, Medford

Maryfrancis Conrad, 50 Edgehill Road

A person who signed in as “Dee Peeple” listing an address of 30 Harlow Street

There will be no **Public Comment** agenda item. As part of the agenda, members of the public who wish to comment on individual agenda items will have the opportunity to join the discussion. Mr. Schlichtman provided notice that this is a hybrid meeting held under the requirements of Massachusetts state law.

Approval of Minutes –

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was voted to approve the minutes of May 17, 2023. **Roll Call:**

Laura Gitelson	Yes	Paul Schlichtman	Yes
Jeff Thielman	Yes		(3-0)

Aligning district policies with the resolution affirming LGBTQIA+ Community

File ACA - NONDISCRIMINATION ON THE BASIS OF SEX, SEXUAL ORIENTATION, OR GENDER IDENTITY

Mr. Schlichtman presented proposed revisions to File ACA. He explained that he looked for regulatory language aligned with the resolution enacted at the June 15, 2023 School Committee meeting. Dr. Homan stated that the district’s current practice is aligned with the revised policy. Mr. Thielman noted the letter from the Massachusetts Family Institute (MFI), and asked if we sought advice from legal counsel. Mr. Schlichtman said he forwarded the letter and the proposed policy to Town Counsel Doug Heim in the morning. Mr. Schlichtman noted that we won’t have a first reading of the policy until the first school committee meeting in September, so we have time to work with Counsel before making a recommendation to the full committee. This would require the subcommittee to meet again in late August or early September.

Ms. Gitelson asked if the posting requirements in the June resolution was included in the revised policy. Mr. Schlichtman answered in the negative. Dr. Homan suggested that the intent of the resolution could be served with language in the school handbooks. At Ms. Gitelson’s request, a sentence was added to the draft, calling for the publication in the handbooks.

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was **voted** to refer the proposed revisions of File ACA to town counsel. **Roll Call:**

Laura Gitelson	Yes	Paul Schlichtman	Yes
Jeff Thielman	Yes		(3-0)

File ACA-E - GUIDANCE FOR MASSACHUSETTS PUBLIC SCHOOLS CREATING A SAFE AND SUPPORTIVE SCHOOL ENVIRONMENT

Mr. Schlichtman noted that the source of our policy revisions came from state and federal requirements, and it might be instructive to include the more-detailed DESE guidance as an exhibit attached to File ACA.

(On a **motion** by Ms. Gitelson, seconded by Mr. Thielman, it was **voted** to recommend File ACA-E to the school committee for first reading.. **Roll Call:**

Laura Gitelson	Yes	Paul Schlichtman	Yes
Jeff Thielman	Yes		(3-0)

File: JJ-E - CO-CURRICULAR AND EXTRACURRICULAR ACTIVITIES

Mr. Schlichtman explained that the language that was being added was taken from MIAA requirements for participating districts: “Students may participate in all physical education, athletics, and other extracurricular activities according to their gender identity, without requiring legal or medical documentation.”

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was **voted** to recommend File JJ-E, as amended, to the school committee for first reading.. **Roll Call:**

Laura Gitelson	Yes	Paul Schlichtman	Yes
Jeff Thielman	Yes		(3-0)

File: AC-R NON-DISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION

Mr. Schlichtman said the current policy lists Dr. Roderick MacNeal, Assistant Superintendent, as the District ADA, Title VI, Title IX, and Sexual Harassment Coordinator, and Grievance Officer, and asked to amend the policy. Mr. Thielman noted that the address would also need to be changed when central office moves to Mill Street. Ms. Gitelson said that a title change to Deputy Superintendent might also be required in other policies. After a discussion, the committee decided it would be more efficient to authorize the Superintendent to make administrative corrections to contact information in the policy manual.

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was **voted** to recommend the full committee vote to authorize the Superintendent to make administrative changes to any and all policies containing the title Assistant Superintendent, and the street address of the central office. **Roll Call:**

Laura Gitelson	Yes	Paul Schlichtman	Yes
Jeff Thielman	Yes		(3-0)

John DiModica asked about the process of amending the policies, and how members of the community could express their opinions. Mr. Schlichtman explained this was the first step in the process. In the case of File ACA, it will go to Town Counsel for review and come back to the Policies and Procedures Subcommittee before making a recommendation to the full school committee. He said the full committee would have two readings before adoption. Mr. Schlichtman suggested written remarks, particularly if people wanted to address the legality of the proposed amendments. Mr. DiModica asked if these were discretionary changes, or if the changes were mandated. Mr. Schlichtman said all the changes reflected state and federal regulations, and MIAA requirements, and were not discretionary.

File: AC - NON-DISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION

Mr. Schlichtman explained there was a typo in File AC, where the district name was not inserted in a space denoted by a blank line. Mr. Schlichtman asked the subcommittee to recommend a correction to the policy.

On a **motion** by Ms. Gitelson, seconded by Mr. Thielman, it was **voted** to recommend File AC, as amended, to the school committee for first reading. **Roll Call:**

Laura Gitelson	Yes	Paul Schlichtman	Yes
Jeff Thielman	Yes		(3-0)

File JLCD ADMINISTERING MEDICINES TO STUDENTS

Dr. Allison-Ampe reported that district policies do not align with state regulations pertaining to administering medicines to students, specifically 105 CMR 210.00; 105 CMR 210.003; 244 CMR 3.00. Mr. Schlichtman and Dr. Allison-Ampe both stated they lack the technical expertise to rewrite the policy. Dr. Homan suggested that we ask Doreen Crowe, the Director of Health and Nursing Services, for suggestions to bring the policy into alignment with regulations. On a **motion** by Ms. Gitelson, seconded by Mr. Thielman, it was **voted** to ask the Director of Health and Nursing Services recommend changes to File JLC and File JLCD in order to bring the district into compliance. **Roll Call:**

Laura Gitelson	Yes	Paul Schlichtman	Yes
Jeff Thielman	Yes		(3-0)

File ADF - NUTRITION AND WELLNESS POLICY

Ms. Morgan served as the School Committee representative to the district’s Wellness Committee. She led the discussion of the proposed changes to File ADF, in order to align policy to current regulations, and walked the subcommittee through the proposed changes. The subcommittee discussed the difference between classroom celebrations and school celebrations. The discussion focused on whether a grade-level celebration was considered a classroom or school celebration. Dr. Homan said she viewed any celebration that involved multiple classrooms was subject to approval by the principal, thus a school celebration. The subcommittee added language to prohibit food to be used as a reward. The subcommittee discussed the membership of the Wellness Committee. The existing policy was silent on how members were chosen to serve on the committee. The subcommittee added language to have the superintendent appoint members in consultation with the Director of Nursing Services, except that the School Committee shall designate one of its members to serve on the committee. The subcommittee added at least one classroom teacher to the committee.

On a **motion** by Mr. Thielman, seconded by Ms. Gitelson, it was **voted** to recommend File ADF, as amended, to the school committee for first reading. **Roll Call:**

Laura Gitelson	Yes	Paul Schlichtman	Yes
Jeff Thielman	Yes		(3-0)

Future Agenda Items

Dr. Allison-Ampe asked the subcommittee to consider any necessary revisions to File BEDH – in light of recent court decisions pertaining to Public Comment at public meetings.

Adjourn 3:51

On a **motion** by Ms. Gitelson, seconded by Mr. Thielman, it was **voted to adjourn** at 3:51 p.m. **Roll Call:**

Laura Gitelson	Yes	Paul Schlichtman	Yes
Jeff Thielman	Yes		(3-0)

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File: ACA NONDISCRIMINATION ON THE BASIS OF SEX, SEXUAL ORIENTATION, OR GENDER IDENTITY

The Arlington School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school district does not and will not discriminate on the basis of sex, sexual orientation or gender identity in the educational programs and activities of the public schools. This policy will extend not only to students with regard to educational opportunities, but also to employees with regard to employment opportunities.

The School Committee will continue to ensure fair and equitable educational and employment opportunities, without regard to sex, sexual orientation or gender identity, to all of its students and employees.

Students and employees have the right to be addressed by a name and pronouns corresponding to their gender identity. No person shall be required to obtain a court order or medical documentation in order to be addressed by the name and pronouns that correspond to their gender identity.

Students and employees shall have access to the restroom that corresponds to their gender identity at school. A single stall, gender-neutral bathroom shall be available and may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such a single stall bathroom shall be a matter of choice for a student, and no student shall be compelled to use such bathroom.

Information about a student's assigned birth sex, name change for gender identity purposes, gender transition, medical or mental health treatment related to gender identity, or any other information of a similar nature, regardless of its form, is part of the individual's student record, is confidential, and must be kept private and secure, except in limited circumstances consistent with 603 CMR § 23.04. When a student new to a school is using a chosen name, the birth name is considered private information and may be disclosed only with authorization as provided under the Massachusetts Student Records Regulations. If the student has previously been known at school or in school records by their birth name, the principal should direct school personnel to use the student's chosen name. Every effort should be made to update student records with the student's chosen name and not circulate records with the student's assigned birth name. Records with the student's assigned birth name should be kept in a separate, confidential file.

The Arlington Public Schools shall provide training to all certified district-level and schoolbased administrators regarding the district's obligations to prevent and address gender-based discrimination as well as implementation of the policies, procedures, and regulations, and best practices for creating a nondiscriminatory school environment for transgender students. Site administrators shall, throughout each school year, provide this information to all faculty and staff during existing trainings, meetings, and other appropriate opportunities.

The Arlington Public Schools shall inform the school community of this policy in its school handbooks.

The Committee will designate an individual to act as the school district's Title IX compliance officer. All students and employees will be notified of the name and office address and telephone number of the compliance officer.

SOURCE: MASC - Updated 2022
Revised

LEGAL REFS.: Title IX of the Education Amendments of 1972

45 CFR, Part 86, (Federal Register, 6/4/75)

M.G.L. [76:5](#); [76:16](#) (Chapter 622 of the Acts of 1971)

BESE 603 CMR [26:00](#); 603 CMR [26.06](#) 603
CMR 23.00; 603 CMR § 23.04.

REFERENCE: USDOE Notice of Interpretation - <https://www.ed.gov/news/press-releases/usdepartment-education-confirms-title-ix-protects-students-discrimination-based-sexualorientation-and-gender-identity>

CROSS REF.: [AC](#), Nondiscrimination Policy Including Harassment and Retaliation

File ACA-E: Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment

The following guidance has been published by the Massachusetts Department of Elementary and Secondary Education, as revised on October 28, 2021.

<https://www.doe.mass.edu/sfs/lgbtq/genderidentity.html>

Nondiscrimination on the Basis of Gender Identity

An Act Relative to Gender Identity (Chapter 199 of the Acts of 2011),¹ which became effective on July 1, 2012, amended several Massachusetts statutes prohibiting discrimination on the basis of specified categories, to include discrimination on the basis of gender identity. Among the statutes amended is G.L. c. 76, § 5, prohibiting discrimination on the basis of gender identity against students who enroll in or attend the public schools. G.L. c. 76, §5 now reads as follows:

Every person shall have a right to attend the public schools of the town where he actually resides, subject to the following section. No school committee is required to enroll a person who does not actually reside in the town unless said enrollment is authorized by law or by the school committee. Any person who violates or assists in the violation of this provision may be required to remit full restitution to the town of the improperly-attended public schools. No person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin or sexual orientation.

In June 2012, the Massachusetts Board of Elementary and Secondary Education (Board) adopted revised Access to Equal Education Opportunity Regulations, 603 CMR 26.00, and Charter School Regulations, 603 CMR 1.00, to reflect the broadened student anti-discrimination provision in G.L. c. 76, §5. The Board also directed the Department of Elementary and Secondary Education (Department) to provide guidance to school districts to assist in implementing the gender identity provision.

All students need a safe and supportive school environment to progress academically and developmentally. Administrators, faculty, staff, and students each play an important part in creating and sustaining that environment. This guidance is intended to help school and district administrators take steps to create a culture in which transgender and gender nonconforming students feel safe, supported, and fully included, and to meet each school's obligation to provide equal educational opportunities for all students, in compliance with G.L. c. 76, §5 and the state regulations. The guidance sets out general principles based on the law, and addresses common issues regarding transgender and gender nonconforming students. It offers case studies based on experiences of schools and students in Massachusetts, and reflects the need to consider issues on a case-by-case basis. The list of issues is not exhaustive, and the examples are intended to be illustrative, not prescriptive.

In preparing this guidance, the Department reviewed policies and guidance from several states, organizations, and athletic associations and consulted with the field. We appreciate the input we

received from school and district administrators, advocacy groups, parents, students, and other interested constituents.

Definitions

Understanding the terminology associated with gender identity is important to providing a safe and supportive school environment for students whose rights are protected under the law. The following terms appear in this document and are defined to assist in understanding the guidance presented. Although these are the most commonly used terms, students may prefer other terms to describe their gender identity, appearance, or behavior. The term "gender identity" is specifically defined in the Mass. General Laws, as amended by *An Act Relative to Gender Identity* (the gender identity law).

- **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:** as defined in part at G.L. c. 4, § 7, is "a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth ..."
- **Gender nonconforming:** a term used to describe people whose gender expression differs from stereotypic expectations. The terms "gender variant" or "gender atypical" are also used.
- **Transgender:** an umbrella term used to describe a person whose gender identity or gender expression is different from that traditionally associated with the assigned sex at birth.

The Law

The gender identity law amended G.L. c. 76, § 5,² to establish that no person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of *gender identity*, among other characteristics. The amended Access to Equal Educational Opportunity regulations, 603 CMR 26.00, and the non-discrimination provision of the Charter School regulations, 603 CMR 1.00, require schools to establish policies and procedures, provide training, and implement and monitor practices to ensure that obstacles to equal access to school programs are removed for all students, including transgender and gender nonconforming students.

All districts and schools should review existing policies, handbooks, and other written materials to ensure that they are updated to reflect the new law. At a minimum, this means including the category of "gender identity" within the identification of legally protected characteristics. For example:

The [] Public Schools strives to provide a safe, respectful, and supportive learning environment in which all students can thrive and succeed in its schools. The [] Public Schools prohibits discrimination on the basis of race, color, sex, gender identity, religion, national origin, or sexual orientation and ensures that all students have equal rights of

access and equal enjoyment of the opportunities, advantages, privileges, and courses of study.

The gender identity law reflects the reality that transgender and gender nonconforming students are enrolled in Massachusetts public schools. These students, because of widespread misunderstanding and lack of knowledge about their lives, are at a higher risk for peer ostracism, victimization, and bullying. The 2011 National School Climate Survey by the Gay, Lesbian & Straight Education Network (GLSEN), found that 75.4% of transgender students had been verbally harassed in the previous year, 32.1% had been physically harassed, and 16.8% had been physically assaulted. Educators play an essential role in advocating for the well-being of these students and creating a school culture that supports them.

Understanding Gender Identity

The gender identity law defines "gender identity" to mean "a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth."³ The law also states that "[g]ender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose."⁴

Transgender youth are those whose assigned birth sex does not match their internalized sense of their gender (their "gender-related identity"), and gender nonconforming youth are those whose gender-related identity does not meet the stereotypically expected norms associated with their assigned sex at birth. A transgender boy, for example, is a youth who was assigned the sex of female at birth but has a clear and persistent identity as male. A transgender girl is a youth who was assigned the sex of male at birth but has a clear and persistent identity as female. Gender nonconforming youth range in the ways in which they identify as male, female, some combination of both, or neither.

The responsibility for determining a student's gender identity rests with the student or, in the case of young students not yet able to advocate for themselves, with the parent.⁵ One's gender identity is an innate, largely inflexible characteristic of each individual's personality that is generally established by age four, although the age at which individuals come to understand and express their gender identity may vary based on each person's social and familial social development.⁶ As a result, the person best situated to determine a student's gender identity is that student himself or herself.

In one Massachusetts town, the parents of a pre-school-age biologically female child noted throughout the child's early years that their child identified as a boy. For as long as the parents could remember, the child preferred to play with boys rather than girls, wanted a short haircut, rejected wearing any clothing that the child identified as "something a girl would wear," and ignored anyone who called him by his stereotypically

feminine name. When it was time for the child to enter kindergarten, the child said to his parents, "You have to tell them when I go to kindergarten that I'm a boy."

Consistent with the statutory standard, a school should accept a student's assertion of his or her gender identity when there is "consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity." If a student's gender-related identity, appearance, or behavior meets this standard, the only circumstance in which a school may question a student's asserted gender identity is where school personnel have a credible basis for believing that the student's gender-related identity is being asserted for some improper purpose.

In most situations, determining a student's gender identity is simple. A student who says she is a girl and wishes to be regarded that way throughout the school day and throughout every, or almost every, other area of her life, should be respected and treated like a girl. So too with a student who says he is a boy and wishes to be regarded that way throughout the school day and throughout every, or almost every, other area of his life. Such a student should be respected and treated like a boy.

The statute does not *require* consistent and uniform assertion of gender identity as long as there is "other evidence that the gender-related identity is sincerely held as part of [the] person's core identity." Many transgender people experience discrimination, and some experience violence due to their status. Some environments may feel safe and inclusive, and others less so, challenging a person's ability to live consistently with one gender identity in all aspects of life. For example, it is possible that a biologically male student with a female gender identity who lives as a girl does not express her female gender identity all the time. In one case, such a student agreed to present as a boy when visiting relatives until the student's parents could explain the student's transgender identity to them. The fact that the student did not exclusively assert her female identity did not alter the fact that she had a female gender identity.

Confirmation of a student's asserted gender identity may include a letter from a parent, health care provider, school staff member familiar with the student (a teacher, guidance counselor, or school psychologist, among others), or other family members or friends. A letter from a social worker, doctor, nurse practitioner, or other health care provider stating that a student is being provided medical care or treatment relating to her/his gender identity is one form of confirmation of an asserted gender identity. It is not, however, the exclusive form upon which the school or student may rely. A letter from a clergy member, coach, family friend, or relative stating that the student has asked to be treated consistent with her/his asserted gender identity, or photographs at public events or family gatherings, are other potential forms of confirmation. These examples are intended to be illustrative rather than comprehensive.

In one Massachusetts middle school, a biologically male student explained to her guidance counselor that she was a transgender girl who expressed her female gender identity only at home. The stress associated with having to hide her female gender identity at school was having a negative impact on her mental health, as well as on her academic performance. The student and her parents asked if it would be okay if she expressed her female gender identity at school. The guidance counselor assured the

student and her parents that she could do so. The fact that the student presented no documentation to support her gender identity was not a concern since the school had no reason to believe the request was based on anything other than a sincerely held belief that she had a female gender identity.

Gender Transition

Many, though not all, transgender youth undergo the experience of gender transition. The term "gender transition" describes the experience by which a person goes from living and identifying as one gender to living and identifying as another. For most youth, and for all young children, the experience of gender transition involves no medical intervention. Rather, most transgender youth will undergo gender transition through a process commonly referred to as "social transition," whereby they begin to live and identify as the gender consistent with their gender-related identity. Some transgender youth who are close to reaching puberty, or after commencing puberty, may complement social transition with medical intervention that may include hormone suppressants, cross-gender hormone therapy, and, for a small number of young people, a range of gender-confirming surgeries. The decision about whether and how to undergo gender transition is personal and depends on the unique circumstances of each individual. There is no threshold medical or mental health diagnosis or treatment requirement that any student must meet in order to have his or her gender identity recognized and respected by a school.

Some transgender and gender nonconforming students are not openly so at home for reasons such as safety concerns or lack of acceptance. School personnel should speak with the student first before discussing a student's gender nonconformity or transgender status with the student's parent or guardian. For the same reasons, school personnel should discuss with the student how the school should refer to the student, e.g., appropriate pronoun use, in written communication to the student's parent or guardian.

Names and Pronouns

The issue of the name and pronoun to use in referring to a transgender student is one of the first that schools must resolve to create an environment in which that student feels safe and supported. Transgender students often choose to change the name assigned to them at birth to a name that is associated with their gender identity. As with most other issues involved with creating a safe and supportive environment for transgender students, the best course is to engage the student, and in the case of a younger student, the parent, with respect to name and pronoun use, and agree on a plan to initiate that name and pronoun use within the school. The plan also could include when and how this is communicated to students and their parents. In the case of a transgender student who is enrolling at a new school, it is important that the school respect the student's privacy (see the following section) and chosen name.

In one situation where a transgender girl was entering high school, she and her parent asked the principal to inform her teachers that even though her school records indicate that her name is John, she goes by the name Jane and uses female pronouns. The school principal sent the following memorandum to the student's classroom teachers: "The student John Smith wishes to be referred to by the name Jane Smith, a name that is consistent with the student's female gender identity. Please be certain to use the student's

preferred name in all contexts, as well as the corresponding pronouns. It is my expectation that students will similarly refer to the student by her chosen name and preferred pronouns. Your role modeling will help make a smooth transition for all concerned. If students do not act accordingly, you may speak to them privately after class to request that they do. Continued, repeated, and intentional misuse of names and pronouns may erode the educational environment for Jane. It should not be tolerated and can be grounds for student discipline. If you need any assistance to make sure that Jane Smith experiences a safe, nondiscriminatory classroom atmosphere, please contact me or Ms. O'Neill. - Mr. Jones, Principal."

Massachusetts' law recognizes common law name changes. An individual may adopt a name that is different from the name that appears on his or her birth certificate provided the change of name is done for an honest reason, with no fraudulent intent. Nothing more formal than usage is required.⁷ Hence, when requested, schools should accurately record the student's chosen name on all records, whether or not the student, parent, or guardian provides the school with a court order formalizing a name change.

The Department has a procedure in place to update name changes and gender markers in the Student Information Management System (SIMS) upon request. The document *Assigning State Assigned Student Identifiers (SASIDs) to Massachusetts' Public School Students* guides schools through changing names and gender markers on school records.

In sum, school personnel should use the student's chosen name and pronouns appropriate to a student's gender identity, regardless of the student's assigned birth sex. For those students who have been attending a school and undergo gender transition while attending the same school, it is important to develop a plan for initiating use of the chosen name and pronouns consistent with the student's gender identity.

Privacy, Confidentiality, and Student Records

Under state law, information about a student's assigned birth sex, name change for gender identity purposes, gender transition, medical or mental health treatment related to gender identity, or any other information of a similar nature, regardless of its form, is part of the individual's student record (*see* Massachusetts Student Records Regulations, 603 CMR 23.00), is confidential, and must be kept private and secure, except in limited circumstances. 603 CMR § 23.04.⁸ One circumstance is when authorized school personnel require the information to provide administrative, teaching, counseling, or other services to the student in the performance of their official duties. For transgender students, authorized school personnel could include individuals such as the principal, school nurse, classroom teacher(s), or guidance or adjustment counselor. When a student new to a school is using a chosen name, the birth name is considered private information and may be disclosed only with authorization as provided under the Massachusetts Student Records Regulations. If the student has previously been known at school or in school records by his or her birth name, the principal should direct school personnel to use the student's chosen name. Every effort should be made to update student records (for example,

Individualized Education Programs) with the student's chosen name and not circulate records with the student's assigned birth name. Records with the student's assigned birth name should be kept in a separate, confidential file.

One school nurse dealt with information in the student's file by starting a new file with the student's chosen name, entered previous medical information (for example, immunizations) under the student's chosen name, and created a separate, confidential folder that contained the student's past information and birth name.

When determining which, if any, staff or students should be informed that a student's gender identity is different from the assigned birth sex, decisions should be made in consultation with the student, or in the case of a young student, the student's parent or guardian. The key question is whether and how sharing the information will benefit the student.

In one case, parents of a transgender male-to-female elementary school student requested that only the school principal and the school nurse be aware that the student was assigned the sex of male at birth. After a discussion with the school principal, the parents agreed that the student's teacher, the school secretary, and the district superintendent would also be informed. In this situation, the school principal kept the student's birth certificate in a separate, locked file that only the principal could access, and put a note in the student's other file saying that the principal had viewed the student's birth certificate. In another situation, where a biological male came to school after April vacation as a girl, the school principal and guidance counselor, in collaboration with the student and her parents, developed a plan for communicating information regarding the student's transition to staff, parents, and students. The plan included who was going to say what to whom, and when the communication would take place.

Transgender and gender nonconforming students may decide to discuss and express their gender identity openly and may decide when, with whom, and how much to share private information. A student who is 14 years of age or older, or who has entered the ninth grade, may consent to disclosure of information from his or her student record. If a student is under 14 and is not yet in the ninth grade, the student's parent (alone) has the authority to decide on disclosures and other student record matters.⁹

Gender Markers on Student Records

A gender marker is the designation on school and other records that indicates a student's gender. For most students, records that include an indication of a student's gender will reflect a student's assigned birth sex. For transgender students, however, a documented gender marker (for example, "male" or "female" on a permanent record) should reflect the student's gender identity, not the student's assigned sex. This means that if a transgender student whose gender identity is male has a school record that reflects an assigned birth sex as female, then upon request by the student or, in the case of young students not yet able to advocate for themselves, by the parent or guardian, the school should change the gender marker on the record to male.¹⁰ Schools are advised to collect or maintain information about students' gender only when necessary.

One school reviewed the documentation requests it sent out to families and noticed that field trip permission forms included a line to fill in indicating the student's gender. Upon consideration, the school determined that the requested information was irrelevant to the field trip activities and deleted the line with the gender marker request.

In addition, transgender students who transition after having completed high school, may ask their previous schools to amend school records or a diploma or transcript that include the student's birth name and gender. When requested, and when satisfied with the gender identity information provided, schools should amend the student's record, including reissuing a high school diploma or transcript, to reflect the student's current name and gender.

Restrooms, Locker Rooms, and Changing Facilities

All students are entitled to have access to restrooms, locker rooms and changing facilities that are sanitary, safe, and adequate, so they can comfortably and fully engage in their school program and activities. In meeting with the transgender student (and parent) to discuss the issues set forth in this memorandum, it is essential that the principal and student address the student's access to the restrooms, locker room and changing facility. Each situation needs to be reviewed and addressed based on the particular circumstances of the student and the school facilities. In all cases, the principal should be clear with the student (and parent) that the student may access the restroom, locker room, and changing facility that corresponds to the student's gender identity. While some transgender students will want that arrangement, others will not be comfortable 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 not be comfortable undressing in the changing facilities that correspond to the student's gender identity. The following are examples of ways in which school officials have responded to these situations:

In one elementary school, a transgender second-grader socially transitioned from female to male. The principal informed the staff: For the remainder of this year, he will use Nurse Margaret's restroom, and toward the end of the year we will make future determinations of restroom use in consultation with his family.

In one middle school, a male-to-female transgender sixth-grader socially transitioned after spring break. For the rest of the school year, she used the nurse's restroom and the other unisex restrooms at the school. Beginning in seventh grade, she used the girls' restroom.

In one high school, a transgender male-to-female student was given access to the female changing facility, but the student was uncomfortable using the female changing facility with other female students because there were no private changing areas within the facility. The principal examined the changing facility and determined that curtains could easily be put up along one side of a row of benches near the group lockers, providing private changing areas for any students who wished to use them. After the school put up the curtains, the student was comfortable using the changing facility.

Some students may feel uncomfortable with a transgender student using the same sex-segregated restroom, locker room or changing facility. This discomfort is not a reason to deny access to the transgender student. School administrators and counseling staff should work with students to address the discomfort and to foster understanding of gender identity, to create a school culture that respects and values all students.

The Department strongly recommends that districts include an appropriate number of genderneutral restrooms commensurate with the size of the school, and at least one gender-neutral changing facility, into the design of new schools and school renovations.

School staff as well as students and their families may find the use of restrooms and changing facilities to be among the more challenging issues presented by the gender identity law, perhaps due to issues of personal privacy. As emphasized in other sections of this guidance, these issues should be resolved on a case-by-case basis, through dialogue with students and parents, and through leadership in creating safe and supportive learning environments.

Physical Education Classes and Intramural and Interscholastic Athletic Activities Physical education is a required course in all grades in Massachusetts' public schools, and school-based athletics are an important part of many students' lives. Most physical education classes in Massachusetts' schools are coed, so the gender identity of students should not be an issue with respect to these classes. Where there are sex-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. With respect to interscholastic athletics, the Massachusetts Interscholastic Athletic Association will rely on the gender determination made by the student's district; it will not make separate gender identity determinations.

At one school, a transgender girl joined the girls' cheerleading squad. The school supported the student's participation on the team. When the team was going to a regional competition, however, several of the team members raised a concern that the school would be made to compete in the coed cheerleading portion of the competition rather than in the all-girls portion for which they prepared. With the permission of the student, the principal wrote a letter that she gave to the coach to take to the competition in case officials at the competition questioned the team's participation in the all-girls' portion of the event. The letter explained: "Student, Jane Smith, is a transgender girl who has been a member of the girls' team since (date). Jane has a sincerely held female gender identity and, therefore, according to state law must be permitted to participate as a girl on the girls' cheerleading team." The team participated in the regional competition without incident.

Other Gender-Based Activities, Rules, Policies, and Practices

As a general matter, schools should evaluate all gender-based policies, rules, and practices and maintain only those that have a clear and sound pedagogical purpose. Gender-based policies, rules, and practices can have the effect of marginalizing, stigmatizing, and excluding students, whether they are gender nonconforming or not. In some circumstances, these policies, rules, and

practices may violate federal and state law. For these reasons, schools should consider alternatives to them.

Whenever students are separated by gender in school activities or are subject to an otherwise lawful gender-specific rule, policy, or practice, students must be permitted to participate in such activities or conform to such rule, policy, or practice consistent with their gender identity.

The new law on gender identity provides a good opportunity for schools to review their gender-distinct policies. For example, some schools require students to wear gender-based garb for graduation or have gender-based dress codes for prom, special events, and daily attire. Schools should eliminate gendered policies and practices such as these. For example, one school that previously had blue graduation gowns for boys and white ones for girls switched to blue gowns for all graduates. The school also changed its gender-based dress code for the National Honor Society ceremony, which had required girls to wear dresses.

Similarly, some classroom teachers may routinely include gender-based practices in the classroom. For example, some teachers may have boys and girls line up separately to leave the classroom to go to lunch, the gymnasium, restrooms, or recess, and may never have considered the educational value of non-gendered alternatives, such as having students line up in the order of their birthdays, or alphabetically by name, or in the order in which they are sitting.¹¹

Education and Training

In order to further a safe and supportive school environment for all students, schools should incorporate education and training about transgender and gender nonconforming students into their anti-bullying curriculum, student leadership trainings, and staff professional development.

As with other efforts to promote a positive school culture, it is important that student leaders and school personnel, particularly school administrators, become familiar with the gender identity law, regulations, guidance, and related resources, and that they communicate and model respect for the gender identity of all students.

Professional development for school staff could include topics on gender identity and gender nonconformity such as: the *Massachusetts Student Anti-discrimination Law and Regulations*; the DESE Guidance on *Notifying Parents When a Student Has Been Bullied Based on Sexual Orientation or Gender Identity/Expression*; key terms related to gender identity and expression; the development of gender identity; the experiences of transgender and other gender nonconforming students; risk and resilience data regarding transgender and gender nonconforming students; ways to support transgender students and to improve the school climate for gender nonconforming students; gender-neutral language and practices; and this guidance.

Communication with School Community and Families

Superintendents and principals need to review existing policies, handbooks, and other written materials to ensure that they are updated to reflect the inclusion of *gender identity* in the student antidiscrimination law, and may wish to inform all members of the school community, including school personnel, students, and families, of the recent change to state law and its implications for school policy and practice. This could take the form of a letter that states the school's

commitment to being a supportive, inclusive environment for all students, as well as the school's legal obligation to provide equal educational opportunities for all students. Such a letter might include the definitions provided at the beginning of this document and some basic information about transgender and gender nonconforming youth; a link to the school's anti-bullying and antiharassment policies; a link to this guidance; and other resources, including individuals to contact with additional questions.¹²

Conclusion

This guidance cannot anticipate every situation in which questions may come up in the implementation of this law, and the needs of each transgender or gender nonconforming student should be assessed and addressed on a case-by-case basis. The Department will continue to provide assistance, support, and resources as we work together to create a safe and supportive school environment for all students.

For further information or questions about the content of this guidance, please contact the Safe Schools Program for LGBTQ Students via Safeschoolsprogram@doe.mass.edu.

Note:

- ¹ The Act can be found at [An Act Relative to Gender Identity](#)
- ² The Act amends several other statutes as well, including G.L. c. 151B (governing nondiscrimination in employment), to prohibit discrimination on the basis of gender identity.
- ³ Mass. Gen. Laws. Ch. 4, § 7 (2012).
- ⁴ *Id.*
- ⁵ When used in this document, the term "parent" refers to parent as well as legal guardian.
- ⁶ See Gerald P. Mallon, "Practice with Transgendered Children," in *Social Services with Transgendered Youth* 49, 55-58 (Gerald P. Mallon ed., 1999). See also Stephanie Brill & Rachel Pepper, "Developmental Stages and the Transgender Child," in *The Transgender Child*, 61-64.
- ⁷ For certain transactions, such as banking and applying for governmental benefits or licenses, it may be necessary to have a formal legal document establishing one's change of name for identity and other purposes.
- ⁸ The federal Family Educational Rights and Privacy Act, 20 USC 1232g, also protects the privacy of education records and requires that personally identifiable information be kept secure and confidential.
- ⁹ See 603 CMR §§23.01 and 23.07. If a student is from 14 through 17 years of age or has entered ninth grade, both the parent and the student may make decisions concerning the student record, or either the student or the parent acting alone may decide.

¹⁰ As discussed in the section on Names and Pronouns, the Department's publication *Assigning State Assigned Student Identifiers (SASIDs) to Massachusetts' Public School Students* guides district staff through the process of adding or revising SIMS data.

¹¹ [Gender and Children: A Place to Begin for Educators](#)

¹² For example, a letter from one principal explained: *"All people have a gender identity. For most people, their gender identity matches their assigned sex at birth. For transgender people, that is not the case. Transgender girls are individuals who were assigned the male sex at birth but whose lived experience of who they are is female. Transgender boys are individuals who were assigned the female sex at birth but whose lived experience of who they are is male. As a school community, we want to provide a safe environment and support all of our students so they can achieve academically. That means making sure that our school's policies and practices are inclusive and respectful of all students, including transgender students. Toward that end, we have [describe steps taken to implement the law]."*

Last Updated: October 28, 2021

File: JJ-E - CO-CURRICULAR AND EXTRACURRICULAR ACTIVITIES

1. Advantages and privileges of public schools include all extracurricular activities made available, sponsored or supervised by any public school. No school shall sponsor or participate in the organization of outside extra-curricular activities conducted as such school which restrict students' participation on the basis of race, color, sex, religion or national origin. 603 CMR [26.06](#)(1) does not prohibit School Committees from allowing use of school premises by independent groups with restrictive membership.
2. No student shall be denied the opportunity in any implied or explicit manner to participate in an extra-curricular activity because of the race, color, sex, religion or national origin of the student except as provided in 603 CMR [26.06](#) (7).
3. Each school system shall provide a fair distribution of athletic expenditures. Each school within such system shall provide equal opportunity for male and female students to participate in intramural and interscholastic sports. Factors considered in determining equal opportunity shall include budgetary allocations, the proportion of male and female students in the student body, the number and nature of activities offered, levels of competition, equipment (including rate of replacement), supplies, awards, uniforms, facilities, scheduling of games and practice times, travel opportunities and allowances, opportunities to receive equitable coaching and instruction at each level of competition and the availability of services such as medical and insurance coverage, publicity, clerical and administrative staff, scouting services and audio-visual aids. A set of guidelines shall be created to establish standards for use of booster club and/or athlete contributed funds on "extras", particularly as it applies to outerwear and senior and team gifts. Collaborative fundraising (for example: for all sports, for all those played during a given season, for all teams playing a given sport, for male and female sports) shall be encouraged.

4. In developing its athletic program, a school shall be required to demonstrate good faith by taking into account determined student interest.

5. In order to insure fair distribution of athletic expenditures as defined in 603 CMR [26.06](#)(4), each school shall indicate in the budget that is reviewed by the School Committee the anticipated expenditure for each interscholastic and intramural athletic activity and the anticipated student participation in the activity by number and sex.

6. A school may establish separate teams for males and females for interscholastic and intramural competition in a particular sport, provided that the requirements of 603 CMR [26.06](#)(8) are satisfied. **Students may participate in all physical education, athletics, and other extracurricular activities according to their gender identity, without requiring legal or medical documentation.**

7. Teams comprised primarily or solely of persons of one sex shall be granted equal instruction, training, coaching, access to available facilities, equipment and opportunities to practice and compete as teams engaged in a similar activity comprised primarily or solely of persons of the opposite sex.

8. Participation in extra-curricular activities shall be actively encouraged by each school for both boys and girls and for racial and ethnic minorities. When offering extra-curricular programs, schools shall take into consideration the ethnic traditions of the student body. Criteria not related to skill levels which act to exclude members of one sex of any racial, religious, or ethnic group represented in the school from participation in specific athletic or other extra-curricular activities cannot be permitted.

LEGAL REF.: M.G.L. [71:47](#)

603 CMR [26.06](#)

CROSS REF.: JBA, Athletic Facilities Improvement Needs

File: AC - NON-DISCRIMINATION POLICY INCLUDING HARASSMENT AND RETALIATION

The Arlington School Committee and Arlington Public Schools are committed to maintaining an education and work environment for all school community members. that is free from all forms of discrimination, including harassment and retaliation. The members of the school community include the School Committee, employees, administration, faculty, staff, students, volunteers in the schools, and parties contracted to perform work for the Arlington Public Schools.

Arlington Public Schools does not exclude from participation, deny the benefits of —PS the Arlington Public Schools from or otherwise discriminate against, individuals on the basis of race,* color, sex, sexual orientation, gender identity, religion, disability, age, genetic information, active military/veteran status, marital status, familial status, pregnancy, or pregnancy-related condition, homelessness, ancestry, ethnic background, national condition, homelessness, ancestry, ethnic background, national origin, or any other category protected by state or federal law in the administration of its educational and employment policies, or in its programs and activities.

This commitment to the community is affirmed by the following statements. The School Committee commits to:

1. Promoting the rights and responsibilities of all individuals as set forth in the State and Federal Constitutions, pertinent legislation, and applicable judicial interpretations.
2. Encouraging positive experiences in human values for children, youth and adults, all of whom have differing personal and family characteristics and who come from various socioeconomic, racial and ethnic groups.
3. Working toward a more integrated society and enlisting the support of individuals as well as groups and agencies, both private and governmental, in such an effort.
4. Using all appropriate communication and action techniques to air and address the grievances of individuals and groups.
5. Carefully consider, in all the decisions made within the school district, the potential benefits or adverse consequences that those decisions might have on the human relations.
6. Initiating a process of reviewing policies and practices of the school district in order to achieve to the greatest extent possible the objectives of this statement.

The Arlington Public Schools requires all members of the school community to conduct themselves in accordance with this policy.

It shall be a violation of this policy for any member of the school community to engage in any form of discrimination, including harassment and retaliation, or to violate any other civil right of any member of the school community. We recognize that discrimination can take a range of forms and can be targeted or unintentional; however, discrimination in any form, including harassment and retaliation, will not be tolerated.

It shall also be a violation of this policy for any school community member to subject any other member of the school community to any form of retaliation, including, but not limited to, coercion, intimidation, interference, punishment, discrimination, or harassment, for reporting or filing a complaint of discrimination, cooperating in an investigation, aiding or encouraging another member of the school community to report such conduct or file a complaint, or opposing any act or practice reasonably believed to be prohibited by this policy.

Arlington Public Schools

Amended by the Arlington School Committee: December 15, 2022

SOURCE: MASC August 2022

LEGAL REFS: Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 Executive Order 11246, as amended by E.O. 11375

Equal Pay Act, as amended by the Education Amendments of 1972 Title IX, Education Amendments of 1972

Rehabilitation Act of 1973

Education for All Handicapped Children Act of 1975

No Child Left Behind Act of 2001, 20 U.S.C. § 7905 (The Boy Scouts of America Equal Access Act)

M.G.L. [71B](#): et seq. (Chapter 766 of the Acts of 1972)

[Acts of 2022, Chapter 117](#) (*race to include traits historically associated with race, including, but not limited to, hair texture, hair type, hair length and protective hairstyles.)

CROSS REF: [ACE](#), Non-Discrimination on the Basis of Disability

[ACAB](#), Sexual Harassment

[GBA](#), Equal Employment Opportunity

[IJ](#), Instructional Materials

[JB](#), Equal Educational Opportunities

File: ADF - NUTRITION AND WELLNESS POLICY

The Arlington Public Schools support health, nutrition and physical activity for everyone.

The "Act Relative to School Nutrition" signed into law on July 10, 2010, and the amendment to this Act passed in June, 2012, requires the Massachusetts Department of Public Health to establish standards for competitive foods and beverages sold or provided in public schools during the day. The goal of the standards is to ensure that public schools offer students food and beverage choices that will enhance learning, contribute to their healthy growth and development, and cultivate life-long healthy eating behaviors. The regulations are part of the Commonwealth's broad-based, collaborative initiative to reduce childhood obesity and prevent its complications in childhood and later in adulthood. This policy has been developed to meet the requirements and is based on the following goals:

1. Students will acquire the knowledge, skills and motivation necessary to achieve and maintain optimum health and lifelong fitness.
2. The Arlington Public School District is committed to providing school environments that promote children's health, well-being, and ability to learn by supporting healthy eating and physical activity.
3. The Arlington Public School District will offer ongoing physical activities to assess, plan, implement, promote and evaluate student and staff wellness.

Staff and administration will work to incorporate physical activity during the school day as well as promote before and after school physical activity opportunities.

The Arlington Public Schools will strive to improve the health and wellness of our school community. Healthy children are the foundation of a healthy society and through healthy diet and maintenance of healthy body weight, we can reduce chronic diseases. Healthy, active, wellnourished children are better able to learn. Eating, health, and activity habits developed in youth will affect health throughout life. Following the principles of the Dietary Guidelines for Americans, a healthy diet includes foods from all food groups with limited portions of foods high in sugar, saturated and trans fat, and salt.

Nutrition

The district will follow [Smart Snacks in School Nutrition Standards](#) and [MA Nutrition Standards for Competitive Foods and Beverages](#) in Public Schools and be compliant with whichever is stricter. These standards apply to competitive foods and beverages sold or provided to students from midnight before until 30 minutes after the official school day ends. Foods and beverages sold in vending machines must comply with the standards at all times.

Food Sold For Fundraising: The Arlington Public Schools will allow only non-food items to be sold as part of school-sponsored fundraising activities during the school day. This mandate extends from midnight before until 30 minutes after the school day. Exemptions can be made for food sold only to adults during the school day and goods that are not intended for consumption during the school day.

School sponsored events to raise funds that do not take place during the school day are strongly encouraged to follow Smart Snack and MA Competitive food standards. The foods marketed on campus during the school day meet Smart Snacks criteria.

Healthy Classroom and School Celebrations

Classroom celebrations will be food free. School celebrations, including celebrations that involve multiple classrooms, will be considered with the approval of the building principal in collaboration with the school nurse, keeping health & safety in mind.

Curriculum Based Foods

Food is not to be used as a reward. Curriculum based food activities will need the building principal's approval in collaboration with the school nurse. If necessary, Family & Consumer Sciences (FACS) teachers in grades 7-12 will obtain a blanket approval from the building principals for the culinary classes. The FACS culinary teachers will be sure to obtain knowledge of food allergies, diabetes management information, etc. from the school and share recipes/foods involving classes with these students.

Nutrition Education

The Arlington Public Schools are dedicated to providing students with the knowledge and means to make healthy food choices, healthy lifestyle, and physical activity choices. This is accomplished by increasing awareness of the benefits of eating healthy, getting the recommended amount of daily physical activity, defining nutrition and physical activity goals through an integrated approach of nutrition topics in grades K-12.

Students Bringing in their own Food

Parents/Guardians may send their individual students to school with whatever food they deem appropriate. Healthy options are encouraged. Food should not be shared.

Access to Water

The Arlington Public Schools will make water available to all students during the day without charge.

Physical Fitness

The Arlington Public Schools values physical activity and physical fitness. Research indicates that physical activity has a positive impact on academic performance including improved concentration and memory, improved mathematics, reading and writing test scores, reduced stress, and reduced disruptive behavior. Physical Education provides opportunities for all students to develop the knowledge and skills for specific physical activities, to maintain physical fitness, to regularly participate in physical activity, to understand the short and long term benefits of a physically active lifestyle, and to plan for lifelong activity.

A comprehensive physical activity program encompasses opportunities for students to be physically active, including: physical education, recess, walk-to-school programs, after-school physical activity programs, and physical activity breaks within regular classrooms.

Daily Recess

All elementary school students will have daily-supervised recess, preferably outdoors, during which schools should encourage, verbally and through the provision of space and equipment, moderate to vigorous physical activity. To the extent possible, schools will endeavor to schedule recess prior to lunch since research indicates that physical activity prior to lunch can increase the nutrient intake and reduce food waste. Recess shall not be withheld for makeup work or for punishment. Outdoor recess should be provided for students at times when it is not precipitating, and the wind chill is above 20 degrees Fahrenheit.

Physical Activity Opportunities Before and After School

The Middle and High School will offer extracurricular physical activity programs, such as physical activity clubs or intramural programs. The Middle and High School as appropriate will offer interscholastic sports programs and other sports programs. The elementary schools, if possible, will offer extracurricular activities to support fitness and exercise. The Arlington Public Schools will offer a range of activities that meet the needs, interests, and abilities of all students.

Food Services

The Arlington School Food Service Department assures compliance with USDA nutrition standards for reimbursable school meals. This includes following the requirements for the National School Lunch and Breakfast Programs.

In addition, the Department will:

- Offer attractive appetizing healthy meals that are low in sugar, saturated fat, and salt, and high in fruits, low-fat dairy, vegetables and whole grains.
- Minimize the risk of exposure to food allergens that pose a threat to students, educate the community about allergies, and maintain and regularly update a system-wide protocol for responding to the needs of students with allergies.
- Provide food service employees annual professional development in accordance with the USDA Professional Standards.
- Utilize a Point of Sale system to protect the privacy of students who qualify for free or reduced price school meals so as to not overtly identify students.
- Ensure students will be fed regardless of lunch balance per district policy <https://z2policy.ctspublish.com/masc/browse/arlingtonset/arlington/EFD>
- Purchase local foods, especially fresh produce when logistically and financially feasible.
- Link local foods to educational opportunities in the cafeteria with promotional materials and taste tests of new foods
- Ensure students have access to free drinking water during all meals.

Wellness Committee

The Arlington Public Schools Wellness Committee, established by policy in 2006, shall continue to consist of at least one parent, student, nurse, school food representative, classroom teacher,

school administrator, member of the public, and other community members as appropriate, appointed by the superintendent in consultation with the Director of Nursing Services. The school committee shall designate one of its members to serve on this committee. Members will participate in the development, implementation and triennial review of the policy (which will include evaluation of policy language and implementation). The Wellness Committee will provide oversight of the policy and regulations and will meet at least four times a year. The superintendent or designee is in charge of ensuring policy and committee compliance across the district.

Implementation, Evaluation and Communication

Evaluation and measurement of progress toward the wellness goals is an integral component of the process to ensure and sustain student health, good nutrition and physical activity. Information relevant to school wellness, triennial assessments, meeting minutes and nutrition will be available to the School Committee and the public through the district website, except where it infringes on the right to privacy of students and staff. In particular, all contracts of the Arlington Public Schools and the School Food Service related to the sale or marketing of foods and beverages will be public information, available for inspection upon request from members of the community.

The Superintendent or designee may provide a report to the School Committee as requested describing the implementation of this Wellness Policy.

LEGAL REFS.: The Child Nutrition and WIC Reauthorization Act of 2004, section 204, P.L. 108-265

The Richard B. Russell National School Lunch Act, 42, U.S.C. 1751-1769h

The Child Nutrition Act of 1996, 42 U.S.C. 1771-1789

CROSS REFS.: [ADC](#), Smoking on School Premises

DJG, Vendor Relations

EBBA, First Aid

[EFC](#), Free and Reduced-Cost Food Services

GBGA, Staff Health

IHAE, Physical Education

[IHAM](#), Health Education

[IHAMA](#), Teaching About Alcohol, Tobacco, and Drugs

[JLCCB](#), Students with Life Threatening Allergies

[KI](#), Public Solicitations/Advertising in District Facilities

GENERAL REFS.:

At a Glance Sheet, by the Arlington Wellness Committee.

Healthy Students, Healthy Schools: Revised Guidance for Implementing the Massachusetts School Nutrition Standards for Competitive Foods and Beverages, June 2012. Developed by: Massachusetts Department of Public Health, Massachusetts Department of Elementary and Secondary Education, John C. Stalker Institute of Food and Nutrition and Framingham State University, Harvard School of Public Health and Boston Public Health Commission.

The Institute of Medicine's *Nutrition Standards for Foods in Schools* and the *Dietary Guidelines for Americans, 2010*.

American Dietetic Association, Society for Nutrition Education, and American School Food Service Association 2003 "*Nutrition services: an essential component of comprehensive health programs.*" *Journal of the American Dietetic Association* 103:505-514.

U.S. Department of Health and Human Services, Office of the Surgeon General. 2001. *The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity*.

Food and Nutrition Board, Institute of Medicine, the National Academies, 2005. *Preventing Childhood Obesity: Health in the Balance*. Jeffrey P. Koplan, Catharyn T. Liverman, Vivica I. Kraak, editors.

(n.d.). *Code of Federal Regulations* [Review of *Code of Federal Regulations*]. National Archives and Records Administration. Retrieved April 4, 2023, from <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-A/part210/subpart-C/section-210.10>

(2022, August 4). *Local School Wellness Policy* [Review of *Local School Wellness Policy*]. Centers for Disease Control and Prevention. <https://www.cdc.gov/healthyschools/nutrition/wellness.htm#:~:text=A%20local%20school%20wellness%20policy,nutrition%20and%20physical%20activity%20environments>.

(2014, December 5). *Massachusetts and USDA Competitive Foods and Beverage Nutrition Standards "At-a-Glance"* [Review of *Massachusetts and USDA Competitive Foods and Beverage Nutrition Standards "At-a-Glance"*]. <https://www.mass.gov/doc/massachusetts-competitive-foods-and-beverages-at-a-glance-chart/download>



MASSACHUSETTS FAMILY INSTITUTE

Dedicated to Strengthening the Family

July 21, 2023

Arlington School Committee
869 Mass. Ave., 6th Floor
Arlington, MA 02476

Re: Proposed Changes to Policy ACA, “Nondiscrimination on the Basis of Sex, Sexual Orientation, or Gender Identity.”

Dear Members of the School Committee,

My name is Sam Whiting and I am a staff attorney for Massachusetts Family Institute (MFI), a nonpartisan public policy organization dedicated to strengthening families in Massachusetts. MFI has numerous allies and constituents in Arlington and we are therefore deeply concerned about the proposed changes to Policy ACA, “Nondiscrimination on the Basis of Sex, Sexual Orientation, or Gender Identity.” These changes could undermine the rights of Arlington parents to make crucial decisions about their children’s upbringing and mental health, violate the free speech and religious freedom rights of Arlington School District’s employees and students, and create significant legal liability for the District. For those reasons, as more fully explained below, we urge the school committee to reject the proposed changes to policy ACA as they now stand.

1. Parental Rights Issues

The proposed changes to policy ACA could create significant legal issues with regard to parental rights. The policy states,

Students and employees have the right to be addressed by a name and pronouns corresponding to their gender identity [...] When a student new to a school is using a chosen name, the birth name is considered private information and may be disclosed only with authorization as provided under the Massachusetts Student Records Regulations. If the student has previously been known at school or in school records by his or her birth name, the principal should direct school personnel to use the student's chosen name. Every effort should be made to update student records with the student's chosen name and not circulate records with the student's assigned birth name.

The lack of any reference to parental rights with regard to student name changes in the proposed amendments to the policy is disturbing.

To the extent that this policy would allow the District to change a student's name in their student record against their parents' wishes, it would violate the Family Educational Rights and Privacy Act (FERPA).¹ Under FERPA, parents have a right to demand that a school correct a student record that contains inaccurate or misleading information, which would include a record that uses the wrong name for a student.² In addition, to the extent that this policy would require a school to keep a student's chosen name hidden from parents, this would also violate FERPA.³ FERPA violations may lead to a school district losing its federal funding.⁴

Moreover, to the extent this policy mandates that District employees call some students by alternate names based on the student's gender identity without the knowledge or consent of the student's parents, this may violate the parents' fundamental constitutional rights to direct the upbringing of their child. As a federal court recently stated, "It is difficult to envision why a school would even claim—much less how a school could establish—a generalized interest in withholding or concealing from the parents of minor children, information fundamental to a child's identity, personhood, and mental and emotional well-being such as their preferred name and pronouns."⁵ Under the Constitution, parents have a fundamental right to the care, custody, and control of their children.⁶ By usurping, through a written policy, the right to control what name a child gets called in school, the District would be violating that fundamental parental right.

But of course, this policy is about much more than just name changes. It is about whether the District should take an active role in affirming a child's gender identity, potentially without parental knowledge or consent. Using alternate names and pronouns for a student who may be suffering from gender dysphoria is called social transitioning and is a form of mental health intervention.⁷ However, social transitioning is not appropriate for all children who present with an alternate gender identity and can have serious, long-lasting consequences if implemented without the oversight of a mental health professional. That is why even the World Professional Association for Transgender Health advises families to "discuss the potential benefits *and risks* of a social transition" with a medical provider before deciding on any course of treatment.⁸ By mandating a form of mental health intervention for students without parental knowledge or consent, the District would also violate the parents' rights to direct the healthcare of their own child.⁹

In sum, the proposed changes to the policy raise serious parental rights concerns that place the District at risk of significant legal liability.

2. Free Speech Issues

The proposed policy changes would also implicate free speech concerns for students and staff. The policy would compel speech, at least by employees, by stating, "the principal should direct school personnel to use the student's chosen name." But neither the First Amendment nor Article 16 of the Massachusetts Declaration of rights allow the government to force people to

1 speak in a way that violates their conscience. As the Supreme Court has stated, “[i]f there is any
2 fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe
3 what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force
4 citizens to confess by word or act their faith therein.”¹⁰ Requiring school employees or students to
5 use chosen names or pronouns could violate their right to free speech if doing so violates their
6 conscience.¹¹

3. Religious Freedom Issues

7 Finally, the proposed changes to the policy could create significant religious freedom issues.
8 People of many different faiths believe that God created only two genders. Therefore, they
9 cannot in good conscience use opposite-gender names or pronouns for a transgender-identified
10 student or staff member without violating their religious beliefs. If this policy is passed, the
11 District should expect to receive many religious accommodation requests under Title VII of the
12 Civil Rights Act of 1964, which requires that employers reasonably accommodate the religious
13 beliefs of their employees.¹² If such accommodation requests are denied, the District may be liable
14 for religious discrimination. Additionally, to the extent that the policy is not implemented in a
15 way that is generally applicable or neutral toward religion, it could violate the Free Exercise
16 rights of employees.¹³

Conclusion

17 For the foregoing reasons, the proposed changes to policy ACA would expose the
18 District to liability and should be rejected or, at the least, amended to ensure protections for
19 parental rights, free speech, and religious liberty.

Very truly yours,



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¹ See 20 U.S.C. § 1232g(a)(2); 34 C.F.R. § 99.20.

² 20 U.S.C. § 1232g(a)(2); 34 C.F.R. § 99.20.

³ 20 U.S.C. § 1232g(a)(1)(A).

⁴ 34 C.F.R. § 99.67.

⁵ *Ricard v. USD 475 Geary Cty.*, 2022 U.S. Dist. LEXIS 83742, *20 (D. Kan. 2022). ⁶*Troxel v. Granville*,
530 U.S. 57, 66 (2000).

⁷ See, e.g., *Grimm v. Gloucester County School Board*, 972 F.3d 586, 596 (4th Cir. 2020) (discussing social transitioning as treatment for gender dysphoria under WPATH guidelines).

⁸ E. Coleman et al., *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8*, 23 Int'l J. of Transgender Health S1, S77 (2022), available at [https://www.tandfonline.com/doi/pdf/10.1080/26895269](https://www.tandfonline.com/doi/pdf/10.1080/26895269.2022.2100644). 2022.2100644.

⁹ See, e.g., *Parham v. J. R.*, 442 U.S. 584 (1979) (holding that parents have the right to make mental healthcare decisions for their children).

¹⁰ *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943); see also *303 Creative LLC v. Elenis*, 143 S. Ct. 2298 (2023) (holding that Colorado could not compel website designer to create website celebrating gay marriage).

¹¹ See also Alliance Defending Freedom, *VA Supreme Court agrees to hear case of high school teacher fired over pronoun policy*, (March 3, 2022), <https://adflegal.org/press-release/va-supreme-court-agrees-hear-case-high-school-teacher-fired-over-pronoun-policy>.

¹² See 42 USCS § 2000e-2; *Groff v. DeJoy*, 143 S. Ct. 2279 (2023) (holding that employers must reasonably accommodate employees' religious beliefs unless doing so would create substantial added costs).¹³ See *Ricard*, 2022 U.S. Dist. LEXIS 83742 at *10-23 (holding that name and pronoun policy violated teacher's Free Exercise rights).

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JULIE HALL juliehall73@verizon.net

Monday, July 24, 2023 – 10:00 a.m.

Dear APS School Committee members and Dr. Homan,

We are writing to you in regards to the 7/24/2023 Policy and Procedures meeting and agenda items related to the Resolution Affirming LGBTQIA+ Community, specifically, file ACA. We would like to better understand what APS is trying to accomplish. You are elected officials who took an ethical oath to represent the beliefs and values of ALL residents and children of the town of Arlington, not only the unique requirements of the LGBTQIA+ community. The creation of new policy unique to the needs of LGBTQIA+ in effect takes rights, implicit and explicit, away from the majority of the community you represent.

It is our constitutional right as parents to be in our children's lives and know what they're being taught and if they want to change their name and use pronouns in school to socially transition. It seems as though your new policy would leave parents and caregivers out of the equation.

We hope you and your committee are prepared to discuss the merits of all policies on the 6/24/23 agenda and the science and studies that support your position. We are not interested in what DESE or MIAA policy states - they have not used any science to back their position. Instead, they use the feelings of youth suffering from gender dysphoria and distorted suicide studies. The path of gender affirmation is harming children's bodies and your policies will make every school committee member liable in the future.

The 6/15/2023 LGBTQIA+ Affirmation Resolution references the Arlington Youth Risk Assessment survey 2021. We requested this survey earlier this week from the School Committee Chair but have not had a response. The parents of Arlington would like to have this survey and the results. We respectfully request that you pause any policy changes or enactment of new policy at this time until we are able to review.

Please consider viewing the 6/28/2023 Freetown-Lakeville School Committee meeting where this exact scenario is happening, and parents are hiring lawyers. Parents have rights and you and your committee do not have the legal authority to tell teachers to keep information from a child's parent.
https://www.youtube.com/watch?v=wyw_if1b3CI

Our community deserves more information and time before these draft policies move to the full school committee. Summer vacation is a time for families to relax and recharge; this is not the time to discuss important policy changes. This behavior breeds distrust and challenges the mission of the 5 Year APS Strategic Plan.

Thank You,
John DiModica
Sarah Amico
Julie Hall
On behalf of Concerned Parents and Citizens of Arlington

