

Transgender Students

Background

The RCDSB operates within the broader context of law and public policy, including the Ontario Human Rights Code. The OHRC provides for equal rights and opportunities, and freedom from discrimination. As of 2012, the OHRC was amended to add gender identity and gender expression to the list of grounds to be protected from discrimination. People whose gender identity or expression is, or is seen to be, different from their birth-identified sex, are entitled to legal protections in the same way that people are protected from discrimination and harassment based on other prohibited grounds such as race, age or disability. This procedure supplements the Board's Code of Conduct, Human Rights Procedure and Equity and Inclusive Education Procedure. It is intended to raise awareness and support the RCDSB community in ensuring the dignity and equality of those whose gender identity or gender expression does not conform to traditional social norms. The RCDSB is committed to providing a safe, caring and respectful learning environment for all of its students.

Procedure

1. Definitions

This procedure uses the following Ontario Human Rights Commission definitions:

Gender Identity is each person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex. Gender identity is fundamentally different from a person's sexual orientation.

Gender Expression is how a person publicly presents their gender. This can include behavior and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common ways of expressing gender.

Transgender or Trans is an umbrella term referring to people with diverse gender identities and expressions that differ from stereotypical gender norms. It includes but is not limited to people who identify as transgender, trans woman (male-to-female), trans man (female-to-male), transsexual, cross-dresser, gender non-conforming, gender variant or gender queer.

Gender Non-Conforming individuals do not follow gender stereotypes based on the sex they were assigned at birth and may or may not identify as trans.

Lived Gender is the gender a person feels internally (“gender identity” along the gender spectrum) and expresses publicly (“gender expression”) in their daily life including at work, while shopping or accessing other services, in their housing environment or in the broader community.

2. Privacy and Confidentiality

All students have a right to privacy; unless specifically directed by the student, schools must keep a student’s transgender status confidential. Therefore, school staff should not disclose a student’s transgender status to others unless there is a specific “need to know” (e.g., to fulfill a specific accommodation request).

Some transgender students are not open about their identity at home for safety or other reasons. A school should never disclose a student’s transgender status to the student’s parent(s)/ guardian(s)/caregiver(s) without the student’s explicit prior consent. This is true regardless of the age of the student.

When school staff contact the home of a transgender student, the student should be consulted first to determine an appropriate way to reference the student’s gender identity. It is strongly suggested that staff privately ask transgender students at the beginning of the school year how they want to be addressed in correspondence to the home or at meetings with the student’s parent(s)/guardian(s)/caregiver(s).

3. Names and Pronouns

A student has the right to be addressed by a name and pronoun that corresponds to his or her gender identity. A court-ordered name or gender change is not required, and the student does not need to change his or her official records for this right to be extended to them. The intentional or persistent refusal to respect a student’s gender identity (e.g., intentionally referring to the student by a name or pronoun that does not correspond to the student’s gender identity) is a violation of this procedure and may be considered a form of harassment.

4. Official Records and Communication

The Board is required to maintain a mandatory Student Record that includes a student’s legal name and the sex of a student. However, the Board is **not required** to use a student’s legal name, sex, and gender on other school records or documents such as class lists or timetables. When requested by the student or parent, the Board will change a student’s official record to reflect a change in legal name, sex, or gender upon receipt of legal or medical documentation. In situations where school staff or administrators are required by law to use or to report a transgender student’s legal name, sex, or gender, such as for purposes of standardized testing or attendance records, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

5. Gender-Segregated Activities

To the extent possible, schools should reduce the practice of segregating students by gender. In situations where students are segregated by gender, such as for health education classes, all students should be given the option to be included in the group that corresponds to their lived gender identity.

6. Athletics, Locker Rooms and Change Rooms

All students, regardless of their gender identity or expression, should be able to participate in physical education classes and team sports in a safe, inclusive, affirming, and respectful environment. Accordingly, all schools should proactively review their student athletic policies to ensure they are inclusive of transgender students.

All students shall have access to locker room facilities that correspond to their lived gender identity. In locker rooms that require undressing in front of others, students who desire increased privacy, for any reason, (e.g., medical, religious, cultural, gender identity, etc.) shall be provided with accommodations that best meet their individual needs and privacy concerns. Based on availability and the nature of the privacy concerns expressed, such accommodations could include, but are not limited to:

- Use of a private changing area such as a washroom, staffroom, nurse's or gym office.
- Development of a separate or modified changing schedule (e.g., using the locker room before or after other students).

7. Washroom Access

All students have a right to safe restroom facilities and the right to use a washroom that best corresponds to the student's lived gender identity, regardless of the student's sex assigned at birth. Requiring students to "prove" their gender (by requiring a doctor's letter, identity documents, etc.) is not acceptable. A student's self-identification is the sole measure of the student's gender. Where possible, schools will also provide an easily accessible all-gender single stall washroom for use by any student who desires increased privacy, regardless of the underlying reason. Use of an all-gender single stall washroom should be an option students may choose.

8. Dress Codes

All students have a right to dress in a manner consistent with their lived gender identity or gender expression within existing dress codes.

9. Accommodations Based on Request

While adherence to this procedure is required, it is recognized that specific accommodations sought are to be fulfilled on a case-by-case basis and individualized to best meet the needs of a student who is making an accommodation request.

The Board will take reasonable steps to provide accommodation to students who state that the Board's operations or requirements interfere with their right to free gender expression and/or gender identity. The Board will balance its decision to accommodate on several factors, such as undue hardship, including: the cost of the accommodations to the Board; health and safety risks to the student requesting accommodation and to others; and the effect of accommodation on the Board's ability to fulfill its duties under Board policies and the Education Act. Such requests shall be made in writing.

10. Resolving Conflicts

If a dispute arises with regard to a transgender student's participation in educational activities, the dispute shall be resolved in a manner that involves the transgender student in the decision-making process. Board staff will take reasonable steps to resolve problems that may include the use of existing Board procedures for resolving issues. The principles of safety, reasonable accommodation, maximizing inclusiveness and the best interests of the student shall guide the decision-making when resolving conflicts.

References:

Ontario Accepting Schools Act, 2012

Ontario Human Rights Commission, *Policy on preventing discrimination because of Gender Identity and Gender Expression*, 2014

RCDSB AP 140 *Code of Conduct*

RCDSB AP 450 *Human Rights*

RCDSB AP 451 *Workplace Conflict and Workplace Harassment*

RCDSB AP 452 *Equity and Inclusive Education*