4.6 LGBTQ+ and Gender Non-Conforming Students

Human Rights Goal

Students of all sexual orientations, gender identities and expression have a right to attend schools that affirm their identity and create a supportive environment for them to thrive. Schools have a responsibility to foster an environment that proactively works against heterosexism, homophobia and transphobia in the curriculum and school climate. If students experience harassment, bullying or gender-based violence by other students or school staff, schools must respond seriously with the goal of addressing the root causes of the behavior.[345]

Definitions

1. **LGBTQ+** – An acronym that stands for Lesbian, Gay, Bisexual, Transgender, Queer/Questioning and includes a + to indicate that an acronym will never be fully inclusive of everyone's identities. Other variations of the acronym exist in an effort to be more inclusive, for example LGBTQI2S+. This version adds Intersex, Asexual, and Two-Spirit people to the acronym.

   a. **Sexual orientation** – Who you're attracted to and want to have relationships with. Sexual orientations include but are not limited to gay, lesbian, straight, bisexual, pansexual and asexual.

   b. **Transgender person** – someone who identifies with a different gender from the gender they were assigned at birth. For example: your birth certificate says male, and you identify as a woman.[346]

   c. **Cisgender person** – someone who identifies with the gender they were assigned at birth. For example: your birth certificate says female, and you identify as a woman.[347]

   d. **Intersex** – is a general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn't seem to fit the typical definitions of female or male. For example, a person might be born appearing to be female on the outside, but having mostly male-typical anatomy on the inside. Or a person may be born with genitals that seem to be in-between the usual male and female types.[348]

2. **Gender Non-conforming** – refers to people who do not follow other people's ideas or stereotypes about how they should look or act based on the female or male sex they were assigned at birth.[349]

   a. **Gender** – Socially constructed attributes and opportunities typically associated with being male and female. They are context/time-specific and changeable. Gender is not a binary, but instead is on a spectrum with an infinite variety of expressions, representing a more nuanced, and ultimately truly authentic model of gender that is self-identified.[350]

   b. **Gender Expression** – How individuals communicate their gender to others, or the external manifestation of one's gender identity. It can be expressed through masculine, feminine or gender-variant behavior, clothing, haircut, voice or body characteristics.[351]

3. **Non-binary** – a person who does not fit into the strict gender binary of "male" or "female," and may be a combination of both, or neither.

   a. **Gender Binary** – A system of viewing gender as consisting solely of two, opposite categories, termed "male and female," in which no other possibilities for gender or anatomy are believed to exist. This system is

oppressive to anyone who defies their sex assigned at birth, but particularly those who are gender-variant or do not fit neatly into one of the two standard categories.[352]

4. **Gender Pronouns** – This is the pronoun or set of pronouns that an individual uses, such as he/him/his, she/her/hers or they/them/theirs. Implementing the practice of saying everyone's pronouns creates space for individuals who do not identify with he/she gender pronouns, and ensures that no one person's gender is assumed. It acknowledges that many individuals identify across the gender spectrum as transgender, gender nonconforming, non-binary, or gender fluid.[353]

5. **Transition** – A person's process of developing and assuming a gender expression to match their gender identity. Transition can include: coming out to one's family, friends, and/or co-workers; changing one's name; changing one's name and/or sex on legal documents; changing one's pronouns; changing one's hair style and/or clothing; hormone therapy (though not always); and possibly (though not always) some form of surgery. It's best not to assume how one transitions as it is different for everyone.[354]

Recommended Language

A. **Districts and schools shall create safe spaces for all young people regardless of their sexual orientation, gender identity, and gender expression by:[355]**

1. Implementing a district-wide training program for all school administrators, teachers, school staff, and disciplinary hearing officers on the topics listed below. In addition to in-person trainings, ongoing support should be available for schools after trainings occur, for example, technical assistance for school staff who may be encountering new situations that they are unsure how to handle in an affirming way. Training resources should also be available online for quick remote access as needed. These trainings and resources should address:

   a. Creating an affirming and supportive environment for LGBTQ+ youth;
   b. General terminology, including a space to ask questions—LGBTQ+ students should not be in the position to have to educate school staff on their identities or the basics of the LGBTQ+ community;
   c. How to intervene when they hear slurs or negative comments based on sexual orientation, gender identity or expression, or gender non-conformity utilizing discipline methods that reflect a commitment to Restorative Justice Practices positive behaviors supports and without criminalizing student behavior.[356] (See Chapter 3 Model Policy on Bullying Behavior for more information about how to respond in ways that will get to the root of the problem by demonstrating the harm caused by bullying or harassment and seeking to repair that harm);
   d. Data on the disproportionate use of harsh discipline on LGBTQ+ students, particularly LGBTQ+ students of color:[357] [358]
   e. Information on the intersection of LQBTQ+ students and housing insecurity, ensuring that the school is complying with the Runaway and Homeless Youth Act[359] and the McKinney-Vento Homeless Assistance Act[360] (See Chapter 1 for information on removing barriers for homeless students to register for school);
   f. The physical and mental health issues specific to LGBTQ+ students and available resources;
   g. Resources for culturally relevant curriculum examples for LGBTQ+ students; and
   h. Concrete information on how to implement the additional policies listed below at the school level.

2. Establishing and publicizing an anti-harassment policy that specifically includes actual or perceived sexual orientation, gender identity, and gender expression;[361] [362]

3. Supporting the establishment Gay-Straight Alliances,[363] Gender and Sexuality Alliances or similar clubs:

   a. This includes funding and staffing wherever possible to ensure that these clubs can continue from year to year as students graduate; and

    b. These clubs or alliances should have the same recognition and/or benefits of other school clubs, including providing space to meet, recognition in the yearbook or eligibility for students to receive leadership awards for their participation;

4. Supporting the use of gender affirming pronouns as identified by students and school staff including through allowing students to choose their name and pronouns on their student IDs;

5. Adopting a dress code policy that ensures students have a right to express themselves fully in school through choosing clothing, hair styles, jewelry and accessories that appropriately represent and affirm their varied identities, without the threat of punishment, removal, criminalization or harassment (see Section 3.7.d Model Policy on Dress Codes);

6. Implementing curriculum that includes LGBTQ+ people and information about sexual orientation and gender identity (i.e. LGBTQ+ history, literature inclusive of LGBTQ+ individuals, lessons on tolerance and diversity of families and individuals) (see Section 1.3 Culturally Relevant Curriculum and Teaching);

7. Ensuring that students have their right to privacy respected, and do not have their parents, staff and/or faculty notified of the students' sexual orientation, gender identity or any of the examples below without the students' permission:[364]

    a. Students may wear different clothes in school than at home;
    b. Students may use a different name or pronouns than they can at home; and
    c. Trans students may transition during the school year or from one year to the next, and their parent or guardian may or may not be aware of this;

8. Ensuring all school-based mental and physical health services are affirming and non-biased, including having students' privacy rights protected;

9. Ensuring that students know where to go for information and support outside of school related to sexual orientation, gender identity, and gender expression, such as healthcare, mental health or other services;

10. Access to locker rooms and bathrooms that match students' gender identity or expression, including gender queer, gender non-conforming and or transgender individuals;

11. Ensure that school events do not enforce strict gender roles in a way that could prevent all students from participating:[365]

    a. Dances and other events where students bring a guest or date should not restrict or assume the gender of a student or their guest;
    b. Where schools have titles like "Prom Queen" or "Homecoming King", students should not be restricted by their perceived or actual gender from running for or winning;
    c. Similar to the general dress code policy, dress codes at events should not enforce strict gender roles, such as requiring girls to wear dresses and boys to wear ties; and
    d. Events like "Daddy-Daughter Dances" or other events that specify what genders can participate may alienate students of other genders or whose families are not represented. If these types of events cannot be changed to be more inclusive (like a "Family Dance") then they should not restrict the participants who choose to attend the event, i.e. a student without a father should be allowed to attend the dance with their mother or other adult parent figure;

12. Avoid practices that segregate students based on the gender binary that can negatively impact transgender and gender nonconforming young people. Some examples include:

    a. Having young people line up in separate boys and girls lines. Some alternatives are having just one line, have students line up by sneaker color or have two lines that are not gender specific; and
    b. Limiting participation in activities by gender, such as only allowing girls to play jump rope or dance and only allowing boys to play basketball or baseball.

[345] Nollie Jenkins Family Center and ACLU of MS, Advocating for LGBTQ Student Rights in the Mississippi Delta Resource Guide.

[346] Id.

[347] Id.

[348] Intersex Society of North America.

[349] Ibid 31.

[350] Ibid 31

[351] Ibid 1.

[352] Trans Student Educational Resources (2017) Source: http://www.transstudent.org/definitions.

[353] Id.

[354] Trans Student Educational Resources. Available at: http://www.transstudent.org/definitions/.

[355] Advancement Project, Alliance For Educational Justice And GSA Network, Two Wrongs Don't Make A Right (2008) available at http://www.gsanetwork.org/files/aboutus/APJ-005_D5-FINALsmall.pdf.

[356] IBID.

[357] Research to Practice Collaborative (2016), Documenting Disparities for LGBT Students: Expanding the Collection and Reporting of Data on Sexual Orientation and Gender Identity. Available at: http://www.indiana.edu/~atlantic/wp-content/uploads/2016/03/SOGI-Brief-Final.pdf.

[358] GLSEN, Educational Exclusion (2016) https://www.glsen.org/sites/default/files/Educational%20Exclusion_Report_6-28-16_v4_WEB_READY_PDF.pdf.

[359] Runaway and Homeless Youth Act, Available at: https://www.acf.hhs.gov/fysb/resource/rhy-act.

[360] https://nche.ed.gov/mckinney-vento/.

[361] GLSEN, Model District Anti-Bullying Harassment Policy. Available at: https://www.glsen.org/sites/default/files/Model%20District%20LGBTQ-Inclusive%20Anti-Bullying%20%26%20Harassment%20Policy.pdf.

[362] GLSEN, Model School Anti-Bullying and Harassment Policy. Available at: https://www.glsen.org/sites/default/files/Model%20Policy%20-%20School%204.12.13_0.pdf.

[363] GAY-STRAIGHT ALLIANCE NETWORK, BUILDING YOUR GSA available at http://www.gsanetwork.org/resources/building-your-gsa.

[364] Nollie Jenkins Family Center and ACLU of MS, Advocating for LGBTQ Student Rights in the Mississippi Delta Resource Guide (pg 20).

[365] IBID pg 22.