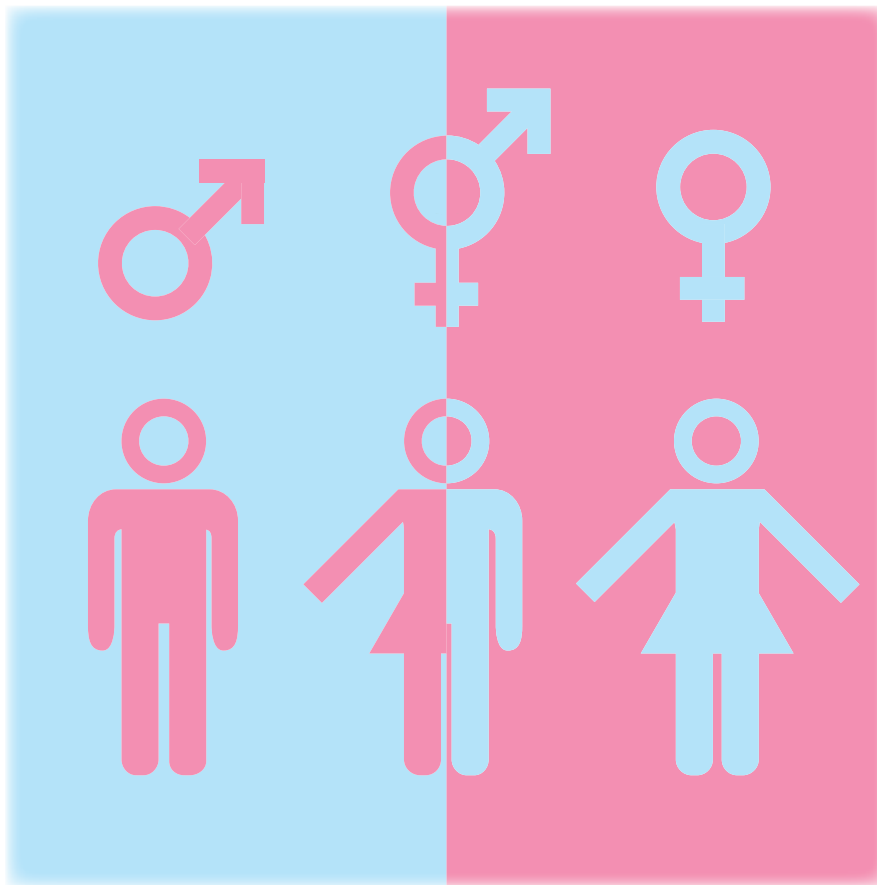


Transgender: An Emerging Issue in Schools

As states increasingly put protections in place for transgender students, districts must adapt their school policies.

By Anthony Carlton and Asaf Orr



or her gender identity is important when determining what accommodations must be made in the school setting.

- **Sex assigned at birth:** the designation of “male” or “female” on the basis of a person’s physical characteristics.
- **Gender identity:** a person’s internal, deeply felt sense of being male, female, something else, or in between. Everyone has a gender identity.
- **Gender nonconforming:** a person who is or is perceived to have gender characteristics or behaviors that do not conform to traditional or societal expectations of his or her sex assigned at birth.
- **Transgender:** a person whose gender identity is different from his or her sex assigned at birth.

Forms of Harassment and Discrimination

Harassment and discrimination of students who are transgender or gender nonconforming can take many shapes and can come from fellow students, school staff, teachers, or parents. It is important to understand how certain actions can affect those students in the learning environment. The following are some common forms of harassment and discrimination.

Names and pronouns. Students who have transitioned or are beginning to transition to a different sex

School districts across the country are facing the challenges associated with the increasing presence of transgender students in their schools across many grade levels.

Although 14 states and the District of Columbia already have protections in place for transgender students, many school districts are still determining what obligations they may have under state and

federal laws. It is becoming increasingly apparent that school districts nationwide will need to adapt their school policies to incorporate and accommodate transgender students.

Definitions

There are many misconceptions regarding the terms used to describe the transgender community. Understanding the differences between an individual’s assigned sex and his

will choose a name and pronoun that matches their gender identity. Purposely calling a transgender student by his or her birth name or using the pronoun associated with the student's sex assigned at birth is a common form of harassment.

Dress codes. School districts commonly establish dress codes to ensure that the school environment is focused on learning and is safe for all students. Transgender students are sometimes forced to comply with the dress code according to their sex assigned at birth.

Overnight field trips. When participating in overnight field trips, transgender students may be segregated or may be forced to stay with chaperones rather than be assigned to accommodations matching their gender identity. Or if allowed to room with peers according to gender identity, they may be required to disclose their transgender status to those peers or the peers' parents and obtain written permission to room with those students.

Interscholastic sports. Many states have governing bodies that oversee sports participation. Schools should be aware of the rules and regulations regarding transgender youths and participation in their state. Currently, 14 states and the District of Columbia have rules allowing transgender youths to participate in sports on the basis of their gender identity.

Federal Law Considerations

Title IX of the Education Amendments of 1972 is a federal law banning federally funded institutions from discriminating on the basis of sex in education and corresponding activities. The Department of Education's Office for Civil Rights and the Department of Justice have consistently acknowledged gender identity as a protected class under Title IX. As part of their enforcement efforts, those agencies are investigating complaints of discrimination against transgender students and are assisting schools in developing transgender-inclusive nondiscrimination policies.

State Laws

California, Colorado, Connecticut, Delaware, Illinois, Iowa, Maine, Massachusetts, Minnesota, Nevada, New Jersey, Oregon, Vermont, Washington, and the District of Columbia have passed legislation that protects transgender students from discrimination. In states without protective laws, courts may still find that a school discriminated against a transgender student by referencing state laws that prohibit discrimination on the basis of sex or disability.

Policy Development and Training

Regardless of the legal status in your state, developing clear policies and administrative regulations is an effective way to meet the needs of transgender students and



to protect your district from potential litigation. Those documents will guide school administrators in their efforts to support transgender students in their respective schools, while ensuring consistent compliance with the district's legal obligations.

Studies have shown that effective policies also help foster a safer and more supportive learning environment for lesbian, gay, and bisexual students.

Once a policy has been adopted, districts must also provide training for staff and administrators.

A number of school districts and state education agencies have adopted comprehensive policies and regulations that support and affirm transgender students in their schools. Some examples include Berkeley Unified School District (California), the District of Columbia Public Schools, and the Massachusetts Department of Elementary and Secondary Education. Those policies reflect current best practices by educating readers about transgender youths and providing guidance that outlines how to implement the policy in each area of the school (e.g., names and pronouns, student records, restrooms and locker rooms, dress codes).

Once a policy has been adopted, districts must also provide training for staff and administrators. Training will ensure that district personnel understand and support the policy and will be ready to apply the policy consistently. Training discussions should include a full range of potential scenarios, from elementary-age students' innocent questions and addressing parents' concerns to preventing disclosure of a student's transgender status.

Given the lack of familiarity with the issues, the changing legal landscape, and the importance of "getting this right," it may be helpful to seek the advice of an expert to assist in the development of a policy and its implementation.

