



*TROY CITY SCHOOL DISTRICT
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ADMINISTRATIVE OFFICES

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Frequently Asked Questions About Transgender Students

Who is a transgender student?

A “transgender student” is a student who consistently and uniformly asserts a gender identity different from the student’s sex assigned at birth, or for which there is documented legal or medical evidence that the gender identity is sincerely held as part of the student’s core identity.

How does the District decide whether to make accommodations for transgender students?

When the parent of a transgender student, or a transgender student, requests accommodations, the building administrator will meet with the parent, student, and any other individuals with relevant information. The team will discuss the requested accommodations; the consistency and uniformity of the asserted gender identity; the legal or medical evidence that the gender identity is sincerely held as a part of the student’s core identity; and any supports needed to ensure equal access to and equal opportunity to participate in the District’s education programs.

Accommodations are granted on a case by case basis, after considering the circumstances. When determining whether to permit an accommodation, the administration will consider the following:

- evidence regarding whether the gender identity is consistently and uniformly held;
- legal or medical evidence that the gender identity is sincerely held as a part of the student’s core identity;
- ensuring the student has equal access to, and an equal opportunity to participate in, the District’s education programs;
- student safety and comfort; and
- protecting student privacy and minimizing stigmatization of the student.

Why does the District permit these accommodations?

First and foremost, the District wishes to respect the privacy and dignity of each student. The Troy City School District Board of Education has a policy prohibiting discrimination on the basis of sex. The U.S. Department of Justice and the U.S. Department of Education have both opined that discrimination on the basis of gender identity is unlawful discrimination under Title IX of the Education Amendments of 1972 (“Title IX”), a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. Although this matter has not been addressed by the courts of Ohio, it is clear that the U.S. Department of Education’s Office for Civil Rights will be enforcing Title IX where transgender students have been the target of discrimination.

What are the rules with regard to restroom use?

The District respects the privacy and dignity of each and every student. The District allows a transgender student access to the facilities that he or she prefers, whether that is access to the sex-segregated facilities with which the student identifies or providing more private alternatives (*i.e.*, access to staff/unisex bathrooms) if the transgender student is uncomfortable using either sex-segregated bathroom. The District’s primary aim is protecting the safety and privacy of all students, and considers each request for an accommodation on an individualized basis. Any student who has a need or desire for increased privacy, regardless of the underlying reason, may request access to a private restroom.

Does this mean that a student can decide one day to use the female restroom and the next to use the male restroom?

No. As explained above, requests for accommodations are granted after considering the specific circumstances. Restroom accommodations will only be made for a transgendered student who consistently and uniformly asserts a gender identity different from the student’s sex assigned at birth, or for which there is documented legal or medical evidence that the gender identity is sincerely held as part of the student’s core identity.

How can I be sure of my child’s safety and privacy in the restroom?

District staff members supervise students, including during restroom breaks. Any student who has a need or desire for increased privacy, regardless of the underlying reason, may request access to a private restroom. The District is exploring the installation of floor to ceiling stall partitions in some restrooms in the junior high school.

I’ve heard that the courts have already ruled on this issue and found against transgender students. Is that true?

No court with jurisdiction over Ohio has yet ruled on the issue of transgender students’ use of restrooms. While not binding in Ohio, the issue has been litigated in various courts and before various regulatory agencies in recent years, with differing results. The Maine Supreme Court held in favor of a transgender student who wanted to use the female restroom, finding that the school district had discriminated against the student on the basis of gender identity when it required the student to use a gender neutral restroom. The Colorado Department of Regulatory Agencies, Division of Civil Rights found probable cause that a Colorado school district discriminated against a 6 year old transgender female student when it prohibited her from using the female restroom. In Pennsylvania, a federal district court ruled against a transgender male student who sued after being denied use of sex-segregated restrooms and locker rooms designated for men on a university campus. That case is currently under appeal. In Virginia, a federal district court denied the issuance of a preliminary injunction for a transgender student who challenged his school district’s policy requiring him to use a separate restroom. It is reported that this case is also being appealed.

If there are no court decisions in Ohio, why does the District permit these accommodations?

The U.S. Department of Education, Office for Civil Rights (“OCR”) and the United States Department of Justice (“DOJ”) have stated that under Title IX, transgender students should be treated consistent with their gender identity for restroom access. Failure to follow these interpretations by OCR and DOJ risks protracted litigation and potential loss of Troy’s federal funding. OCR is a federal agency that enforces several federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education, including Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex. OCR investigates complaints of discrimination and issues findings. OCR has the authority to suspend, terminate or refuse to grant a public school district’s federal funding if the school district fails to comply with OCR’s interpretation of discrimination laws. OCR can also refer a matter to the DOJ for an enforcement action.

What action is the Board taking on this issue?

Consistent with the law, the Troy City School District Board of Education has a policy prohibiting discrimination on the basis of sex. The administration is responsible for implementing Board policy consistent with law. That is what the administration is doing with respect to transgender students.

What about locker rooms?

Given the students’ state of undress in locker rooms, private changing/restroom stalls will be provided to a transgender student to allow for privacy.

How does the dress code apply to transgender students?

A transgender student is permitted to wear clothing if students of their identified gender are also permitted to wear the same type of clothing.

How can students safely express their views?

The District recognizes the First Amendment rights of students and community members to express their opinions and beliefs. However, while at school, students’ expression cannot cause a disruption to the educational process or attempt to disrupt the educational process. The classrooms at Troy City Schools are places for learning, and the District’s focus will be on educating all of its students. The District hopes that the discourse will remain civil; however, the District prohibits bullying, harassment, intimidation and discrimination of students. Guidance counselors are available to all students for further discussion or for help reporting bullying, harassment, intimidation or discrimination.

Can transgender students participate in extra-curricular activities and athletics?

Yes. With regard to athletics, in November 2014, the Ohio High School Athletic Association (“OHSAA”) adopted the following policy regarding transgender participation:

- A transgender female (or male-to-female (MTF) transgender student athlete) who is taking medically prescribed hormone treatment related to gender transition may participate on a boy’s team at any time. However, before a transgender female can compete in a girl’s sport or on a girl’s team, the transgender female must either (1) have completed a minimum of one year of hormone treatment related to gender transition or (2) demonstrate to the Commissioner’s Office by way of sound medical evidence that the transgender female student athlete does not possess physical (bone structure, muscle mass, testosterone, hormonal, etc.) or physiological advantages over genetic females of the same age group.
- A transgender male (or female-to-male (FTM) transgender student athlete) who has not yet begun medically prescribed testosterone treatment for purposes of gender transition may

compete on a boy's team. If, however, the transgender male student athlete is taking medically prescribed testosterone treatment, medical evidence must be submitted to the Commissioner's Office that certifies that (1) the muscle mass developed as a result of this testosterone treatment does not exceed the muscle mass that is typical of an adolescent genetic boy; (2) that the student has not started any hormone treatment (or that the testosterone treatment does not cause hormone levels to exceed normal levels); and (3) the student's hormone levels are monitored by a licensed physician every three to six months.

The full policy is available at: <http://www.ohsaa.org/eligibility/TransgenderPolicy.pdf>

Who are the transgender students at Troy City Schools?

Each student's privacy rights under the Family Educational Rights and Privacy Act ("FERPA") and R.C. 3319.321 must be respected. Teachers and other school officials cannot reveal information about a student's transgender status unless the student's parents (or the student if over 18) consent to such a disclosure.

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