

Fact Sheet: Transgender & Gender Nonconforming Youth in Schools

Many public school administrators, faculty and staff have a lot of questions when working with students who are transgender or gender nonconforming. This fact sheet is designed to give basic information about the law as it pertains to transgender and gender nonconforming students in New York City.

What is “gender identity”?

- “Gender identity” refers to how people see and identify themselves; for example, some people identify as female; some people identify as male; some people as a combination of genders; as a gender other than male or female; or as no gender. For example, transgender girls identify as girls but were classified as males when they were born. Transgender boys identify as boys but were classified female when they were born. Everyone has a gender identity.
- “Gender Expression” refers to how people express their gender identity. Everyone expresses their gender identity in different ways: for example, in the way they dress, the length of their hair, the way they act or speak and in their choice of whether or not to wear make-up.

What does “transgender” and “gender nonconforming” mean?

- “Transgender” is a general term used to describe people whose gender identity differs from the sex they were assigned at birth.
- “Gender nonconforming” 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.
- “Transgender” and “Gender nonconforming” are umbrella terms that often encompass other terms such as transsexual, cross dresser, gender queer, femme queen, A.G., Two Spirit, and many more. It is important to refer to people with terms they prefer.
- “Gender Questioning” People who are questioning their gender identity might be wondering whether they identify as a boy, a girl or another gender. They might also be experimenting with different genders.



The Sylvia Rivera Law Project works to guarantee that all people are free to self-determine gender identity and expression, regardless of income or race, and without facing harassment, discrimination or violence.

Did you know that it is illegal to discriminate against transgender or gender nonconforming students in New York City?

New York City and State law protects students' rights to wear clothing that corresponds to their gender identity and expression.

- For example, it is against the law to refuse to allow a student to attend school and related events and activities because that student is wearing clothes that are too “girlish” or “boyish.” This is true regardless of the gender identity or the assigned birth sex of the student.
- A school may not compel a student to shave or groom their hair to look more “feminine” or “masculine.”

New York City and State law protects its students' right to be free from harassment and discrimination on the basis of their gender identity.

- Examples of harassment include repeated, deliberate use of pronouns and names that are inconsistent with a student's gender identity;
- Denying appropriate academic support to a student because of their gender identity;
- Inappropriate touching;
- Insults or remarks about a student's body parts or about a student's behavior being too “masculine” or “feminine”;
- Asking people inappropriate, unnecessary questions about their gender identity, anatomy, and / or any medical treatment that is related to their gender identity;
- Verbal, sexual, or physical assault because of one's gender identity.

School faculty, administrators and staff also have an obligation to protect students from harassment and discrimination from other students.

But, did you know that transgender, gender nonconforming and gender questioning youth still encounter pervasive discrimination at schools?

For example, transgender youth have reported being:

- called derogatory names at school, such as “dyke”, “faggot,” “it” and “he-she” by both other students and faculty;
- prevented from using the restroom or locker room that corresponds to their gender identity and sometimes even being unable to use any restroom at school because of their gender identity;
- beaten up because of their gender identity;
- sexually assaulted due to their gender identity;
- forced to fight to defend themselves resulting in suspension and/or expulsion;
- forced to miss school because of suspensions or skip school because of fear resulting in missed learning opportunities;
- forced to quit school because of their gender identity;
- forced to attend psychiatric programs because of their gender identity;
- ridiculed and / or punished by teachers for dressing and / or acting too “feminine” or “masculine”;
- left with little or no academic support at school by faculty and administration
- left with little or no emotional support at school by faculty and administration;
- given no one they can reach out to for support about their gender identity at school;
- made deathly afraid of being “outed” and skipping school as a result.

These are some ways you can make school a safer and gender affirming place for transgender youth:

- **Arrange for transgender awareness training for faculty, staff, and administrators from a qualified community-based trainer.** Most people do not receive training or support in transgender awareness throughout their education or professional careers; it is not fair to assume that educators will arrive at their work already having learned the skills they need to work respectfully and effectively with youth from these communities. Transgender awareness trainings are most effective when they are mandatory and regular.
- **Incorporate positive information about transgender issues into curricula.** The existence of transgender people is often erased or only included in a highly stigmatized way in the teaching of any subject, as well as in media and popular culture. The lack of any positive acknowledgment of transgender issues or history makes it difficult for transgender, gender nonconforming, or questioning young people to feel that they have a place in the world and supports a worldview among other students that transgender people do not exist or are an object of scorn.
- **Create gender neutral restrooms.** Eliminating sex segregation of facilities can significantly decrease violence and harassment against transgender and gender nonconforming youth. While sex-segregated restrooms or locker rooms exist, however, transgender and gender nonconforming youth should be supported in using whichever facilities they identify as most appropriate for themselves in terms of their gender identity and safety needs.
- **If a student talks to you about their gender identity, listen in a respectful and non-judgmental way.** Do not brush them off, react with skepticism or disapproval, or pressure them into any particular category. Support them in developing their own understanding of their gender and direct them to resources for transgender, gender nonconforming and questioning youth. Do not “out” a young person or disclose their gender identity to another without permission.
- **Avoid perpetuating gender stereotypes.** Many of us enforce gender norms without even realizing it, but these stereotypes hurt everyone, especially transgender young people, gender nonconforming young people, and young women. Think carefully about the messages in everything you say, do, teach, or communicate about gender. Are you complimenting girls more often on their appearance but boys more often on their athleticism? Do you ever imply there is something wrong with men who behave in stereotypically feminine ways? Do you discipline girls more harshly than you would otherwise if they seem “masculine” or “butch” to you? Does your language ever equate gender (the way people view themselves and express their genders) with genitals (a person's birth sex and anatomical designation) or otherwise imply that the gender identities of transgender people are not “real”?
- **Intervene and take action when students use gender-specific terminology to make fun of each other.** When students make fun of each other with terms like “sissy,” “pussy,” “faggot,” “dyke,” “homo,” “freak,” “it,” “he-she,” “bitch,” or “gay” and faculty fail to intervene, these words are perceived as acceptable. The use of such language further alienates transgender and gender nonconforming in schools and perpetuates discriminatory stereotypes about gender, gender identity and sexual orientation.
- **Create gender-neutral and / or mixed gender spaces.** Be mindful about the ways in which single-gender teams and/ or groups (like girls-only groups and boys-only groups) can alienate transgender and gender nonconforming students. Proactively create spaces for transgender and gender nonconforming students within these groups and/ or create additional spaces for transgender and gender nonconforming students.
- **Always refer to transgender and gender nonconforming students appropriately.** Always use stu-

dents' preferred names, even if they are different from their legal names, and always use the pronouns that students identify as appropriate for themselves. Correct yourself and others if you or they make a mistake.

- **Ensure that employment opportunities at your school are open to transgender and gender non-conforming people.** Recruit at transgender focused events, job fairs, locations, and web sites. Ensure that current and prospective employees are not discriminated against or harassed on the basis of gender identity or any other non-job related characteristic.
- **Listen to criticism from transgender, gender nonconforming, and questioning students.** Take such criticism seriously without becoming defensive; such feedback is an important opportunity to learn and grow.



For more information:

SYLVIA RIVERA LAW PROJECT
147 W 24TH ST, 5TH FLOOR
NEW YORK, NEW YORK, 10011
T. 212-337-8550 • F. 212-337-1972
WWW.SRLP.ORG

Selected Sources

United States Education Act Amendments of 1972, Title IX 20 U.S.C. Sec. 1681

N.Y. Executive Law § 291 (3)

N.Y. Executive Law § 290 (3)

N.Y.C. Admin. Code, § 8-107(4)

N.Y.C. Admin. Code, § 8-602

Doe v. Bell, 194 Misc. 2d 774, 754 N.Y.S.2d 846 N.Y., Sup., 2003 [it is illegal discrimination to force a transgender girl to wear boys clothing in the foster care system]

Doe v. Yunits, Superior Court of Massachusetts, 2000 [a school could not force a transgender girl to wear boys clothing]

Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992) [re: Title IX, establishing that victims of sexual harassment and other forms of sex discrimination in schools may sue for monetary damages]

Gebser v. Lago Vista Independent School Dist., 118 S.Ct. 1989 (1998) [re: Title IX, school district liability for the sexually harassing behavior of a high school teacher toward a student]

Price Waterhouse v. Hopkins, 490 U.S. 228 (1989) [re: Title VII, employment action based on female employee's failure to comport with female sex stereotype in appearance and behavior is illegal sex discrimination]

Scott v. Board of Ed., Union Free School Dist. No. 17, Hicksville, 61 Misc. 2d 333, 305 N.Y.S.2d 601 (Sup. Ct. 1969)

Advocates for Youth. "Trans Living: Youth Resources" available at <http://www.youthresource.com/living/trans/index.htm>

Gay Lesbian Straight Education Network. "Harsh Realities: The Experiences of Transgender Youth in Our Nation's Schools." Available at http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/000/001/1375-1.pdf

Trans Youth Family Allies: Serving Youth Family Allies – Understanding through Education. <http://www.imatyfa.org/>

Sexuality Information and Education Council of the United States (SIECUS). Fact Sheet: Lesbian, Gay, Bisexual, Transgender Youth Issues (April/May 2001) available at <http://www.thebody.com/content/whatis/art2449.html>

Transgender Law Center. "Transgender and Gender Nonconforming Youth: Recommendations for Schools." Available at <http://www.transgenderlaw.org/resources/tlcschools.htm>