



Painting Over POLICY

IMPROVING INCLUSIVE EDUCATION IN NYC



Introduction

We are the Youth Action Institute, a public policy research fellowship for young New Yorkers. We focus on improving young people's experiences of safety, agency, and dignity as they engage with public institutions.

In our current topic cycle, we are focusing on LGBTQIA+ youth's experiences of safety and dignity. This year, we analyzed the Department of Education's Guidelines for Gender Inclusion to learn what queer and trans youth should expect in schools--and compared it to our own experiences in public school.

As students who have insight and experience with the policies of NYC schools, we discovered that many of the promises made by the DOE do not reflect actual school environments. Through our policy research, we have created DOE policy revisions that truly contribute to the safety and dignity of LGBTQIA+ students. It is evident that vague and unclear policies are not effective, and we want to address this problem through our revisions.

The guidelines currently in place do not fully support gender inclusion or aid queer and trans individuals in navigating school environments. Additionally, the policies create an unbalanced burden on students by not holding administration accountable for enforcing the policies or communicating to the student body.

These revisions clarify unclear processes to access resources, ensure that administration cannot selectively enforce policies, and promote an inclusive and communicative environment for students, parents, and faculty. These policies were expanded to create tangible action within school environments and to uphold promises, consequences, and compliance within administration. All students should be able to navigate their identities with support and guidance, without gaps or exceptions.

Overall, these revisions should be supported because when administration and faculty are given clear instructions and are held accountable, a more positive environment is created, and the lives of all students are put first.

Educational Purpose of a Policy

Original Guideline

Gender-based policies, rules, and practices can have the effect of marginalizing, stigmatizing, stereotyping, and excluding students, whether or not the students are transgender or gender expansive. For these reasons, schools should review such policies, rules, and practices, and eliminate any that do not serve a clear pedagogical purpose. Examples may include such practices as gender-based graduation gowns, lines, and attire for yearbook pictures. Yearbook or senior class superlatives or awards should be gender-neutral, like “funniest student(s)/senior(s)”, instead of “funniest girl/funniest boy.”

Students must be permitted to participate in all school activities (for example, overnight field trips) in accordance with their gender identity asserted at school. Requests for arrangements to address privacy concerns will be addressed on a case-by-case basis.

Improved Policy

Gender-based policies, rules, and practices that do not connect to the improvement of students’ education must be removed. These practices have the effect of exclusion and marginalization that create an unsafe learning environment. Policies relating to gender must be considered educationally oriented. Whether a gender-based policy is educationally oriented is decided amongst administration and evaluated by the student body through biannual surveys and at additional time points if deemed necessary by the student body.

If a policy is deemed unfit or is questioned by either the student body or administration, the policy will be reviewed by the DOE to determine the validity of the policy.

If a school refuses to comply with any policy adjustments, there will be a meeting with DOE administration and school staff to ensure compliance. Staff can be removed throughout this process. Any staff and administrators determining the validity of the questioned policies must participate in LGBTQ+ and Gender Inclusivity training annually.

Policies that separate and exclude students based on gender must be removed. Students must participate in school activities in accordance with the gender identity that they assert in school. Addressing privacy concerns in instances of gender separation should be addressed on a case by case basis, prioritizing the comfort and safety of the gender-marginalized student.

Harassment & Discrimination

Original Guideline

Student-on-Student Harassment, Bullying, Discrimination and/or Intimidation: Chancellor’s Regulation A-832

Any staff member who witnesses student-on-student harassment, discrimination, bullying, and/or intimidation or who has knowledge or information or receives notice that a student may have been the victim of such behavior by another student is required to immediately report the alleged act to the Respect for All (RFA) liaison(s) or to the principal/designee within one school day and file a written report with the RFA liaison or to the principal/designee no later than two school days after making the oral report.

Students can file a complaint of student-on-student harassment, discrimination, bullying, and/or intimidation by telling any school staff member, emailing respectforall@schools.nyc.gov, calling 311, calling 718-935-2288, or submitting an online form. When such a complaint is filed, the school must promptly investigate and take follow-up action as appropriate as set forth in Chancellor’s Regulation A-832.

Chancellor’s Regulation A-832 provides additional information on how to handle student-on-student harassment, discrimination, bullying, and/or intimidation. It is important to note that when supporting a transgender or gender expansive student who is the alleged victim of such an incident, the student may express concerns about their parent knowing about their gender identity. These situations should be addressed on a case-by-case basis as set forth above. It is also important to maintain the transgender or gender expansive student’s privacy when notifying the parent of the accused student of the allegations.

Staff-on-Student Harassment and/or Discrimination: Chancellor’s Regulation A-830

Chancellor’s Regulation A-830 contains DOE’s Anti-Discrimination Policy and provides information regarding allegations of harassment or discrimination by staff. A student or parent may make a report directly to the Office of Equal Opportunity using the online form at <https://www.nycenet.edu/oeo> or using the other methods described in the regulation. Any staff member who witnesses another DOE staff member discriminate against or harass a student on the basis of any protected class, or who has knowledge that a student may have been the victim of such behavior, is required to orally report this alleged incident to the principal within one school day. Complaints will be investigated and school staff are responsible for taking appropriate corrective action where warranted.

Other Policies

Other Chancellor’s Regulations that address discrimination or harassment by students include Chancellor’s Regulation A-831 (Student-to-Student Sexual Harassment), and that address prohibited conduct by staff include Chancellor’s Regulation A-420 (Corporal Punishment), and Chancellor’s Regulation A-421 (Pupil Behavior and Discipline - Verbal Abuse).

Improved Policy

Student-on-Student Harassment, Bullying, Discrimination and/or Intimidation: Chancellor's Regulation A-832

Any staff member who witnesses student-on-student harassment, discrimination, bullying, and/or intimidation or who has knowledge or information or receives notice that a student has stated that they are a victim of such behavior by another student is required to immediately report the act to the Respect for All (RFA) liaison(s) or to the principal/designee within one day. This must be done through emailing respectforall@schools.nyc.gov, calling 311 / 718-935-2288, filing an online document report, or physical document report and sent to the RFA/principal/designee via telephone, website, or in-person submission at the student's school.

The student's gender identity/sexual orientation must remain confidential when dealing with outside school personnel. Only the student is obligated to know of the incident's relationship to their identity and the consequences that follow after it. Parents and anyone other than the student (family, friends, and staff/DOE members that are not involved in the situation) are not obligated to be notified of the incident. Parents are only able to be notified with permission from the student willingly. The process and aftermath must be monitored through follow-up action and the school must ensure the safety of the students involved.

As for follow-up actions, the RFA and DOE staff must continuously communicate with the student directly and have mental-health/emotional check-ins of the next steps until the incident is completely resolved according to the student.

Compliance & Enforcement

To ensure that staff members respond to harassment and discrimination reports respectively, the RFA and DOE is required to organize meetings with school staff & deans to ensure that all needs from students are being met. Students will receive forms every 2 weeks on the care they've received from school staff concerning harassment and incident reports. The RFA and DOE will receive these surveys and need to organize meetings with school officials to address concerns that come up.

Staff-on-Student Harassment and/or Discrimination:

DOE's Anti-Discrimination Policy provides information regarding statements of students who have stated that they have received any form of harassment or discrimination by staff. A student or parent has to make a report directly to the Office of Equal Opportunity using the online form at <https://www.nycenet.edu/oeo> or using the other methods described in the policies before. Any staff member who witnesses another DOE staff member discriminate against or harass a student on the basis of any part of their identity, or who has knowledge that a student has been the victim of such behavior, is required to report the incident to the principal or staff member within one day. Complaints must be investigated and school staff are responsible for taking appropriate corrective action where needed.

Consequences

If it is found that staff/administrators do not comply with the policy, DOE is required to reconsider and evaluate the person(s) job position and discuss ways to move forward.

If a staff member neglects or fails to comply with the staff-on-student harassment/discrimination policy, it will result in:

1. A personal check in with the individual about their behavior.
2. A reinforcement of the policy and its importance in a school environment.
3. An investigation on why this failure occurred.

If a staff member refuses to comply with the policy, they will be met with the following consequences:

1. Removal from the learning environment until the situation is fully assessed.
2. Mandatory meeting to discuss a staff's punishment (license revoked/suspended).
3. Loss of job position if continuing to refuse.

Practices for Grouping Students and Student Events

Original Guideline

Generally, school-based practices should not be based on gender—including, for example, when dividing students into lines or for lunch, recess, or discussion groups. Schools should not use colors, images, or symbols traditionally associated with one gender (e.g., pink vs. blue, construction hats vs. tiaras) to divide or otherwise categorize students by gender. Yearbook or senior class superlatives or awards should be gender-neutral, like “funniest student(s)/senior(s)”, instead of “funniest girl/funniest boy.” Schools should also avoid gender-based events such as father-daughter dances and designating kings or queens for dances or proms.

Improved Policy

School staff and administrators must not divide or separate students within any activity based on students' gender. Teachers must not base any activity associated with specific genders (ex. boys vs. girls), and no student must be denied their involvement in any school-based activity because of their gender identity. This includes symbols, colors, images and other prefixes that gender can be associated with. (ex; prom king/queen, blue or pink, images that put a separation between girls and boys) The DOE will enforce the rule of non-gender-based school activities to support gender inclusivity in an educational setting.

Compliance & Enforcement

To enforce this policy, school administrators must be clear on the importance of gender inclusivity in a learning environment. To support this clarity, the DOE will implement quarterly conferences. These

conferences, delivered by school administrators, are to teach and support teachers and staff in creative and effective ways to group students especially during school events or projects. The goals of the conference are

1. to make sure teachers understand what it means to group students without using different gender identities
2. to support teachers/staff in identifying methods for grouping students based on needs of both students and teachers
3. to remind faculty & staff that binary genders MUST NOT BE USED to group students.

Conferences will also be offered whenever major events happen, like prom or field day, to make sure practices are aligned with DOE guidelines.

To assess compliance and reception to the policy, the DOE will gather feedback in one of two ways.

1. Teachers from every district will receive surveys that rate the policy on:
 - a. How it is being enforced by other teachers (scale from 1-10)
 - b. How students are receiving the changes (meaning are they more receptive, is there backlash from students, has the policy made a positive change, etc)
2. One DOE employee will come to a different school every 6 months to discuss with teachers what they've seen, how it is being enforced, and what changes to the policy may need to be considered.

Consequences

Teachers NEED to attend these conferences. If missing a conference, a teacher must provide a reason in advance, or they will receive a strike. If teachers receive three strikes, then they will have a one-on-one with the principal to check in about reasons as to why they aren't attending these conferences. These teachers will also receive "detention," where they will go through the material one-on-one with the principal.

If there are reports of teachers/staff not upholding these standards (ex; students feel singled out, other staff members are noticing some of the same things), there will be an investigation into those reports. If the teacher/staff is found guilty, there will be additional training so that they understand the severity of respecting gender guidelines, and a one-on-one meeting with the school principal to discuss how they can move forward. If after training, reports continue coming in, they will be placed on administrative leave until a performance improvement plan can be created and implemented. If there is a third need to address this teacher's/staff's behavior, they will be fired.

Student Names

Original Guideline

Every student is entitled to be addressed by the name and pronoun that correspond to the student's gender identity that they assert at school. Students are not required to obtain parental consent or a court-ordered name and/or gender change before being addressed by the name and pronoun that

they choose. The principal or their designee, in consultation with the student, is responsible for ensuring that teachers and other school staff are aware of and honor a student's request to be referred to by the name and pronoun that correspond to their gender identity. It is important to note that some students may use gender-neutral pronouns such as they, ze, or other pronouns. It is the school's role to support the student.

All school staff members and students must refer to students by their chosen names and pronouns and schools should create opportunities to confirm the correct information with all their students in a manner that respects student privacy. School staff are responsible for ensuring students are referred to correctly.

Consistent with the DOE Style Guide, schools should use gender-neutral language in letters/notices and emails, lessons, websites, and other written materials to the class or school community (e.g., use "dear students instead of "dear boys and girls," and use "each student should remember to collect their belongings" instead of "his/her" belongings).

As noted above, in student-specific communications and materials, a student has the right to be referred to by the name and pronoun that correspond to the gender identity that they assert at school.

Intentionally referring to a student, verbally or in writing, by a pronoun inconsistent with the student's gender identity or by a name other than the student's chosen name is unacceptable conduct and may constitute a violation of Chancellor's Regulation A-832, A-830, or A-421.

Improved Policy

Every student must be addressed by the name and pronoun that correspond to the student's gender identity that they assert at school. Students are not required to obtain parental consent or a court-ordered name and/or gender change before being addressed by the name and pronoun that they choose. The principal or their designee, in consultation with the student, is responsible for ensuring that teachers and other school staff are aware of and honor a student's request to be referred to by the name and pronoun that correspond to their gender identity.

All school staff members and students must refer to students by their chosen names and pronouns. Faculty and staff must create opportunities to confirm the correct information with all their students in a manner that respects student privacy. The DOE must mandate teachers to ask students their name and pronouns. School staff are responsible for ensuring students are referred to correctly.

Compliance & Enforcement

At the beginning of the year, each school will hold an assembly planned and hosted by school administrators to address the importance of using correct names and pronouns as part of a respectful school environment. This Respect For All assembly is made to ensure the importance of respecting peers and their identities and is mandated for grades 9-12. The assembly will be adjusted to fit all students' schedules to ensure students aren't missing crucial class time.

At the end of every semester, administrators will distribute an all-student questionnaire that pertains to the value of the policy. The questionnaire will assess whether the policy is being upheld in the

school environment, or do students see their peers following the policy.

Consequences

If a faculty or staff member unintentionally refers to a student by the wrong name or pronoun repeatedly, a conference is held with a school administrator representing the student involved in the issue to re-establish the importance of respecting student names and pronouns. The student must not be present during the conference, to protect their well-being and personal emotion in said issue.

The faculty/staff member in question will be further investigated to fully comprehend the situation. The student involved can also give a report of the situation, which could lead to an optional questioning with a parent/guardian present.

If a school administrator fails to address the said issue, a school superintendent will;

1. Supervise and observe the role of said school administrator.
2. Ensure another school administrator is fit to carry out the role of the previous administrator.
3. Discuss a leave of absence from their role as a school administrator.

Intentionally referring to a student, verbally or in writing, by a pronoun inconsistent with the student's gender identity or by a name other than the student's chosen name is unacceptable conduct and constitutes a violation of Chancellor's Regulation A-832, A-830, or A-421.

If the behavior, with the intent of neglecting the student's identity, continues, DOE's Office of Safety and Youth Development will:

1. Suspend the staff member's license until an appeal is reviewed.
2. Revoke the staff member's teaching or work license.

Supporting Students

Original Guideline

Schools have a unique and powerful opportunity to educate the entire school community on gender diversity and to support transgender and gender expansive students. Schools should proactively support gender diversity at their school. All students have the right to have their gender, gender identity, and gender expression recognized and respected by their school community.

The experience of gender transition may focus only on social transition. A social transition is when students begin to live as their gender consistent with their gender identity, and this process may or may not involve changes in name, pronouns, and appearance (including clothing and hairstyle). Not all transitions are binary or involve categories of male or female. Some students may be non-binary, agender, or gender expansive.

Waiting until a particular student begins a gender transition to start educating the school community about gender diversity can place the burden of community education on that student. All schools have

transgender and gender expansive students—the goal is for these students to feel comfortable enough at school to be open about who they are.

Some youth, generally who are close to reaching puberty, or after starting puberty, may have medical treatments to reinforce their social transition. These treatments may include hormone suppressants, cross-gender hormone therapy, and, for a small number of young people, a range of gender-affirming surgeries. An individual's decision about whether and how to undergo gender transition is personal and will depend on their unique circumstances.

Sometimes transgender and gender expansive students begin their transition at school without a parent's knowledge. The term "parent," whenever used in these guidelines, means the student's parent(s) or guardian(s), or any person(s) in a parental or custodial relationship to the student. Other times, a parent will approach a school about their child's transition. School staff must keep in mind that transgender and gender expansive youth may experience significant family challenges. Some transgender students have not talked to their parents about their gender identity and/or do not want their parents to know about their transgender status or gender expansive identity based on safety concerns or concerns about a lack of acceptance.

These situations must be addressed on a case-by-case basis, accounting for the student's age and maturity, and will require schools to balance the goal of supporting the student with the requirement that parents be kept informed about their children. The most important consideration in such situations is the health and safety of the student. If school staff is unsure of the most appropriate course of action, they should contact their Senior Field Counsel.

The student is in charge of their gender transition and the school's role is to provide support. Where appropriate, the school administrator or another trusted adult in the school can meet with the student regarding their transition. The parent may be at this meeting, except where there are safety or other concerns as set forth above. At this meeting, the school should:

- discuss the school's role in supporting the student's transition;
- make resources available to the student and parent(s) to address questions or concerns;
- prepare for a formal gender transition at school;
- discuss, as appropriate, the timing of the transition, planning responses to questions from school staff and students, changing the student's information in school records, and any other relevant matters; and
- put in place measures for supporting the student and creating a sensitive, inclusive environment at school.

Schools should be vigilant about the potential for any bullying or harassment. DOE policy requires schools to work to prevent bullying and harassment and respond promptly to address allegations. For more information, see Chancellor's Regulations A-830, A-831, and A-832 and A-830.

Improved Policy

Schools have a powerful opportunity to educate a school community on gender diversity and to support transgender and gender expansive students. All students have the right to have their gender,

gender identity, and gender expression recognized and respected by their school community. School administrators, staff, and students must proactively support gender diversity within the community through curriculum, supporting individual students, and staying vigilant regarding cases of harassment and/or bullying.

One experience of gender transition is social transition, which is when students adopt characteristics aligning with their chosen identity regarding societal factors such as a change of appearance and ways of addressing the individual (pronouns). Not all transitions are binary or involve categories of male or female. Some students may be non-binary, agender, or gender expansive. Gender transition is the process in which students adopt physical characteristics with their chosen identity regarding personal factors such as hormone supplements and gender affirming surgeries. Not all transitions are binary or involve categories of male or female. Some students may be non-binary, agender, or gender expansive. An individual's decision about whether and how to undergo gender transition is personal and will depend on their unique circumstances.

To prioritize creating a safe space for LGBTQ+ youth, the Department of Education will do the following:

1. Create a curriculum pertaining to LGBTQ+ youth such as history, science, sociology, psychology, etc. prior to the start of the academic year in the fall season in order to educate students on LGBTQ+ identities and push for inclusivity and diversity in the curriculum.
2. Require bi-monthly all staff check-ins so that personnel across the school administration are able to get a comprehensive view on the safety of all students, including LGBTQ+ identifying students, and identify cases of bullying and harassment to be addressed with dedication to confidentiality of and in collaboration with the targeted student and/or the reporter.
3. Collaborate with NYC Project Unity to develop plans on how to approach specific cases of bullying and/or harassment that involve instituting restorative justice practices and conflict resolution without the involvement of NYPD, including NYPD School Safety, and do not breach the targeted student's promised confidentiality.
4. Collaborate with Project Unity to hold student surveys in order to gain analyzable data on the culture in school after the policies are implemented and enforced. In this process, the data will be sent to both the DOE and Project Unity to ensure that gaps in data or patterns of students' needs being neglected will be met with action.

Compliance & Enforcement

To ensure that teachers and school staff are updating their curriculum regularly and accurately, as well as staying vigilant in cases of harassment and bullying between students, the DOE will coordinate bi-annual conferences (with a virtual option) that uses anonymous forms and open forum discussion to allow school officials to report back the policies' efficacy within schools. Data collected will be analyzed by Project Unity staff to calculate the most effective course of action to uplift queer & trans youth in each school and to further enforce the policy in schools that struggle to meet the standards of an inclusive education. This analysis will give a transparent view of how effective schools have been in implementing and enforcing the new policy.