

**BOARD POLICY 8005 (DRAFT)**

# Transgender and Gender Diverse Students

## **POLICY STATEMENT**

The programs, activities, and employment practices of the Red Clay Consolidated School District (“district” or “Red Clay”) must be free from discrimination based on sex, sexual orientation, or gender identity.

Accordingly, this policy is intended to articulate the mandate of the schools to create a culture in which transgender and gender diverse students feel safe, supported, and fully included, and to meet each school’s obligation to provide equal educational opportunities for all students. In all cases, the goal is to ensure the safety, comfort, and healthy development of the transgender or gender diverse student while maximizing the student's social integration and minimizing stigmatization of the student.

The Red Clay school board recognizes that students have a choice as to whether to make public or keep private their transgender status or gender diverse presentation at school, and that it is the right of that student to have their choice respected. Further, transgender and gender diverse students shall receive the same opportunities to participate fully in the continuum of their immersive educational experience in Red Clay schools. These opportunities include, but are not limited to, access to the curriculum, social events, clubs, athletic participation, and all other basic curricular and extracurricular activities as enjoyed by all students.

### **A. Confidential Information**

Information about a student's transgender status, legal name, or gender assigned at birth may constitute confidential information. School personnel shall not disclose information that may reveal a student's transgender status or gender diverse presentation to others, including other students, and other school personnel, unless legally required to do so or unless the student has authorized such disclosure.

### **B. Information Sharing**

Transgender and gender diverse students have the right to discuss and express their gender identity openly and to decide when, with whom, and how much to share private information.

When contacting the parent or guardian of a transgender or gender diverse student, school personnel should use the student's legal name and the pronoun corresponding to the student's gender assigned at birth unless the student, parent, or guardian has specified otherwise.

### **C. Official Records**

The district is required to maintain a mandatory permanent pupil record (“official record”) that includes a student's legal name and gender assigned at birth; however, the district is not required to use a student’s legal name and gender assigned at birth on other school records or documents. The district will change a student's official record with parent/guardian consent to reflect a change in legal name or gender upon receipt of proper documentation that such change has been made pursuant to a court order. In situations where school staff or administrators are required by law to use or to report a transgender or gender diverse student's legal name or gender assigned at birth, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

### **D. Names and Pronouns**

A student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity as asserted at school. A court-ordered name or gender change is not required, and the student need not change their official records.

### **E. Gender-Segregated Activities**

In situations where students are segregated by gender (e.g., health education classes), a transgender or gender diverse student will have the right to be included in the group that corresponds to the student’s gender identity as asserted at school.

### **F. Restroom Accessibility**

Restroom accessibility shall be addressed on a case-by-case basis, conferring with the transgender or gender diverse student. A transgender or gender diverse student shall have the right to access the restroom that corresponds to the student’s gender identity consistently asserted at school. Any student who has a need or desire for increased privacy shall be provided access to a single stall restroom or to the School Nurse’s or the School Health Center’s restroom or another location that confers privacy, but no student shall be required to use such a restroom.

### **G. Locker Room Accessibility**

The use of locker rooms by a transgender or gender diverse student shall also be addressed on a case-by-case basis, conferring with the student. A transgender or gender diverse student shall have access to the locker room that corresponds to the student’s gender identity consistently

asserted at school. Any student who has a need or desire for increased privacy shall be provided with a reasonable alternative arrangement such as the use of a private changing area or a separate changing schedule (e.g., using the locker room that corresponds to the student's consistently asserted gender identity, before or after other students). Any alternative arrangement should be provided in a way that protects the student's ability to keep the student's transgender or gender diverse status confidential. A transgender or gender diverse student shall not be required to use a locker room that conflicts with the student's gender identity consistently asserted at school.

Resource

[Presidential Documents](#)

## **H. Physical Education Classes and Intramural Sports**

A transgender or gender diverse student shall be permitted to participate in physical education classes and intramural sports in a manner consistent with the student's gender identity consistently asserted at school. Participation shall not be conditioned by requiring legal or medical documentation.

## **I. Interscholastic Competitive Sports Teams**

A transgender or gender diverse student shall be permitted to participate in interscholastic athletics in a manner consistent with the student's gender identity as asserted at school and when the student meets the minimum standards designated by the Delaware Interscholastic Athletic Association (DIAA) Board of Directors (Reference: Delaware Regulations: Administrative Code: Title 143 : 1000, 1099 DIAA High School Interscholastic Athletics, 5.1.4.1). The Superintendent or designee shall communicate these minimum standards as designated by the DIAA Board of Directors, including if and when such standards change, to the district's middle and high schools to inform athletes and coaches of eligibility requirements.

## **J. Clothing**

A transgender or gender diverse student has the right to dress in a manner consistent with the student's gender identity or gender expression.

## **K. Discrimination/Harassment**

Complaints alleging discrimination or harassment based on a student's actual or perceived transgender status or gender diversity are to be handled in the same manner as other discrimination or harassment complaints.

## DEFINITIONS

1. Sex: the combinations of physical characteristics (including but not limited to genitals, chromosomes, and sex hormone levels) typical of males or females.
2. Gender identity: a person's internal sense of being male, female, or, for some people, a blend of both or neither. For the purposes of this policy, a student's gender identity is that which is consistently asserted at school.
3. Gender expression: outward presentation of gender to others, such as the clothing and haircuts they wear or the roles and activities they choose.
4. Transgender: Describes a person whose gender identity is different from what is generally considered typical for their sex assigned at birth. Note: This term is an adjective. Using this term as a verb (i.e., transgendered) or noun (i.e., transgenders) is offensive and should be avoided.
5. Cisgender: A term for people whose gender identity aligns with the sex they were assigned at birth.
6. Gender Diverse: Gender Diversity refers to the extent to which a person's gender identity, role, or expression differs from the cultural norms prescribed for people of a particular sex. This term is becoming more popular as a way to describe people without reference to a particular cultural norm, in a manner that is more affirming and potentially less stigmatizing than gender nonconformity. Includes non-binary people.
7. Gender Transition: The process through which transgender people begin to live as the gender with which they identify, rather than the one typically associated with their sex assigned at birth. Social transition may include things such as changing names, pronouns, hairstyle and clothing. Medical transition may include medical components like hormone therapy and gender affirming surgeries. Not all transgender individuals seek medical care as part of their transition or have access to it.
8. Asserted Gender : The gender a person declares to be, verbally, nonverbally, covertly, or overtly. A transgender person's gender is usually asserted insistently, consistently, and persistently over years. In transgender people, there is a difference between birth-assigned gender and asserted gender. In cisgender people, asserted gender aligns with birth-assigned gender. Depending on ecological safety, gender assertion may be nonverbal and covert, or it may be a verbal declaration ("coming out") in a safe place.
9. Consistently asserted: regularly expressed or frequently with no or few exceptions

10. Non - Binary : Non-binary is an identity embraced by some people who do not identify exclusively as a man or a woman. Non-binary people may identify as being both a man and a woman, somewhere in between or as falling completely outside of these categories. While many also identify as transgender, not all non-binary people do.

11. Official Record: The official record is the "Cumulative Record File " which means a file containing the Emergency/Nursing Treatment Card, Identifying Data, School Health Record, Progress Report, Student Transcript (for students in grades 9 and above), and Discipline Record.

*Definitions were informed by the following sources: American Academy of Pediatrics; American Psychological Association; United States Department of Justice and Department of Education; Office of Civil Rights; Gender Spectrum; Human Rights Campaign; National Center for Lesbian Rights; Merriam-Webster; National Education Association and American Civil Liberties Union*

## **ABOUT THIS POLICY**

### **Responsibility**

The Superintendent shall be responsible for compliance.

### **References**

SB 97, 147th General Assembly. <https://legis.delaware.gov/BillDetail?legislationId=23264>

DIAA Manual on High School Interscholastic Athletics, Policy 5.1.4.1.

<https://regulations.delaware.gov/AdminCode/title14/1000/1009.shtml>

FAQs Concerning 1009 DIAA High School Interscholastic Athletics

<https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/348/FAQs%201009%204-23-19.pdf>

New Jersey School Boards Association, "Gender Identity and School Law." Volume 46, Issue 3.

<https://www.njsba.org/news%20publications/school-leader/novemberdecember-2015-volume-46-%203/gender-identity-and-school-law/>

GLSEN. "Model Local Education Agency Policy on Transgender and Non-binary Students."

<https://www.glsen.org/article/transgender-model-district%20policy>

U.S. Department of Education. "Examples of Policies and Emerging Practices for Supporting Transgender Students"

[https://www2.ed.gov/about/offices/list/oese/oshs/emergin\\_gpractices.pdf](https://www2.ed.gov/about/offices/list/oese/oshs/emergin_gpractices.pdf)

National School Boards Association “Transgender Students in Schools”  
<https://www.nsba.org/nsba-faqs-transgender-students-schools>

Delaware Regulations: Administrative Code: Title 143: 1000, 1099 DIAA High School Interscholastic Athletics, 5.1.4.1.

### **Date Adopted**

This draft policy is scheduled for adoption on December 15, 2021.

### **Date Revised/Reapproved**