

# TRANSGENDER STUDENTS IN THE EDUCATIONAL SETTING

Brett S. Nitzschke



LYNCH DALLAS, P.C.

.....  
ATTORNEYS AT LAW

*Established 1926*

brett@lynchdallas.com  
Twitter: @lynchdallaslaw  
(319) 365-9101



LYNCH DALLAS, P.C.

.....  
ATTORNEYS AT LAW

*Established 1926*

# DEFINITIONS

- Gender identity refers to an individual's internal sense of gender. A person's gender identity may be different from or the same as the person's sex assigned at birth.
- Sex assigned at birth refers to the sex designation recorded on an infant's birth certificate should such a record be provided at birth.

# DEFINITIONS

- Transgender - individuals whose gender identity is different from the sex they were assigned at birth.
- Gender transition - the process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth. During gender transition, individuals begin to live and identify as the sex consistent with their gender identity and may dress differently, adopt a new name, and use pronouns consistent with their gender identity. Transgender individuals may undergo gender transition at any stage of their lives, and gender transition can happen quickly or over a long duration of time.

# APPLICABLE PROVISIONS OF IOWA LAW



- Iowa Code section 216.9 - it is an unfair or discriminatory practice for any educational institution to discriminate on the basis of gender identity in any program or activity.
- Iowa Code section 280.28 - school employees, volunteers, and students shall not engage in harassing or bullying behavior against students.

# APPLICABLE PROVISIONS OF IOWA LAW



- Harassment and bullying are defined as any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment.
- Trait or characteristic of the student includes but is not limited to sex, sexual orientation, gender identity, physical attributes.

# APPLICABLE DISTRICT POLICIES



- Equal Educational Opportunity (Code No. 103) – It is the policy of the Treynor Community School District not to discriminate on the basis of race, color, national origin, sex, disability, religion, creed, age, marital status, sexual orientation, gender identity, and socioeconomic status in its educational programs and its employment practices.
- Anti-Bullying/Anti-Harassment/Anti-Sexual Harassment (Code No. 104) – Bullying and/or harassment of or by students, staff, and volunteers is against federal, state, local policy and is not tolerated by the board. Bullying and/or harassment based on an individual’s age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status or familial status.

IOWA HIGH SCHOOL ATHLETIC  
ASSOCIATION/IOWA GIRLS HIGH  
SCHOOL ATHLETIC UNION  
RULES/GUIDANCE



- A transgender student who identifies as a gender that is different than that student's birth sex shall be allowed to fully compete as the identified gender as long as the student identifies as that gender at school, home, and socially.
- Coaches, administrators, and athletes should abide by a transgender student-athlete's name and pronoun preferences.

IOWA HIGH SCHOOL ATHLETIC  
ASSOCIATION/IOWA GIRLS HIGH  
SCHOOL ATHLETIC UNION  
RULES/GUIDANCE



- Every student-athlete should have access to a locker room, bathroom, and shower facilities in a safe, comfortable, and convenient environment.
- If a member school requires overnight accommodations, transgender student-athletes should be assigned rooming assignments based on their gender identity, with the recognition that the student who needs extra privacy should be accommodated whenever possible.



IOWA HIGH SCHOOL ATHLETIC  
ASSOCIATION/IOWA GIRLS HIGH  
SCHOOL ATHLETIC UNION  
RULES/GUIDANCE



- All team members should have uniforms that are appropriate for their sport. Participants are expected to be in compliance with applicable uniform regulations. In cases where coaches set dress codes or expectations, coaches should set a gender neutral dress code that is comfortable for all members of the team.
- Privacy of transgender student-athletes is a priority. All medical information must be kept confidential.

# APPLICATION OF CURRENT LAW



- Establishing Gender Identity – Students cannot be required to prove their gender identity. School districts cannot require students to demonstrate that they meet some standard to identify as a certain gender.
- Confidentiality – School districts should make sure all staff (teachers, secretaries, administrators, etc.) keeps all student information in a student’s educational file confidential. This would include documents related to the student’s gender identity, including a request to be called by a different name.

# APPLICATION OF CURRENT LAW



- Official Records – School districts should change a student’s official record to reflect a change in the student’s legal name or gender if the student provides legal documents outlining this change. School districts should also consider Family Educational Rights and Privacy Act (“FERPA”) implications. Additionally, if there are situations where the school district is not required to use the student’s legal name or gender, the school district should use the name used by the student and the student’s identified gender.
- Names and Pronouns – School districts should honor a student’s request to be called by a certain name or pronoun. School districts should make all staff members aware of the student’s request to be called a different name and/or to use a different pronoun when referring to that student.

# APPLICATION OF CURRENT LAW



- Bullying/Harassment Complaints – School districts should process bullying harassment complaints that involve transgender students the same as any other complaint. In such an investigation, school districts should not implement remedial measures that involve requiring a transgender student to use a separate restroom facility or to otherwise be singled out.
- Dress – School districts should not discipline a student for dressing in a manner that is consistent with his or her gender identity, as this could be considered a free speech issue. All students can still be required to follow the school’s dress code requirements.

# APPLICATION OF CURRENT LAW



- Restrooms – School districts should provide a student with access to a restroom that corresponds to the student’s gender identity. The school district can make available a private restroom as well, but, by doing such, cannot prohibit the student from using the restroom that corresponds to the student’s gender identity. If private or separate facilities are requested by a transgender or non-transgender student, the student should be provided with those facilities.
- Locker Rooms – School districts should provide a student with access to a locker room that corresponds to the student’s gender identity. Concerns that arise should be assessed on a case-by-case basis.

# APPLICATION OF CURRENT LAW



- Overnight Accommodations – School districts should assign a student to a room based upon the student’s gender identity. If additional privacy concerns exist for either the transgender student or other students, additional accommodations may need to be made.
- Participating in Activities – School districts must provide students full rights to participate in all school and extracurricular activities.

# QUESTIONS?



Brett S. Nitzschke  
Lynch Dallas, P.C.  
(319) 365-9101

[brett@lynchdallas.com](mailto:brett@lynchdallas.com)