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Additionally, the U.S. Departments of Education and Justice have stated that under Title IX, “discrimination based on a person’s gender identity, a person’s transgender status, or a person’s nonconformity to sex stereotypes constitutes discrimination based on sex” and asserted a significant interest in ensuring that all students, including transgender students, have the opportunity to learn in an environment free of sex discrimination in public schools.⁷

The purpose of this guidance is to assist school districts in fostering an educational environment for all students that is safe and free from discrimination—regardless of sex, gender identity, or expression—and to facilitate compliance with local, state and federal laws concerning bullying, harassment, discrimination, and student privacy. All students need a safe and supportive school environment to progress academically and developmentally. Administrators, faculty, staff, and students each play an important part in creating and sustaining that environment. This guidance document is intended as a resource guide to help school and district administrators continue to take proactive steps to create a culture in which transgender and GNC students feel safe,

Cisgender: an adjective describing a person whose gender identity corresponds to their assigned sex at birth.

Gender expression: the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.¹⁰

Gender identity: a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance oen6j 0.002 Tc -0.002ene t Td [(r)5 (a)4 (nd.3 .7i-2 (i)-2 tT(nd.f)2 (ti5(b)

affirm a student's identity will likely come from the student's parent or guardian.²⁵ One's gender identity is an innate, largely inflexible characteristic of each individual's personality that is generally established by age four, although the age at which individuals come to understand and express their gender identity may vary based on each person's social and familial development.²⁶

Schools should work closely with the student and family in devising an appropriate plan regarding the confidentiality of the student's transgender status. In some cases, transgender students may feel more supported and safe if other students are aware that they are transgender. In these cases, school staff should work closely with the student, families, and other staff

EXAMPLE:

In one case, a transgender female student agreed to present as a boy when visiting relatives until the student's parents could explain the student's transgender identity to them. The fact that the student did not exclusively assert her female identity did not alter the fact that she had a female gender identity.

Confirmation of a student's asserted gender identity is usually as simple as a statement from the student; it may also include a letter from an adult familiar with the student's situation, such as a parent, health care provider, school staff member familiar with the student (a teacher, guidance counselor, or school psychologist, among others), or other family members or friends. A letter from a social worker, doctor, nurse practitioner, or other health care provider stating that a student is being provided medical care or treatment relating to her/his/their gender identity is another form of confirmation of an asserted gender identity. Similarly, a letter from a clergy member, coach, family friend, or relative stating that the student has asked to be treated consistent with her/his/their asserted gender identity, or photographs at public events or family gatherings are other potential forms of confirmation. These examples are intended to be illustrative rather than comprehensive, and in most cases nothing beyond a statement from the student should be required. Transgender and GNC students form a diverse community, and they may differ in how they present, including differences in factors like their comfort level with being known as transgender or GNC, their transition status, their age, and their gender expression. Schools and districts should adopt a flexible approach in this area given that transgender students may not feel comfortable or safe being their authentic selves in all contexts.

EXAMPLE:

In one middle school, a student explained to her guidance counselor that she was a transgender girl who had heretofore only been able to express her female gender identity while at home. The stress associated with having to hide her female gender identity by presenting as male at school was having a negative impact on her mental health, as well as on her academic performance. The student and her parents asked if it would be okay if she expressed her female gender identity at school. The guidance counselor responded favorably to the request. The fact that the student presented no documentation to support her gender identity was not a concern since the school had no reason to believe the request was based on anything other than a sincerely held belief that she had a female gender identity.

Gender Transition

Many, though not all, transgender youth undergo the experience of gender transition. The term "gender transition" describes the experience by which a person socially and/or physically aligns their gender expression more closely to their true gender identity, and away from that associated with their assigned sex at birth. For most youth, and for all young children, the experience of gender transition is focused solely on "social transition," whereby they begin to live as the gender consistent with their gender-related identity.²⁷ Transgender youth who are in the process

²⁷ See, e.g., World Professional Association for Transgender Health (WPATH), Standards of Care 7, at 17 ("Social Transition in Early Childhood"), available at http://www.wpath.org/uploaded_files/140/files/Standards%20of%20Care,%20V7%20Full%20Book.pdf.

of social gender transition often choose a new name and gender pronouns that better reflect their gender identity, may begin to dress and style their hair in ways that better reflect their gender identity, and, as all young people do, seek social affirmation of their gender identity from peers and other important figures in their lives. Some transgender youth who are close to reaching puberty, or after commencing puberty, may complement social transition with medical

lead to delays in the student's receipt of appropriate services or create problems related to the award of appropriate high school course credit, thereby imperiling a student's ability to graduate with his or her class.

With respect to student medical records, school nurses and other licensed professionals need accurate and reliable information to confirm a student's identity in order to ensure that the student receives appropriate care and to enable them to coordinate care with other health care providers or licensed professionals, as well as to file health insurance claims with other organizations, such as Medicaid. Nurses are legally required to maintain patient records that accurately document clinical information relating to their patients and must keep their patients' health records confidential³⁵. In the case of a transgender student, a school nurse should use the student's chosen name, and should use the student's birth name only when necessary to ensure that the student rec-2 (i)- (s)-1 (s)en neoue cast 8.2uv d(cD 3 >>BD(t ll 1 (s)e) b T wT w4.34 (m)-2 (e) b T wT w4.3

and secondary school students with a safe and supportive environment free from discrimination, intimidation, taunting, harassment, and bullying on school property, a school bus and/or at a school function.

<http://www.p12.nysed.gov/dignityact/>

New York City Department of Education:

Pursuant to the New York City Human Rights Law, the New York City Department of Education has issued guidance regarding transgender students within the jurisdiction of NYC DOE. While it does not apply statewide, it can be used as a reference as to what one New York district in has adopted regarding accommodations for transgender students.

<http://schools.nyc.gov/RulesPolicies/TransgenderStudentGuidelines/default.htm>

Examples of Guidance and Related Materials in Other States With Specific Transgender Student Non-Discrimination Statutes:

Washington:

Prohibiting Discrimination in Washington Public Schools

<http://www.k12.wa.us/Equity/pubdocs/ProhibitingDiscriminationInPublicSchools.pdf>

Connecticut:

http://www.sde.ct.gov/sde/lib/sde/pdf/equity/title_ix/guidelines_for_schools_on_gender_identity_and_expression2012oct4.pdf

Massachusetts:

The Massachusetts Department of Elementary and Secondary Education,

<http://www.doe.mass.edu/ssce/GenderIdentity.pdf>

California: Arcadia USD, OCR, and DOJ Resolution Agreement: July, 2013

<http://www.nclrights.org/wp>

[content/uploads/2013/09/Arcadia_Resolution_agreement_07.24.2013.pdf](http://www.nclrights.org/wp-content/uploads/2013/09/Arcadia_Resolution_agreement_07.24.2013.pdf)

California: Notification Letter to Arcadia USD from OCR/DOJ:

<http://www.justice.gov/crt/about/edu/documents/arcadialetter.pdf>

The Department supports the efforts of school communities to implement this guidance which is intended to be a resource for schools and districts. It includes links to websites that contain information, resources, and tools to assist schools and districts. Please evaluate each resource to determine if it is developmentally age appropriate for your school population. The State Education Department does not endorse any particular programs. The intent of this document is to provide information only. Schools, districts and BOCES should consult with their school attorneys regarding specific legal questions. Analyses of examples contained herein do not represent official determination(s) or interpretation(s) by the Department. Examples described in this guidance may be the subject of an appeal to the Commissioner of Education under section 310 of the Education Law; as a result, the information contained herein is advisory only and does not necessarily represent an official legal opinion of the Commissioner of Education or of the State Education Department.