

# **SDUHSD Board Meeting September 11, 2025**

## **Agenda Item 10B – Adoption of SDUSHD Revised Board Policies and Administrative Regulations**

**Trustee Michael Allman**

### **AR 5145.3 Nondiscrimination/Harassment**

#### **1. Definitions (page 7 of 15)**

##### **A. Gender Identity**

###### **Draft Policy**

Gender identity refers to a student's gender-related identity, appearance, or behavior as determined from the student's internal sense, regardless of whether that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

###### **California Law**

Gender identity means each person's identification as internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender.

Source: California Code of Regulations, Title 2, § 11030(b)

###### **Proposed Policy**

Gender identity refers to a student's identification as internal understanding of their gender, or the perception of their gender identity, which may include male, female, a combination of male and female, or neither male nor female, a gender different from the person's sex, or transgender.

###### **Rationale:**

Start with the definition in California law and represent it from a student perspective. The existing draft policy mixes concepts of *gender identity* and *gender expression*.

##### **B. Intersex**

###### **Draft Policy**

Intersex refers to when a student has natural bodily variations in anatomy, hormones, chromosomes, and other traits that differ from expectations generally associated with female and male bodies.

### **California Law**

Intersex is an umbrella term referring to people whose anatomy, hormones, or chromosomes fall outside the strict male and female binary.

Source: Health and California Health & Safety Code § 150900(5))

### **Proposed Policy**

Intersex refers to when a student's anatomy, hormones, or chromosomes fall outside the strict male and female binary.

### **Rationale**

Start with the definition in California law and represent it from a student perspective. The existing draft policy deviates from the legal definition and introduces other traits and expectations, and fails to emphasize the binary aspect of human sex.

## **2. Ensuring Equal Rights (Page 7 of 15)**

### **A. Use of Names and Pronouns – Point #2, Second Paragraph**

#### **Draft Policy**

Inadvertent slips or honest mistakes by district personnel in the use of the student's name and/or pronouns may not constitute a violation of this administrative regulation or the accompanying Board policy.

#### **Proposed Policy**

Inadvertent slips or honest mistakes by district personnel in the use of the student's name and/or pronouns ~~may~~ **shall** not constitute a violation of this administrative regulation or the accompanying Board policy.

#### **Rationale**

“may not” is ambiguous. It can mean *not permitted* or *might not*. The change to “shall” removes the ambiguity. The intention is to protect our teachers and staff from honest mistakes.

### **B. Accessibility to Sex-Segregated Facilities, Programs, and Activities - Point #3, Third Paragraph**

#### **Draft Policy**

To address any student's privacy concerns in using sex-segregated facilities, the district shall consider offering a gender-neutral or single-use restroom or changing area, a bathroom stall with a door, an area in the locker room separated by a curtain or screen, or use of the locker room before or after the other students. However, in no case shall the district require a student to utilize these options because of the student's sex, gender, gender identity, or gender expression. A student's right to participate in a sex-segregated activity in accordance with the student's gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

### **Questions and Issues for Discussion**

Consider the phrase: “However, in no case shall the district require a student to utilize these options because of the student's sex, gender, gender identity, or gender expression.”

- Q1. Must we include this phrase? If so, how do we accommodate females who don’t want to change in front of males in the female locker room?
- Q2. How do we respect the rights of females who don’t want to change in front of males, while at the same time not run afoul of “in no case shall the district require a student to utilize these options because of a student’s sex ...” by requiring the females to use utilize an alternative option.
- Q3. See point #5 - The Compliance Officer and/or Title IX Coordinator shall consider the rights of all students and how those rights may affect and be affected by the rights of other students.

How do we protect the rights of females to change in the female locker room while not under observation by male students, or observing male students.

### **C. Right to Privacy - Point #6**

#### **Draft Policy**

Right to privacy: A student's sex, gender, gender identity, and gender status is private information. The district may only disclose such information to others when the disclosure is permitted by law, with the student's prior written consent, or when the district has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. (Education Page 9 of 15 Code 220.3, 220.5; 34 CFR 99.31, 99.36) A

### **Questions and Issues for Discussion**

The prior policy stated that “A student’s intersex, nonbinary, transgender, or gender-nonconforming status is the student’s private information”, which was removed.

- Q1. In the draft policy, who is the information private to? Is it private to the student, the parent, or both?
- Q2. Under this updated policy, can the district disclose this information to parents without a student’s prior written consent?
- Q3. Do we have a form for a student consent to disclose this information? How can it be obtained?
- Q4. Can this form be sent out in the welcome packet / annual disclosures?

## **D. Student Records - Point #7**

### **Draft Policy**

A student's sex and legal name shall be maintained as part of a student's mandatory permanent student record as specified in 5 CCR 432 and shall only be changed with proper documentation (Education Code 49061-49072).

When a request to change a student's gender or name is submitted without proper documentation, any change to the student's gender or name shall be applied only to documents not included in the mandatory permanent student record, such as attendance sheets, report cards, and school identification.

The Superintendent or designee shall follow this guideline such that it does not change or alter the obligations of the district to maintain student records in accordance with Board Policy/Administrative Regulation 5125 - Student Records, and to ensure access to such records in accordance with Board Policy/Administrative Regulation 1340 - Access to District Records.

### **Questions and Issues for Discussion**

- Q1. If a student requests a name change without proper documentation, must the district change it in all records not included in the mandatory permanent student record, or can they be selective and change some records? For example, can they change it on the school identification but not on the attendance sheets?
- Q2. Do parents have the right to see their student's attendance sheets, report cards, and school identification?

## **3. Prohibition of Certain Acts (Page 10 of 15)**

### **A. Name and Pronouns - Point 1**

#### **Draft Policy**

Refusing to address or refer to a student in a manner by a name and the pronouns consistent with the student's gender identity.

#### **Questions and Issues for Discussion**

- Q1. It's not about using the pronouns that are consistent with the student's gender identity, it is that we use the pronouns the students prefer.

See Page 7 of 15, #2 – Use of Names and Pronouns. “Upon request by a student, district personnel shall address the student by the requested name and pronoun(s), without the necessity of a court order or a change to the student's mandatory permanent record.”

## **B. Disclosing Student Records - Point 4**

### **Draft Policy**

Disclosing student records that reveal a student's gender identity to individuals who do not have a legitimate need for the information except as permitted by law.

### **Questions and Issues for Discussion**

Q1. Do parents have a legitimate need for the information if they simply just want to see it?