

# Policies for Review - 1<sup>st</sup> Reading

September 12, 2022

IHBB - Programs for Gifted and Talented Students

BIE - Board Member and District Employee Indemnification

JBAB - Transgender and Nonbinary Students

*NHSBA Sample Policy*  
*5-13-2022 Policy Committee*  
*6-10-2022 Policy Committee*  
*9-12-2022 First Reading*

## **NHSBA Sample Policy**

**IHBB**

### **PROGRAMS FOR GIFTED AND TALENTED STUDENTS**

***Category: Recommended***

The Board recognizes the benefit of programs **that address the needs of all learners, including** ~~for~~ gifted and talented students. For the purposes of this policy, “gifted and talented student” shall mean “a student identified as having unique academic, artistic, or athletic potential.”  
**[<sup>1</sup>delete footnote] Learners identified as gifted and talented will have the opportunity to partake in a differentiated program to support their exceptional abilities and unique characteristics related to their giftedness, as defined in policy IHBB, Extended Learning Opportunities.**

Beginning in the 2022-2023 school year, the Superintendent shall submit to the New Hampshire Department of Education, no later than August 1, an annual narrative report detailing the policies, programs, and procedures that are in place to identify and accommodate the unique needs of gifted and talented students. If no such policies, programs, or procedures exist, the report shall so state.

**Legal References:**

RSA 189:29-b, Identification and Accommodation of Gifted and Talented Students

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**NHSBA history:** Revised – May 2022, Nov. 1999, July 1998

**NHSBA revision notes, May 2022,** revised to include the definition of gifted and talented now provided in RSA 189:29-b (enacted in 2021, see HB321), as well as the requirement under that statute for districts to provide a narrative report to the N.H. Dept. of Education describing the district’s programs for gifted and talented students; recategorized as “recommended” because of mandated reporting requirement; added provisions to encourage more robust programming/input from boards; and minor edits.

*Current GSD policy for review. NHSBA revised sample policy to include exception to indemnification when board member violates his or her oath of office, or otherwise acts outside his/her authority.*

*6-10-2022 Policy Committee*

*9-12-2022 First Reading*

## **BOARD MEMBER AND DISTRICT EMPLOYEE INDEMNIFICATION**

The members of the Board and District employees and agents act as agents of the District. None of these individuals should be placed in a position of personal liability for the performance of the responsibilities vested in them by the voters of the District and the State and Federal governments.

In order to protect the individual members of the Board, District employees and other agents, and the educational interest of the community, the Board will purchase, from public school funds, in the absence of governmental immunity or in coordination with governmental immunity, adequate insurance to indemnify Board members and agents of the District for their official actions in the service of the School District.

To the fullest extent permitted by New Hampshire law, and as provided in RSA 31:104, Board members and executive officers of the District (superintendent, assistant superintendent and business administrator) shall not be liable for damages for any vote, resolution, or decision made by any such person acting in his or her official capacity in good faith within the scope of his or her authority.

The District will save harmless and indemnify members of the Board, District employees and agents in accordance with RSA 31:105 and RSA 31:106 and to the fullest extent permitted by New Hampshire law.

**Nothing herein, however, shall be construed as obligating the Board to defend, indemnify, or hold harmless any person who violates the oath of office, or otherwise engages in criminal activity, official misconduct, fraud, intentional or willful and wanton misconduct, or acts beyond the authority properly vested in the individual.**

### **Legal References:**

*RSA 31:104, Powers and Duties of Towns: Liability of Municipal Executives*

*RSA 31:105, Powers and Duties of Towns: Indemnification for Damages*

*RSA 31:106, Powers and Duties of Towns: Indemnification: Civil Rights Act*

*RSA 31:107, Powers and Duties of Towns: Purchase of Insurance*

**(Adopted: 5/2/2016)**

## **TRANSGENDER AND NONBINARY STUDENTS**

### **I. PURPOSE**

The Gilford School District policy requires that all programs, activities, and employment practices be free from discrimination based on sex, sexual orientation, or gender identity. This policy is designed in keeping with these mandates to create a safe learning environment for all students and to ensure that every student has equal access to all school programs and activities.

This policy sets out guidelines for schools and district staff to address the needs of transgender and nonbinary students and clarifies how state law, RSA 193:38, should be implemented in situations where questions may arise about how to protect the legal rights or safety of such students. This policy does not anticipate every situation that might occur with respect to transgender or nonbinary students, and the needs of each transgender or nonbinary student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of the transgender or nonbinary student while maximizing the student's social integration and minimizing stigmatization of the student.

When a student ~~or~~ **and** the student's parent or guardian, as appropriate, notifies the school administration that the student will assert a gender identity that differs from previous representations or records, the school will begin treating the student consistent with the student's gender identity. Under Title IX, there is no medical diagnosis or treatment requirement that students must meet as a prerequisite to being treated consistent with their gender identity. Transgender students often are unable to obtain identification documents that reflect their gender identity (e.g., due to restrictions imposed by state or local law in their place of birth or residence). Requiring students to produce such identification documents in order to treat them consistent with their gender identity may violate Title IX when doing so has the practical effect of limiting or denying students equal access to an educational program or activity.

This procedure will be used to address needs raised by transgender students and/or their parent(s)/guardian(s) for school and school activities.

1. A transgender student and/or their parent(s)/guardian(s) should contact the student's counselor or building administrator. In the case of a student who has not yet enrolled in school, the appropriate building administrator should be contacted.
2. A meeting should be scheduled to discuss the student's particular circumstances and needs. In addition to the student, parent(s)/guardian(s) and building administrator, participants may include the school counselor, school nurse, teachers and/or other school staff, and possibly outside providers who can assist in developing a plan for that student for school and school activities.
3. A written plan will be developed by the school, in consultation with the student, parent(s)/guardians(s) and others as appropriate, to address the student's particular needs at school and school activities. If the student has an IEP or a 504 Plan, the provisions of these plans should

be taken into consideration in developing the plan for addressing transgender issues at school and school activities.

4. If the parties cannot reach an agreement about the elements to be included in the plan, the Superintendent shall be consulted as appropriate.

## **II. DEFINITIONS**

The definitions provided here are not intended to label students but rather are intended to assist in understanding this policy and the legal obligations of District staff. Students might or might not use these terms to describe themselves.

"Gender identity" is a person's deeply held sense or psychological knowledge of their own gender, regardless of the gender they were assigned at birth. Everyone has a gender identity.

"Transgender" describes people whose gender identity is different from their gender assigned at birth.

"Gender expression" refers to the way a person expresses gender, such as clothing, hairstyles, activities, or mannerisms.

"Cisgender" refers to a person whose gender identity and expression are aligned with those traditionally associated with their assigned sex at birth.

"Nonbinary" describes an individual whose gender identity and/or expression does not align with the gender binary of male or female. A gender nonbinary person may describe their gender identity and/or expression as androgynous, genderfluid, genderqueer, agender, non-labeling, etc.

"Genderfluid" describes an individual whose gender identity and/or expression may be nonbinary or non-binary, who has a wider and more flexible range of gender expression that may even change from day to day. While the gender expression of a student who is genderfluid is flexible or may appear to change with some frequency, their genderfluid identity can be recognized as the "gender which the student consistently asserts at school" in regards to the policy.

"Gender Transition" is the process by which a person goes from living and identifying as one gender to living and identifying as another gender. Gender transition is typically prompted by the feeling that an individual's gender identity does not match the one typically associated with their assigned sex at birth. Examples include: transitioning from a boy to a girl, a girl to a boy, a girl to gender non-binary, or a boy to gender non-binary. For most elementary and secondary students, this involves no or minimal medical interventions. In most cases, transgender students under the age of 18 are in a process of "social transition" from one gender to another.

“Sexual Orientation” describes a person’s romantic and/or sexual attraction. Sexual orientation is different and not the same as gender identity or gender expression. In this policy, sexual orientation refers to an individual’s “actual or perceived” sexual orientation.

### III. GUIDANCE

#### A. Privacy

The Gilford School Board recognizes a student’s right to keep private one’s transgender status or nonbinary presentation at school. The Board also recognizes a transgender and nonbinary student’s right to discuss and express their gender identity openly. Information about a student’s transgender status, legal name or ~~biological sex~~ **gender assigned at birth** listed on a person’s birth certificate also may constitute confidential information. School personnel should not disclose information that may reveal a student’s transgender status or nonbinary presentation to others. School personnel shall include parent(s) or legal guardian(s) when implementing a written plan for a student to address their needs as it relates to their transgender or nonbinary status.

When contacting the parent or legal guardian of a transgender or nonbinary student, school personnel should use the student’s preferred name and pronoun listed in the student information system. Student’s legal names shall not be changed in the official records unless legally required to do so.

#### B. Official Records

The District is required to maintain a mandatory permanent pupil record ("official record") that includes a student's legal name and legal gender. However, the District is not required to use a student's legal name and gender on other school records or documents. The District will change a student's official record to reflect a change in legal name or legal gender upon receipt of 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 student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

#### C. Names/Pronouns

~~A student~~ **Students** under this policy should be addressed by a **their preferred** name or pronoun that corresponds to the student’s gender identity that is consistently asserted at school. ~~“Should” does not mean “shall” or “must” but is a permissive term.~~

#### D. Gender-Segregated Activities

To the extent possible, schools should reduce or eliminate the practice of segregating students by gender. In situations where students are segregated by gender, such as for health education classes, students should be included in the group that corresponds to their gender identity and have the choice; whatever fits the need of the student.

#### E. Restroom/Locker Room Accessibility

The use of restroom/locker rooms requires schools to consider a number of factors,

including but not necessarily limited to the safety and comfort of students; the transgender student's preference; student privacy; the ages of students; and available facilities. As a general rule, transgender students will be permitted to use the restroom/locker room assigned to the gender which the student consistently asserts at school. Any student who has a need or desire for increased privacy, regardless of the underlying reason will be provided with a reasonable alternative changing area or single occupant bathroom.

#### **G. Physical Education Classes & Intramural Sports**

As a general rule, in any other facilities or activities when students may be separated by gender, transgender students may participate in accordance with the gender identity consistently asserted at school.

Interscholastic athletic activities should be addressed through the NHIAA participation policy, Article II, Section 21.

#### **I. Dress Codes**

All students are required to meet the requirements in the dress code or school rules. Transgender students may dress in accordance to the gender which the student consistently asserts at school.

#### **J. Discrimination/Harassment**

It is the responsibility of each school and the District to ensure that transgender and nonbinary students have a safe school environment. This includes ensuring that any incident of discrimination, harassment, or violence is given immediate attention, including investigating the incident, taking appropriate corrective action, and providing students and staff with appropriate resources, see Gilford School Board Policy ACAC. Complaints alleging discrimination, harassment or bullying based on a person's actual or perceived transgender status or gender nonconformity are to be handled in the same manner as other discrimination, harassment or bullying complaints. Refer to policy AC, ACAC, and/or JICK.

### **IV. STAFF TRAINING**

1. The Superintendent and/or building principal may institute in-service training and/or distribute educational materials about transgender issues to school staff as deemed appropriate.
2. Teachers and other staff who have responsibilities for a transgender student with a plan, as outlined in this policy, will receive support in implementing the plan.

**(Adopted: 1/6/2020)**