



7/5/2018

To Whom It May Concern,

The Delaware Association of School Psychologists (DASP) continues to support assurances that all students receive equal opportunities to access their educational experience without discrimination. In addition, we support the inclusion of gender identity and expression as a “Protected Characteristic.” This is in alignment to the National Association of School Psychologists (NASP) position statement, indicating a need to ensure safe and inclusive environments for all students, including students who are transgender or gender diverse (NASP, 2014). However, **we express significant concerns with the updates made in the most recent version of Regulation 225 and do not support it as currently written.**

DASP is concerned with the requirement of having parent or guardian permission prior to the school taking “action to recognize a change in any protected characteristic”. Overall, DASP is in disagreement with this position. By not allowing a student to use a self-identified gender or race if a parent or guardian denies it, or if a student doesn’t feel comfortable getting permission from a parent, it creates an environment that is not welcoming for a student and allows for potential discrimination by the school by not recognizing a Protected Characteristic solely due to the parent’s wishes. It is DASP’s position that all students, regardless of various Protected Characteristics, including gender identity, have the right to a safe and supportive environment within the educational arena. When students are in school climates that are safe, inclusive, and respectful of diversity, they perform better academically, behaviorally, and socially-emotionally.

According to a 2015 School Climate survey conducted by GLSEN, the leading national education organization advocating for safe schools for all students regardless of gender identity, gender expression, and sexual orientation, 43% of LGBTQ students felt unsafe at school because of their gender expression. Twenty percent of LGBTQ students reported being physically harassed, and 9.4% reported being physically assaulted because of their gender expression. When students don’t feel safe at school, it affects whether they are physically present at school (10% of LGBTQ students reported missing 4+ days in the past month), whether they will go into certain spaces in the school building (nearly 40% of LGBTQ students reported that they avoided gender-segregated spaces in schools like bathrooms or locker rooms because they felt unsafe or uncomfortable), and whether they will participate in school functions or extracurricular activities (over two-thirds of LGBTQ students reported avoiding school functions or extracurricular activities because they felt unsafe or uncomfortable). When students don’t feel safe, school becomes a place that evokes feelings of anxiety and danger, neither of which are conducive to learning and academic success. As a result, students reporting high levels of victimization

because of their gender expression are nearly 3 times more likely to miss school in the past month, have lower GPAs, are less likely to pursue post-secondary education, and are likely to seriously consider dropping out of high school.

Another concern is with the specific language used within the section regarding parental consent. As currently written, it states that permission is needed by parent or guardian before a school take action to “recognize a change in any protected characteristic”. It would be more appropriate to change the language to a student wanting to identify with a protected characteristic that differs from what was assigned at birth. We have concerns that the current language suggests that it is student choice about one of their Protected Characteristics, rather than a reflection of their true self. Additionally, it is further concerning that by the current definition, protective characteristics would include sexual orientation. By using the language above in Regulation 225, it connotes that sexual orientation is a choice, which it is not. In addition, it may open the door for school districts to prohibit same sex couples from attending school functions (such as dances) unless given approval by parents to recognize their sexual orientation.

DASP agrees with the continued language around the ability of a student to use a “preferred name” on the basis of a Protected Characteristic. It is unclear, however, whether or not parent permission is now required prior to the usage of the preferred name. Language should be added to clarify this component so that parent permission would not be required for the use of a “preferred name”.

DASP appreciates the spirit of the guidance document for school districts and charter schools to utilize when drafting their anti-discrimination policy. While it first begins discussing a potential rule that schools can adopt, prohibiting the practice of “disallowing a student’s access to locker rooms or bathrooms on the basis of the student’s gender identity or expression”, the draft/revision then notes that schools should be encouraged to work with transgender students and families to determine how to best proceed. It gives suggestions of possibly using private facilities, a private area in a locker room, or a different schedule on which to change. These suggestions are potentially discriminatory. Not allowing transgender students, who already had to go through the arduous process of parent approval with the district to approve the self-identified gender, still the inability to be equal to their peers is concerning, discriminatory, and creates a potential “separate but equal” and negative school climate.

We thank the Department of Education for their commitment to providing safe and supportive schools for all Delaware children. To support further, the position statement of the National Association of School Psychologists (NASP) regarding safe schools for transgender and gender diverse students is attached for your review. Also, thank you for this opportunity to

provide feedback. DASP welcomes further consultation and discussion relating to educational policies and practices.

Sincerely,

The Delaware Association of School Psychologists