

**AVON MAITLAND DISTRICT SCHOOL BOARD
ADMINISTRATIVE PROCEDURE
NO. 398**

SUBJECT: GENDER IDENTITY: ACCOMMODATION OF PERSONS WHO IDENTIFY AS TRANSGENDER (STAFF & STUDENTS)

Legal References: *The Canadian Charter of Rights and Freedoms: Section 15; Ontario Human Rights Code; Municipal Freedom of Information and Protection of Privacy Act; Child & Family Services Act; Young Offenders Act; Family Law Reform Act*

Related References: *Administrative Procedure (AP) 103 Management of Personal Information - Student; AP138 Positive Workplace Environment; AP141 Equity and Inclusive Education; AP195 Freedom of Information and Protection of Privacy; AP197 Student Information Standardization; AP351 Code of Conduct; AP352 Promoting Positive Student Behaviour Including Progressive Discipline and Bullying Prevention and Intervention; AP370 Ontario Student Record; AP403 Confidentiality of Medical Records; Bill 13 Accepting Schools Act; Ministry of Education Policy/Program Memorandum 114; Ontario's Education Equity Action Plan – Ministry of Education; Ontario Student Record (OSR) Guideline – Ministry of Education; A Guide to Privacy and Access to Information in Schools; Form 398A Student Request for Accommodation; Form 398B Staff Request for Accommodation*

Transgender is an umbrella term referring to people with diverse gender identities and expressions that differ from stereotypical gender norms. It includes but is not limited to people who identify as transgender, trans woman (male-to-female), trans man (female-to-male), non-binary, gender fluid or gender queer. For further information, see *Appendix A: Terms and Definitions*.

1.0 Director of Education's Procedure Statement

"Ontario's *Accepting Schools Act* amended the *Education Act* to provide explicit protection for students from bullying because of gender identity and gender expression among other grounds. The legislation requires school boards to develop and implement equity and inclusive education policies that address all forms of discrimination and harassment based on the *Ontario Human Rights Code* protected grounds, including gender identity and gender expression."

Policy on Preventing Discrimination because of Gender Identity and Gender Expression (2014)

2.0 Procedure Statement

The goal of this procedure is:

- a) To support students and staff who identify as transgender
- b) To support the transition of a student or staff in their gender identity
- c) To support staff in procedures required when a staff or student is transitioning
- d) To support families in knowing that the school is invested in the well-being and support of their child's identity

3.0 Roles and Responsibilities

The school board and families are in partnership to ensure the well-being and development of children. Well-being is optimal when children feel safe and supported to express their lived identities. The school board also holds responsibilities for the well-being of all staff. The school board supports staff members to express their lived identities.

3.1 Parent(s) / Guardian(s)

As the primary caregiver(s) of their child, a student's parent(s)/ guardian(s) supports their child's growth and development. Involved in this development will be exploration of who they are as an individual and how they choose to express their identity to others.

3.2 Students who Identify as Transgender – Areas of Accommodation

A student may request accommodation in the following areas, but are not limited to:

- a) Addressing students and management of student records
- b) Washroom access
- c) Dress code
- d) Sports and extracurricular activities and physical education classes
- e) Change rooms
- f) Gender segregation in areas within a school
- g) Student support and advocacy

Guidelines for Accommodating Students are found in Appendix C.

Accommodation requests are formalized by the student by submitting *Form 398A: Student Request for Accommodation Form* to the principal of the school. Following the request, the student(s) should expect a meeting with the principal to discuss the response to the accommodation(s) being requested.

3.3 Staff who Identify as Transgender – Areas of Accommodation

A staff member may request accommodation in the following areas, but are not limited to:

- a) Names/pronouns
- b) Gender expression/dress code
- c) Washroom access
- d) Change rooms
- e) Notification of transition
- f) Statement of confidentiality
- g) Accommodation-based requests for transfer
- h) Medical procedures

Guidelines for Accommodating Staff are found in Appendix D.

Accommodation requests are formalized by staff by meeting with a Human Resources representative, Superintendent of Human Resource Services or designate and submitting *Form 398B: Staff Request for Accommodation Form*. Following the request, the staff should expect a meeting with the principal or supervisor to discuss the response to the accommodation(s) being requested.

3.4 **School Staff**

If accommodation requests are received directly by school staff, they are asked to support the student to make a formal request for accommodation (*Form 398A: Student Request for Accommodation Form*) or support the student to speak to the principal to discuss the procedures for accommodation requests. If the student does not want to make a formal request for accommodation, staff should ensure the student has been offered access to available supports (e.g., student services, health nurse, family support, etc.).

3.5 **Principals and Supervisors**

The *Ontario Human Rights Code* provides the equal rights and opportunities and freedom from discrimination for all persons. This administrative procedure explains Avon Maitland's practices related to accommodation based on gender identity and gender expression. Principals and supervisors are required to follow this procedure and its related guidelines to support staff and/or students with gender identity accommodation requests. Students and staff members are encouraged to make accommodation requests in writing and the request/form should be delivered to the Principal or Supervisor for review. Any one person who identifies as transgender is unique and presents with different needs, therefore, individualized response plans should be created. Accommodations may call on staff and families to collaborate to ensure the student or staff is accommodated in an appropriate manner.

Follow *Appendix B: Summary of Accommodations Procedure Chart*.

3.6 **School Board**

System staff will periodically offer professional development to ensure staff have the awareness, skills, knowledge, and attitudes necessary to deliver inclusive curriculum which includes anti-homophobia and anti-transphobia education. School leaders should support staff in connecting with the appropriate system staff member(s) (e.g., Equity Lead) to learn more or explore resources pertaining to gender identity.

4.0 **Confidentiality and Privacy of Information**

Please contact the Manager of the Enrollment and Information Department for assistance with management of student records as it pertains to gender identity.

All staff and students have the right to privacy which includes their gender identity. Avon Maitland staff must keep a person's transgender status confidential. Staff must not disclose a staff's or student's transgender status to others unless there is a specific 'need to know' as in cases where information would be required to fulfill a specific accommodation request. Note: Some students who identify as transgender have not shared their chosen gender identity at home. A school shall not disclose a student's gender status to the student's parent(s)/guardian(s) without the student's explicit prior consent. When a circumstance arises where it is deemed necessary or prudent to reveal the student's chosen gender identity, the principal will contact the Regional Superintendent for consultation, as it will necessary to review the child's rights to ensure they are respected and honoured.

4.1 **Ontario Student Record (Avon Maitland's Administrative Procedure 370)**

The confidentiality of information about the individual student is maintained by adherence to Section 266 of the *Education Act*, the Ontario Student Record (OSR) Guideline, and A Guide to Privacy and Access to Information in Ontario Schools.

4.2 Ontario Student Record (Avon Maitland’s Administrative Procedure 370)

Provisions for the protection of confidentiality and the release of information regarding individual students is also governed by the *Child & Family Services Act*, the *Young Offenders Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Family Law Reform Act*. It is imperative that the requirements of each piece of legislation be respected and followed. Staff members should note that certain acts, regulations, and requirements of the *Criminal Code* and the *Education Act* require a careful balance when there are competing interests with regards to confidentiality and/or disclosing personal information. In such cases, staff members shall consult with the supervisory officer prior to releasing or refusing to release information.

5.0 Online Resources

<p><u>Local Resources</u></p> <p>Perth District Health Unit http://www.pdhu.on.ca/</p> <p>Huron County Health Unit https://www.huronhealthunit.ca/</p>	<p><u>Provincial Resources</u></p> <p>Rainbow Health Ontario https://www.rainbowhealthontario.ca/</p> <p>Trans Lifeline https://www.translifeline.org/</p> <p>Gender Creative Kids http://gendercreativekids.ca/</p> <p>Trans Pulse Project http://transpulseproject.ca/</p> <p>Ontario Human Rights Commission http://www.ohrc.on.ca/en</p> <p>LGBTQ Youthline http://www.youthline.ca/</p>
<p><u>National Resources</u></p> <p>Egale Canada Human Rights Trust https://egale.ca/</p> <p>PFLAG Canada https://pflagcanada.ca/</p> <p>Trans Parent Canada http://www.transparentcanada.ca</p>	
<p><u>Print Resources</u></p> <p>Wells, K., Roberts, G. and Alla, C. (2012). <i>Supporting Transgender and Transexual Students in K-12 Schools: A guide for educators</i>. Ottawa, ON: Canadian Teachers’ Federation</p> <p><i>Policy on Preventing Discrimination because of Gender Identity and Gender Expression</i>. Ontario Human Rights Commission (2014) www.ohrc.on.ca</p>	

Terms and Definitions

Gender identity is each person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex. Gender identity is fundamentally different from a person's sexual orientation.

Gender expression is how a person publicly presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common ways of expressing gender.

Trans or **transgender** is an umbrella term referring to people with diverse gender identities and expressions that differ from stereotypical gender norms. It includes but is not limited to people who identify as transgender, trans woman (male-to-female), trans man (female-to-male), non-binary, gender fluid, or gender queer.

- **Non-Binary** is a person whose gender identity does not align with binary understanding of gender such as man or woman
- **Gender Fluid** is a person whose gender identity or expression changes or shifts along the gender spectrum
- **Gender Queer** is a person whose gender identity and/or expression may not correspond with social and cultural gender expectations

Cisgender is a person whose gender identity corresponds with the social expectations associated with the sex assigned to them at birth.

Discrimination happens when a person experiences negative treatment or impact, intentional or not, because of their gender identity or gender expression. It can be direct and obvious or subtle and hidden, but harmful just the same. It can also happen on a bigger systemic level such as organizational rules or policies that look neutral but end up excluding trans people. Friends, family or others who face discrimination because of their association with a trans person are also protected.

Harassment is a form of discrimination. It can include sexually explicit or other inappropriate comments, questions, jokes, name-calling, images, email and social media, transphobic, homophobic or other bullying, sexual advances, touching and other unwelcome and ongoing behaviour that insults, demeans, harms or threatens a person in some way. Assault or other violent behaviour is also a criminal matter. Trans people and other persons can experience harassing behaviour because of their gender identity or expression (gender-based harassment) and/or their sex (sexual harassment).

Intersex refers to a person whose chromosomal, hormonal or anatomical sex characteristics fall outside the conventional classification of 'male' or 'female'.

Two-Spirit is a term used by some Indigenous peoples to indicate a person whose gender identity, spiritual identity or sexual orientation comprise both male and female spirits.

Questioning is an individual who is unsure about their own gender identity or sexual orientation.

Reference: *Policy on Preventing Discrimination because of Gender Identity and Gender Expression*. Ontario Human Rights Commission (2014)

Summary of Accommodation Procedures Chart

Accommodation Requested	15 years old and under <u>without</u> parent/guardian support	15 years old and under with parent/guardian support	16 years old and older	Staff
Verbal use of names and pronouns	A conversation is had with student, an educator representative and the Principal/Vice-Principal of the school Staff use student's preferred name and pronouns in class and within the school	Complete Student Request for Accommodation form (Form 398A) Staff use student's preferred name and pronouns in class and within the school	Complete Student Request for Accommodation form (Form 398A) Staff use student's preferred name and pronouns in class and within the school	Staff completes a Request for Accommodation Form (Form 398B) Staff and students use preferred name and pronouns of staff member in class and within the school
Name and gender to be changed in Student Information System (attendance, field trip forms, report cards)	A conversation is had with student, an educator representative and the Principal/Vice-Principal of the school Request made to the Manager of the Enrollment and Information Department to support with technical changes (Student may request that name change does not appear on documentation sent home)	Complete Student Request for Accommodation form Request made to the Manager of the Enrollment and Information Department to support with technical changes	Complete Student Request for Accommodation form Request made to the Manager of the Enrollment and Information Department to support with technical changes	N/A
Legal name change to be made in Student Information System	Proof of legal name required (e.g. birth certificate)	Proof of legal name required (e.g. birth certificate)	Proof of legal name required (e.g. birth certificate)	N/A
Employment Records	N/A	N/A	N/A	Legal name change certification must be provided to AMDSB Human Resources

Students: For questions in relation to these procedures, please contact the Manager of the Enrollment and Information Department.

Staff: For questions in relation to these procedures, please contact the Manager of Human Resources.

Guidelines for Accommodating Students

Areas of Accommodation

A student may request accommodation in the following areas, but are not limited to:

- a) Addressing students and management of student records
- b) Washroom access
- c) Dress code
- d) Sports and extracurricular activities and physical education classes
- e) Change rooms
- f) Gender segregation in areas within a school
- g) Student support and advocacy

Accommodation requests are formalized by the student by submitting *Form 398A: Student Request for Accommodation Form* to the principal of the school. Following the request, the student should expect a meeting with the principal to discuss the accommodation(s) being requested and the resulting plan.

Names and Pronouns: Addressing Students

Transgender students have the right to be addressed by a name and pronoun corresponding to their gender identity. This is true regardless of whether they have obtained a legal name change or legal change to their official sex designation. Intentionally addressing a student who identifies as transgender by the incorrect name or pronoun will be considered a form of discrimination and harassment. While it is understood that mistakes may occur, intentional and/or persistent refusal to acknowledge a student's gender identity or use of their preferred name is unacceptable and may be subject to discipline.

Management of Student Records

Please contact the Manager of the Enrollment and Information Department for assistance with management of student records.

Gender Marker

Transgender students have the right to be known by a gender other than that which appears on the student's birth certificate. This change is only prospective, in that updates will be made moving forward. Historical records will not be changed.

NOTE: The board's current student information systems only allows for "M" or "F" options for gender.

Technology Accounts

Access to technology resources are authenticated through an on-premise Active Directory environment. When a student is entered into the board's student information system, it automatically provides an Active Directory account which then creates accounts in G-Suite or any additional Active Directory driven system. Modifications to a student's first or last name is updated via Maplewood (student information system), which then automatically updates in the connected systems. This change takes approximately 24 hours. The student should be notified that their accounts will be updated within a day.

Washroom Access

Under the *Ontario Human Rights Code*, all students have a right to safe restroom facilities and

the right to use a washroom that corresponds to their chosen gender identity, regardless of the student's sex assigned at birth. Requests for accommodation may include the use of one, or both gendered washrooms, or the use of a private all-gender single stall washroom. Where possible, schools will provide an easily accessible all-gender single stall washroom for use by a student who requests accommodation for increased privacy. The use of a single stall washroom should always be a matter of choice requested through the accommodation process (*Form 398A: Student Request for Accommodation Form*).

Dress Code

A student should be permitted to wear what they want and express their gender in accordance with their gender identity, given the attire is acceptable according to current dress code standards of the school. If a student is wearing inappropriate clothing, this should be addressed, regardless of their gender identity. Students should not have to choose between 'male' and 'female' clothing. Some students are most comfortable in clothing that is neither clearly masculine or feminine.

Sports, Extracurricular Activities and Physical Education Classes in School

School staff must ensure students can exercise their right to participate in gender segregated sports and physical education class activities in accordance with each student's gender identity.

Competitive Sports

A student should be able to compete in sports in accordance with their lived gender identity. Further support for these practices can be provided in consultation with the AMDSB Athletic Directors.

- **Ontario Federation of Student Athletics Association (OFSAA)** Transgender Participation Policy states that they support the participation of transgender student-athletes in sports in accordance with their lived gender identity which is not contingent on physical appearance or medical procedures.
- **Competition at another school** - If a transgender student-athlete requires a particular accommodation to ensure access to appropriate changing, showering, or bathroom facilities, school leaders, athletic directors and coaches, in consultation with transgender student-athlete, should notify their counterparts at other schools/boards prior to competition to ensure that the student has access to facilities that are congruent with their requested accommodations. Under no circumstances should a student-athlete's identity as transgender person be disclosed without the student's permission.
- **Hotel Rooms** - Rooming considerations/accommodations are made in conversation with the transgender student-athletes.
- **Dress Code/Uniforms** - Transgender student-athletes are permitted to dress consistently with their gender identities.

School Change Rooms

Students have the right to access a school change room that corresponds to their gender identity. If they do not want to use the male or female change room an accommodation request should be submitted. Confidentiality should be maintained.

Field Trips

The needs of students who identify as transgender require consideration when participating in field trips. Teachers organizing the trip will need to connect with the destination location staff to ensure there are appropriate washrooms and change rooms to meet the individual accommodations of students. Overnight stays also require rooming considerations. Rooming considerations/accommodations are made in collaboration with the student while

ensuring confidentiality procedures are followed. The student should not incur additional costs for rooming arrangements

Gender Segregation in Other Areas

As a general rule, gender segregation should be avoided where possible. In circumstances where students are separated by gender (e.g. class discussions, group work, courses, field trips), students shall be permitted to participate in accordance with their gender identity.

Student Support and Student Advocacy

Schools are required to support the development of a trans-inclusive GSA (Gay Straight Alliance) or similar group name developed by the students. They should support actions, activities and campaigns that are trans-positive and create awareness about trans-phobia, gender stereotypes, and gender-based violence. This work is supported by the Accepting Schools Act (Bill 13), 2012; An act to amend the *Education Act* with respect to bullying and other matters.

Further Reading

For more information, please refer to the Human Rights in Ontario around Gender Identity Guide found at: http://www.ohrc.on.ca/en/code_grounds/gender_identity

These guidelines have been adapted from the TDSB Guidelines for the Accommodation of Transgender and Gender Non-Conforming Students and Staff.

For further support of accommodations provided to students who identify as Transgender please connect with the Avon Maitland District School Board Equity Lead.

Guidelines for Accommodating Staff

Areas of Accommodation

There are a number of areas where gender identity and gender expression may result in a staff member requesting accommodations. To enact these accommodations, the staff member will need to submit the *Staff Request for Accommodation Form (Form 398B)* to Human Resources and then Human Resources will organize a meeting to review the requests.

These areas may include, but are not limited to the following:

- a) Names/Pronouns
- b) Gender Expression/Dress Code
- c) Washroom Access
- d) Change Rooms
- e) Notification of Transition
- f) Statement of Confidentiality
- g) Accommodation-based Requests for Transfer
- h) Medical Procedures

Names and Pronouns

Employee records and work-related documents must be retained under the individual's legal name until the individual makes a legal change.

Transgender staff have the right to be addressed by a name and pronoun corresponding to their gender identity. This is true regardless of whether the staff member has obtained a legal name change or change of sex designation.

Intentionally addressing a staff member by the incorrect name or pronoun will be considered a form of discrimination and harassment. While it is understood that mistakes may occur, the intentional and/or persistent refusal to acknowledge or use a staff member's gender identity is not acceptable and may be subject to discipline.

Gender Expression/Dress Code

All employees have the right to dress consistently with their gender identity without being questioned as long as the attire is acceptable according to current dress code standards. Staff should not have to choose between 'male' and 'female' clothing. Some people are most comfortable in clothing that is neither clearly masculine nor feminine.

Washroom Access

Under the Ontario Human Rights Code, employees have the right to safe restroom facilities and the right to use a washroom that best corresponds to their gender identity, regardless of their sex assigned at birth. Requiring employees to 'prove' their gender (by requiring a doctor's letter, etc.) is not acceptable. The employee's self-identification is the sole measure of their gender.

Where possible, schools and other school board buildings will provide an easily accessible all-gender single stall washroom for use by any staff member who desires increased privacy. However, use of an all-gender single stall washroom should always be a matter of choice for a staff member.

Change Rooms

All staff have the right to a safe change space/room that corresponds to their gender identity.

Notification of Transition

The word “transition” refers to the process (which for some people may also be referred to as the “gender affirming process”) whereby people bring their appearance or physical body into alignment with their gender identity. Transition means different things to different people, due in part to issues of access, safety and personal choice. It may involve, if freely chosen, modification of bodily appearance, presentation or function by medical, surgical, or other means. It should not be assumed that all persons will be making a physical transition.

An individual employee beginning the transition process may contact their direct supervisor, federation or association in order to speak about their intentions and accommodation needs. It is recommended that individual employees make these contacts well before a planned transition date, so that a supportive network can be established along with plans that may include gender awareness training. The onus should not be placed on the transitioning individual to provide this training.

Confidentiality

The transgender status of an employee is considered confidential and may only be disclosed with the consent of the employee. If a person has not disclosed their intent to transgender at work, but their identity is discovered, that is to remain private. The status and history of one’s gender identity is a matter of privacy.

Accommodation-based Requests for Transfer

An employee may feel more comfortable working in a different position during and/or after their transition. Principals and Managers should be prepared to discuss potential options with the individual, as well as with the Human Resources department of Avon Maitland.

In such circumstances, employees are encouraged to contact their federation or association in order to help facilitate discussions around potential options.

Medical Procedures

Recognize that a transitioning employee may or may not undergo a medical procedure. Surgery in and of itself is not the goal or purpose of a gender transition. For example, it should not be assumed that a person will be making a physical transition. Transitioning can mean different things to different people, and may evolve over time.

Medical information, including surgery plans communicated by an employee, must be treated confidentially, as with any requests regarding medically-related situations.

Further Reading

For more information, please refer to the Human Rights in Ontario around Gender Identity Guide found at: http://www.ohrc.on.ca/en/code_grounds/gender_identity

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For further support of accommodations provided to staff who identify as Transgender please connect with the Avon Maitland District School Board Equity Lead.