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Developing Strategies for Transgender Students, Staff and Community Members

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Today's Agenda

- Perspectives and insights
- Progress and regress
- The issue
- Legal perspectives
- Strategies you can implement
- Questions

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Perspectives

- Increasing awareness
- Stereotypes still persist
 - It is a sexual perversion
- Discrimination still persists
 - Only 20 states have protections for gender identity
- Increasing impact
 - Estimated 1,400,000 adults in US
 - No census data
 - Discrimination carries a halo effect
- Private issue – lived out in public
- Complicated process



Sobering Statistics

- In a recent survey, students were asked about their own experiences at school:
 - All transgender students reported experiencing harassment
 - 90% were called derogatory terms like faggot or dyke
 - 90% heard negative remarks about not being “masculine” or “feminine” enough
 - 47% have been physically assaulted
 - 54% of those victimized did not report to school authorities
 - Studies have shown suicide rates at 8 times that of gender typical student peers
- More than 1/3 of the students (39%) heard school staff make transphobic, homophobic or sexist remarks



Insights



- Coming out is like jumping off a cliff
 - Fear of harassment (Students & Staff)
 - Fear of job loss (Staff)
- What are the district policies?
 - How well are they understood?
 - How consistently are they applied?
 - Is gender identity included?
- Will I be accepted or rejected?
 - By students and/or staff
 - By parents and community members
- I've already transitioned and will be new to the district
 - Am I out?
 - Will I be outed?



Confusing Terms

- **Gender / Sex**
 - Assigned at birth
- **Sexual orientation**
 - Who you are attracted to
 - The LGB of the LGBT
- **Gender expression**
 - How do you appear
 - How you express yourself
 - May not fit the “norm”
- **Gender identity**
 - Transgender
 - How do you see yourself
- **Related Terms**
 - Gender non-conforming
 - Gender neutral
 - Gender fluid
 - Non-binary
 - Transsexual
 - Cis Gender
 - Open
 - Outed
 - Stealth



Progress and Regress



- More acceptance of diversity
 - In general
 - In business
- Efforts for inclusion
 - Up side to inclusion
- Businesses value diversity and inclusion
 - Within the community
- Legislative efforts
 - Educational setting
 - Employment protection
 - Public accommodation
- Push back
 - Individuals
 - Religious objections
 - Politicians
- Legislative efforts
 - Roll back of protections
 - “Bathroom bills”
 - Religious exemptions
- Executive Action
 - Roll back of previous administration’s position and guidance



What is The Issue?



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The Bathroom Issue

- Significant source of potential problems
 - Student/Parent discomfort
 - Potential source of harassment and violence
 - District mis-steps
 - Building level differences
 - Employment vs student issues
- Social and Legislative push back
 - Schools
 - Public accommodation
- Guidance can be found in OSHA Guidelines and the Oregon Department of Education



OSHA Bathroom Guidelines

“OSHA’s goal is to assure that employers provide a safe and healthy working environment for *all* employees”

- Issued June 1, 2015
- Sanitation Standard (1910.141)
 - Provide toilet facilities
 - Reasonable distance
 - Prohibits restricting employees
 - Prohibits segregating employees
- Best Practice
 - Single-occupancy gender neutral (unisex) facilities
 - For any employees (or students)
 - Use of multiple-occupant, gender neutral restroom facilities with lockable single occupant stalls



Oregon Department of Education Guidance

- It is recommended that school districts accept a student's assertion of his/her/their own gender identity.
 - A student who says she is a girl and wishes to be regarded that way throughout the school day should be respected and treated like any other girl.
 - So too with a student who says he is a boy and wishes to be regarded that way throughout the school day. Such a student should be respected and treated like any other boy.
- This would include Bathroom and locker room usage
 - Make single use or "unisex" facilities available but do not force their use

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Legal Landscape

- State and Local Law
- Federal Protections
 - Department of Education
 - EEOC
 - Dept. of Justice
 - Office of Personnel Management
 - Rescinded Executive Orders
 - Federal Government Contractors
 - Affordable Care Act
 - Department of Education



Oregon Equality Act

- Prohibits discrimination based on sexual orientation and gender identity in employment, housing, public accommodations and other categories including public schools
 - Effective 1/1/2008
- Enforced by BOLI
 - Civil Rights Division
 - Employment Division
- Not impacted by Federal activity



Department of Education

- **Resources for Transgender and Gender-Nonconforming Students**
 - “Title IX protects all students, including transgender and gender-nonconforming students, from sex discrimination. Title IX encompasses discrimination based on a student’s nonconformity with sex stereotypes and gender identity, including a student’s transgender status. **Once a school is notified that a student will begin asserting a gender identity that differs from previous representations or records, the school must begin treating the student consistent with the student’s gender identity. When a school provides sex-segregated activities or facilities, transgender students must be allowed to participate in such activities and access such facilities consistent with their gender identity.** Moreover, schools should be aware of their obligation under Title IX and the Family Educational Rights and Privacy Act (FERPA) to protect the privacy of their students when maintaining education records.”

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Legal Bottom Line

- While the landscape is murky at the federal level, Oregon's law and guidance has not changed
- This would apply to both the educational and employment pieces to the equation

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Evidence of Discrimination

- Failing to use a person's preferred name and/or pronoun
- Failing to revise records, email, ID badge, etc.
- Refusing to allow use of segregated facilities consistent with gender identity
- Inappropriate medical or personal inquiries
- Violating confidentiality
- Isolating or singling out the transgender student or staff member
- Imposing gender-based uniforms or grooming standards
- Insensitive language
- Disparate application of policies

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Best Practices

- Lead by example
 - Educate staff to be allies to transgender students and employees
- Review and update policies
 - Equal Opportunity, Non-Discrimination, and Harassment Policies
 - Dress Code and Appearance Standard Policies
 - Policies Regulating Gender Segregated Areas (Bathrooms, Dressing and Locker Rooms, Etc.)
 - Participation and curriculum related policies
- Monitoring and responding appropriately to staff and student conduct
 - Awareness training may be appropriate



Guidelines



- District's should be prepared to manage a transition or have a student come forward as transgender
 - Who in the building is charged with helping a transitioning student manage his/her transition (or staff member)
 - What a transitioning student can expect from staff
 - What the administration's expectations are for staff, transitioning students, and any existing support group in facilitating a successful transition
 - What the general procedure is for implementing transition-related changes, such as adjusting records, as well as a communication plan for staff and students
 - Answers to frequently asked questions about restroom use and dress codes



Don't Wait

- If you do not have a transgender student or staff member it is suggested that you address these things before your District is presented with a transition
 - Review the policies
 - Discuss with the Board
 - Create the notices to inform of the policies
- Staff awareness
- Physical changes
 - Curtains in changing areas
 - Creating private areas



Administration's Role

- District Office
 - Send a strong message of support for transitioning students and staff
 - Set the tone for what is expected of staff
 - Consider assigning a sponsor to transitioning students and staff
- Building Administration & staff
 - Needs to be on board in support of *all* students and staff
 - Listen to student concerns (may indicate need for training or additional discussions)
 - Support for transitioning employee

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Supporting a Transgender Student

- Name and pronoun use
- Confidentiality – no general announcement
- Restroom and Sex-Segregated Space Accessibility
- Dress Codes
- Overnight Trips
- Participation in Athletics: OSAA policy
- Bullying and Harassment
- Staff Training
- Inclusive curriculum
- Regular check-in with a trusted adult in the school



Wrapping Up

- Gender identity forms early
 - Persistent, consistent, insistent
 - May or may not have Parental support
- Be mindful of legal obligations
- Awareness, planning and communication can smooth the path
 - Recommend being prepared
 - Adjust if needed



Questions?

- Resources

- Victoria Nolan – Victoria.Nolan@victorianolanenterprises.com
- Oregon Department of Education Guidance–
<http://www.ode.state.or.us/groups/supportstaff/hklb/schoolnurses/transgenderstudentguidance.pdf>
- US Department of Education –
<https://www2.ed.gov/about/offices/list/ocr/lgbt.html>
- National Education Association Guide–
https://www.nea.org/assets/docs/20184_Transgender%20Guide_v4.pdf
- TransActive Gender Center - <http://www.transactiveonline.org/index.php>