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
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
  - Upside 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?
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
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.
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.”**
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.
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
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
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](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](https://www2.ed.gov/about/offices/list/ocr/lgbt.html)
  - TransActive Gender Center - [http://www.transactiveonline.org/index.php](http://www.transactiveonline.org/index.php)