



# Accommodating Transgender Students

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# Roadmap

- Key Terms
- Existing Legal Framework (Federal and State)
- Best Practices
- Questions – feel free to ask throughout!



## Key Terms

- Gender
- Gender identity
- Transgender
- Gender expression
- Gender nonconforming

Distinction between Sex and Gender



## Who cares about transgender accommodations?

- All students, including transgender students
- Parents and community members
- Staff and faculty
- School as a whole



# Protection under Federal Law

## *Title IX*

- “No person...shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”
- April 2014 Dear Colleague Letter from Department of Education, Office of Civil Rights
  - Expressly prohibits discrimination based on gender identity
- Consequences



## Protection under Federal Law

### ***Arcadia Unified School District Resolution Agreement***

- Transgender boy enrolled at middle school after legal name change.
- School District REQUIRED that he use Nurse's Room for Restroom Access and to change for Gym
- School District REQUIRED that he stay in cabin separate from boys and girls on field trip.
- Title IX Complaint and Resolution Agreement

**Lesson Learned:** Don't single out transgender students



## Protection under Federal Law

### ***Downey Unified School District Resolution Agreement***

- Transgender girl bullied by students and staff
- Staff repeatedly used male pronoun and called her by previous male name.
- School directory picture reflected male name as opposed to female name
- Hostile environment
- Title IX Complaint and Resolution Agreement

**Lesson Learned:** Use Preferred Name and Pronouns



## Protection under California law

- Education Code § 220 – prohibits gender identity discrimination against students in educational programs and activities.

*“No person shall be subjected to discrimination on the basis of ... gender, gender identity, gender expression ... in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.” Ed. Code § 220*

- Consequences



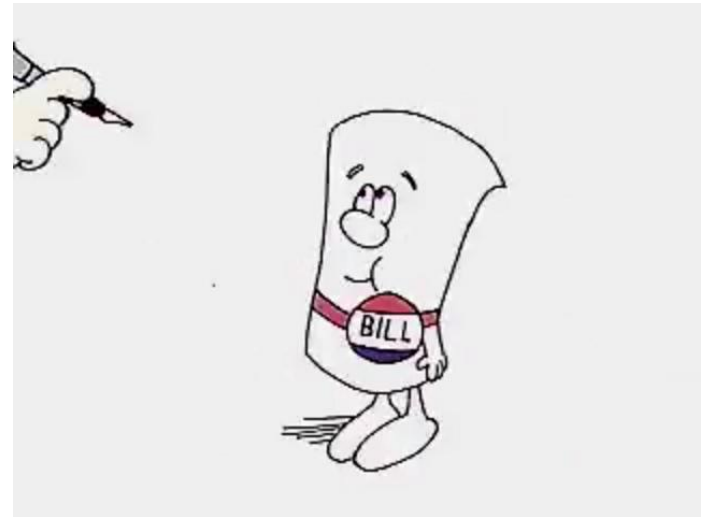


# AB 1266 – School Success and Opportunity Act

- Effective as of January 1, 2014

*“A pupil shall be permitted to participate in **sex-segregated school programs and activities**, including **athletic teams and competitions**, and use **facilities** consistent with his or her **gender identity**, irrespective of the gender listed on the pupil’s records.”*

Education Code § 221.5(f)



# What do you do when you receive a request for accommodations by a transgender student?

- Follow Your Policy
  - You should adopt one
- Meeting with Student
  - Student's Age
  - Sincerity of request
  - Leverage experts
- Reasonableness
  - Schools have discretion



## Legal Requirements – Education Code § 221.5(f)

### ***Facilities***

- What does it mean to provide students with use of facilities consistent with their gender identity?
- How do you determine what is an appropriate accommodation?



## Legal Requirements – Education Code § 221.5

### ***Athletic Activities and Extracurricular Programs***

- Physical Education Classes
- Boys' and Girls' Choirs
- Homecoming King or Queen?
- What about the softball team that competes through the California Interscholastic Foundation?



# Privacy Considerations

- **Student's Right to Privacy**
- **Changing Official School Records?**
  - **Family Educational Rights and Privacy Act (FERPA) implications**



## Privacy Considerations

- **What if student and family obtains Court order that indicates name and gender change?**
  - New Records?
  - Older Records?



## Conflicted Request

- What if a request for accommodations is made by one parent on behalf of a transgender or gender nonconforming student, but rejected by the other parent?
  - Understand decisionmaking authority
  - Communicate with BOTH parents and student



# What are Proactive Steps You Can Take Now?

## School Assemblies

- Work with experts and support groups
- Make optional
- Community Outreach - don't identify transgender or gender nonconforming students

## Staff Training

- Critical to minimize risk





# What are Proactive Steps You Can Take Now?

## Consider Formal Policy

- Provide students, parents, and school staff guidelines to follow
- Helps alleviate conflicts with students and parents
- Flexibility
- Balance interests and final decisionmaking authority rests with school administrator (principal)



# What are Proactive Steps You Should Take?

## Modifying Other Policies

- School Uniform Policy
- Field Trips?



# What are Proactive Steps You Should Take?

## **Student/Parent Handbook**

- Educational Tool
- Lays out school policy



Questions?

