

## LCPS Policy 8040 Rights of Transgender and Gender-Expansive Students Frequently Asked Questions

### 1. What is Policy 8040: Rights of Transgender and Gender-Expansive Students?

The Code of Virginia, 22.1-23.3, requires school boards to adopt policies that are consistent with but may be more comprehensive than the model policies developed by the Virginia Department of Education (VDOE). On April 2, 2021, the VDOE made available to Virginia school divisions a document titled and referred to in Policy 8040: Model Policies for the Treatment of Transgender Students in Public Elementary and Secondary Schools.

Policy 8040 affirms LCPS' commitment to providing an equitable, safe and inclusive learning environment for all students regardless of their sex, sexual orientation, transgender status, gender identity or gender expression. Given the broad range of topics relating to the treatment of transgender students that are required by law to be addressed by local school boards, the VDOE recognizes that school boards likely have existing policies that may already address some of these areas, while some other policies may need to be developed or expanded to be more gender-inclusive or to emphasize specific protections for transgender, nonbinary, and gender-expansive students.

Existing LCPS policies are cross-referenced to reflect the School Board's commitment to provide affirming, safe learning environments for all students. Title IX is a federal law that prohibits schools that receive federal financial assistance from limiting or denying a student's participation in any school program on the basis of sex. This may be understood to prohibit discrimination, including sexual harassment, based on sex stereotypes, sexual orientation, and gender identity or transgender status. Policy 8040 has been developed to comply with Virginia and federal law by addressing the sections of the law that are not addressed in existing LCPS policy.

### 2. Why is LCPS proposing Policy 8040 at this time?

Policy 8040 was written for two main reasons: 1) It addresses protections for students that are required by law; and 2) LCPS' commitment to equitable, safe, inclusive and affirming environments for all students.

Policy 8040 was developed in response to Va. Code 22.1-23.3, which was enacted by the 2020 Virginia General Assembly requiring local school boards to adopt policies consistent with the VDOE model policies by the beginning of the 2021-2022 school year. (See question #1 for additional information and link to the model policies).

LCPS is committed to supporting the *whole child* by providing an equitable, safe and inclusive learning environment for all students and that all students shall be treated with dignity and respect, regardless of their sex, sexual orientation, transgender status, or gender identity/expression.

**3. How will LCPS handle student confidentiality and communication with parents about gender identity?**

LCPS staff will follow the guidance below which includes suggestions from the VDOE *Model Policies for the Treatment of Transgender Students in Public Elementary and Secondary Schools* document.

- School staff will support the student’s need for privacy and safety and not disclose a student’s gender identity to other students or other parents.
- School staff will treat a student’s gender identity as being particularly sensitive information that should not be shared even internally among school personnel except to those with a legitimate educational interest or need to know.
- When a student or parent/guardian informs the school about their transgender or gender-expansive status, a school-based support team meeting should be offered for the purpose of developing a plan to accommodate the student’s needs.

**4. How will LCPS support the student (younger than 18-years old) when their family does not affirm the student’s transgender or gender-expansive identity?**

LCPS staff will follow the guidance below which includes suggestions from the VDOE *Model Policies for the Treatment of Transgender Students in Public Elementary and Secondary Schools* document.

- Privacy and confidentiality are critical for transgender students who have families that do not support or affirm their gender identity. Disclosing a student’s gender identity can pose imminent safety risks, such as losing family support or housing.
  - Research has shown that transgender youth with affirming families experience a 52 percent decrease in recent suicidal thoughts and 46 percent decrease in suicide attempts (Ryan, Russell, Huebner, Diaz, & Sanchez, 2010) and that “chosen name used in more contexts was associated with lower depression, suicidal ideation, and suicidal behavior” (Russell, Pollitt, Li, & Grossman, 2018). Thus, school staff should be prepared to support the safety and welfare of transgender students when their families are not affirming.
- The school administrator and unified mental health team member(s) will need to consider the health and safety of the student in situations where students may not want their parents to know about their gender identity, and schools should address this on a case-by-case basis.
  - If a student is not ready or able to safely share with their family about their gender identity, this should be respected.
  - School staff should work with students to help them share the information with their family when they are ready to do so.
  - School staff should provide information and referral to resources to support the student in coping with the lack of support at home, provide information and resources to families about transgender issues, seek opportunities to foster a better relationship between the student and their family, and provide close follow-ups with the family and student.

**5. How will LCPS staff address transgender or gender-expansive students?**

LCPS staff will follow the guidance below which includes suggestions from the VDOE *Model Policies for the Treatment of Transgender Students in Public Elementary and Secondary Schools* document. A transgender student may adopt a name that is different from their legal name on their birth certificate and use pronouns reflective of their gender identity. A student is considered transgender if, at school, the student consistently asserts a gender identity different from the sex assigned at birth. This should involve more than a casual declaration of gender identity, but it does not necessarily require any substantiating evidence nor any required minimum duration of expressed gender identity.

- School staff shall, at the request of a student or parent/legal guardian, use a student’s chosen name and gender pronouns that reflect their consistently asserted gender identity.
- When a parent/guardian of a minor student does not agree with a student’s request to use their chosen name and gender pronouns that reflect their consistently asserted gender identity, staff will discuss and may develop an alternative that respects both the student and the parent/guardian. This process will require consideration of solutions to address the student’s emotional needs to be affirmed at school as well as the goal of assisting the family in developing solutions in their student’s best interest. (Refer to FAQ #4 for additional information)

**6. How will a teacher know what name or pronouns the student uses?**

Parents/guardians or students 18 years or older indicate the student’s name and nickname each year in the Student Information System (SIS). The Department of Digital Innovation will provide reports that include the student nicknames. Students, or their parents/guardians, may inform staff of their pronouns and/or nicknames if they are not in the SIS system.

**7. Can transgender and gender-expansive students participate in high school sports or other activities that correspond to their gender identity?**

Yes. School staff shall allow gender-expansive and transgender students to participate in such activities in a manner consistent with the student’s consistently asserted gender identity.

All students, including transgender and gender-expansive students, participating in programs sponsored by the Virginia High School League (VHSL) or other interscholastic organization shall comply with policies and rules outlined by those organizations.

**8. How will Policy 8040 impact Athletic Teams?**

Interscholastic activities that are sponsored by the Virginia High School League (VHSL) are governed by VHSL regulations. Any questions specific to interscholastic athletics and activities can be directed to the VHSL committee members.

[Virginia High School League](#)

## Criteria VHSL Transgender Rule Appeals

### **9. What about access to and use of restrooms and locker rooms?**

LCPS staff will follow the guidance below which includes suggestions from the VDOE *Model Policies for the Treatment of Transgender Students in Public Elementary and Secondary Schools* document. All students are entitled to have access to restrooms and locker rooms that are sanitary, safe, and adequate. Students will be allowed to use the facility that corresponds to their consistently asserted gender identity. When a student or parent/guardian informs the school about their transgender or gender-expansive status, a school-based support team meeting should be offered for the purpose of developing a plan to accommodate the student's needs.

- Single-user (gender-inclusive) restrooms are being identified and labeled "Restroom" within schools to provide additional access to a private restroom. These restrooms will be accessible without the need for a key or access code.
- For privacy requests in schools where the changes have not been made prior to the beginning of the school year, students are asked to work with the school administration or their school counselor for accommodations, as has been their practice in the past.
- If a student requests increased privacy for any reason, school staff will be prepared to offer access to a reasonable accommodation, such as:
  - A separate changing schedule;
  - Use of a private area in the facility (e.g., a restroom stall with a door or an area separated by a curtain);
  - Use of a nearby private area (i.e., nearby restroom or health suite).

### **10. Will transgender students be allowed to use the restroom or facilities with cisgender students (ie. a student who was assigned female at birth but who identifies as male be allowed in male bathroom or locker room or vice versa)?**

LCPS staff will follow the guidance below which includes suggestions from the VDOE *Model Policies for the Treatment of Transgender Students in Public Elementary and Secondary Schools* document. All students will have access to restrooms and other facilities that correspond with the student's consistently asserted gender identity.

- While some transgender students will want that access, others may want alternatives that afford more privacy. (See FAQ #9 for additional information)
- School administrators will inform all students of the availability of the single-user (gender-inclusive) restrooms that are identified and labeled "Restroom" within the school (when identified/made available).

**11. How will schools support student restroom access for gender-expansive students who are just beginning to express their gender identity and/or have not consistently expressed their gender identity?**

Gender-neutral restrooms and reasonable accommodations for increased privacy are available to all students. Staff will work with students to support each student based on their individual needs. Students are asked to seek support from their school principal and/or counselor to devise a support plan.

**12. How will principals/staff address students that do not identify as transgender or gender-expansive and may wish to access a restroom that does not reflect their gender simply to test school limits or as part of a prank?**

Principals and staff will reference the Student Code of Conduct and the Multi-Tiered System of Supports to address student behavior issues as appropriate.

**13. Will there still be student restrooms with male and female signs for students to use, as in the past?**

Yes. Separate restroom facilities for males and females will continue to exist and be marked according to the specific gender. Additionally, LCPS shall modernize school restrooms and locker rooms to improve student privacy and to promote the creation of single-user restrooms that are available to all students in a ratio appropriate for the enrollment and size of the school. LCPS shall form an advisory group to make recommendations on improvements to ensure privacy, modesty and safety for all students in these spaces. New schools shall be designed and constructed in a manner consistent with Policy 8040.

**14. How will staff be trained to support students?**

LCPS staff will follow the guidance below which includes suggestions from the VDOE *Model Policies for the Treatment of Transgender Students in Public Elementary and Secondary Schools* document. All LCPS staff will complete training on topics relating to LGBTQ+ students, including procedures for preventing and responding to bullying, harassment and discrimination based on gender identity/expression.

- The goal of professional development for all staff is to ensure that they understand the rights of all students to a safe learning environment and the school board's expectations regarding the treatment of transgender students.

**15. Will teachers still be able to group students by gender – for example, boys in this line, girls in this line?**

LCPS staff will follow the guidance below which includes suggestions from the VDOE *Model Policies for the Treatment of Transgender Students in Public Elementary and Secondary Schools* document. In general, school staff should make efforts to eliminate gender-based practices to the extent possible. Gender-based rules and practices can have the effect of marginalizing, stigmatizing, and excluding students, regardless of their gender identity or gender expression.

- Examples of practices that may be based on gender, and which should be eliminated, include grouping students for class activities, gender-based homecoming or prom courts, limitations on who can attend as “couples” at school dances, and gender-based events such as father-daughter dances.
- Transgender and gender-expansive students are encouraged to speak with their teacher, administrator, or counselor to develop a support plan should gender-based activities/instruction occur, for example, Family Life Education instruction.

**16. Who did LCPS staff consult when developing this policy?**

LCPS collaborated with students, staff, legal counsel, parents/guardians, unified mental health team members, school based administrators, the LCPS Equity Committee, and also reviewed resources provided by VDOE model policy to develop Policy 8040. Staff followed and adopted based on the guidelines of the VDOE model policy.

**17. Are the LCPS Family Life Education (FLE) instructional materials related to transgender topics available for review by parents/guardians?**

Per Virginia Code 22.1-207.2. FLE, parents/guardians have the right to review the FLE curriculum. Currently, no instructional materials related to transgender topics are included within the FLE curriculum. The majority of FLE instruction is delivered in health education. On the rare occasion when FLE content is delivered in other courses, the Code of Virginia (§22.1-207.2) still applies.

**18. Can students opt out of instruction related to transgender lifestyles?**

Per Virginia Code 22.1-207.1. Family Life Education (FLE), parents/guardians have the right to excuse their child from all or part of family life education instruction and school counseling lessons. The LCPS Opt-Out procedures for Family Life Education can be found at <https://www.lcps.org/Page/212723>. Parents may inform the school counselor at their student’s school if they wish to opt-out their child from any part of the school counseling curriculum.

**19. How will LCPS staff manage overnight field trips?**

LCPS staff will follow the guidance below which includes suggestions from the VDOE *Model Policies for the Treatment of Transgender Students in Public Elementary and Secondary Schools* document. Each school team will work closely with students to allow students to stay in a room that corresponds to their consistently asserted gender identity. If a student requests increased privacy for any reason, school staff will offer access to a reasonable accommodation.

- School staff should ensure that all students who participate in extracurricular activities that involve overnight trips are aware of the LCPS policy and options available to them in advance.

**20. How will LCPS support graduation and dress codes?**

Some schools have students wear one color for males and one color for females that correspond to the school colors (ie. blue and gold). Schools could choose to only have one color represented, they could allow students to choose their favorite school color choice as adopted by the graduation committee, or students could wear the color choice that conforms to their consistently asserted gender identity.

- Schools will have flexibility in their choice of school related colors; however, students will not be required to conform to a specific color for males and a specific color for females. (See FAQ #15 for additional information)
- Enforcement of the dress code policy must be reasonably discreet, equitable, and gender neutral in implementation.