

Sec. 1. BACKGROUND AND ASSUMPTIONS

Positive Solutions Charter School has adopted and implements a robust anti-discrimination policy prohibiting discrimination on the basis of sex, including sexual orientation and gender identity, under Title IX of the Education Amendments of 1972 (“Title IX”). This policy may be found in Board Policy PG-3.2. Positive Solutions Charter School also has a comprehensive anti-bullying policy, found in Board Policy PG-3.3.

The recognition of any distinction between “gender identity” or “gender expression” and biological sex is not yet a matter of settled law in the United States. Moreover, case law concerning transgender students’ rights in public schools is scarce and still developing. Positive Solutions Charter School will comply with all settled law (plain language statute, controlling case law, and formally adopted administrative regulations) which govern the operation of public schools in the State of Texas.

The United States Department of Education Office for Civil Rights (“OCR”) has long recognized that Title IX protects all students, including students who are lesbian, gay, bisexual, and transgender, from harassment and other forms of sex discrimination. OCR also has long recognized that Title IX prohibits harassment and other forms of discrimination against all students for not conforming to stereotypical notions of masculinity and femininity.

In June 2021, OCR issued a Notice of Interpretation making clear that the Department interprets Title IX’s prohibition on sex discrimination to encompass discrimination based on sexual orientation and gender identity.

Positive Solutions Charter School will take into account each student’s right to privacy and safety in accessing school facilities. Positive Solutions Charter School will implement its policies with the understanding that every child entrusted to its care, regardless of sex, gender expression or identity, class, race, religion, and national origin, is to be educated with the same level of care and respect for the student’s dignity and innate human potential.

Sec. 2. PURPOSE

State and federal law, as well as school policy, require that all school programs, activities, and employment practices are free from discrimination based on sex and gender. Positive Solutions Charter School is also responsible for ensuring the safety of all students during the school day and during school activities. This includes providing for the physical privacy rights of students.

Positive Solutions Charter School is also responsible for maintaining order, decorum, and discipline during school, and for ensuring that the educational environment is free from disruption and disturbance in order to provide equal educational opportunities to all students.

This policy is found by the Board of Directors to be in the best interest of all students attending Positive Solutions Charter School, and necessary for maintaining the privacy rights, safety, discipline, and order of students, and in preserving the educational environment. However, this policy does not anticipate every situation that might occur with respect to transgender, non-binary, or non-gender conforming students, meaning that the needs of each student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of all students while maximizing the social integration and minimizing stigmatization of students.

While Positive Solutions Charter School does not specifically endorse any student’s gender identity or expression, school staff will respect and work to accommodate, to the extent allowed under policy and applicable law, each student’s gender identity and expression.

Sec. 3. DEFINITIONS

The following definitions are not intended to label individuals, but rather to assist in understanding this policy and the legal obligations of school personnel. Individuals may or may not utilize these terms to describe themselves.

“Gender expression” means a person’s gender-related appearance and behavior (*i.e.*, clothing, hairstyles, activities, or mannerisms), whether or not stereotypically associated with the person’s assigned sex at birth.

“Gender identity” means a person’s internal sense of identification as a female, male, or non-binary understanding of gender. A person’s gender identity may be incongruent with or the same as the person’s assigned sex at birth.

“Gender nonconforming” means displaying a gender identity or expression that may differ from that typically associated with one’s sex assigned at birth. Gender nonconforming is not synonymous with transgender, not all gender nonconforming people identify as transgender.

“Non-binary” is a broad term to encompass individuals who do not fit into traditional “male” and “female” gender categories. Includes individuals who identify as agender, bigender, gender fluid, genderqueer, and various other genders.

“Sex” means an individual’s biological classification as male or female at the time of birth and as recorded on their official state-issued birth certificate.

“Transgender” means an individual who consistently and uniformly asserts a gender identity that differs from the biological sex assigned at birth.

Sec. 4. POLICY

a) *Student enrollment and instruction*

1. Positive Solutions Charter School is required by law to maintain a permanent record (an “official record”) for each student, which includes each student’s individual legal name and sex. For purposes of a student’s official record or any official report or disclosure made pursuant to federal, state, local, or administrative law, including purposes associated with standardized testing, Positive Solutions Charter School shall identify students in accordance with the legal name and biological sex as indicated on the student’s current, official state-issued birth certificate.
2. In the event of an update or change to a student’s birth certificate, Positive Solutions Charter School shall consider the information reflected in the most recent birth certificate as accurate and shall modify all official records associated with that student accordingly.
3. With regards to all non-official documentation and correspondence and verbal identifications, students may request to be addressed by a “preferred” name corresponding with their gender identity without first obtaining a court order or any medical or mental health diagnosis or treatment. A parent or legal guardian may also request that their child be informally and verbally addressed by the student’s preferred name without first obtaining a court order or any medical or mental health diagnosis or treatment. This includes proper use of the gender-specific pronouns which correspond to the preferred gender identity expressed by the student or student’s parent.
4. While inadvertent slips or honest mistakes in the use of a preferred name or pronoun may occur, the intentional and persistent refusal to respect a student’s gender identity is not acceptable.
5. Students may wear gender nonconforming clothing that does not match a student’s assigned sex at birth. However, gender nonconforming students are still subject to the school’s established dress code with respect to the student’s preferred gender attire.
6. Students have a general right to privacy. To maintain student privacy, school personnel should not disclose a student’s gender identity or gender expression to others, including other students, parents, or school personnel, unless there is a specific, legitimate “need to know,” the disclosing party has been legally permitted to disseminate such information, or the disclosing party has been given authorization to disclose by the student.
7. To ensure confidentiality when discussing conduct, discipline, grades, attendance, health, or other school matters, school personnel should not make assumptions regarding a student’s gender identity or gender expression.

b) *Use of School Facilities*

1. Positive Solutions Charter School shall maintain restrooms that are single-sex only, and shall also provide single-occupant, sex-neutral restrooms. Students are permitted to use the single-sex restroom that corresponds to their preferred gender identity or gender expression. Single-occupant, sex-neutral restrooms are open to optional use by individuals of either sex. No student shall be forced to share a single-sex restroom with other students or school personnel.
2. Positive Solutions Charter School shall maintain locker rooms and changing facilities that are single-sex only. Students are permitted to use the single-sex locker room or changing facilities that correspond to their sex as noted in current official records as described above. If there is a request for increased privacy and safety, regardless of the underlying reason, any student may be provided access to a reasonable alternative locker room or changing facility such as:
 - i. A private area within a public restroom (*i.e.*, a bathroom stall with a door, an area separated by a curtain, a PE instructor’s office in the locker room, etc.);
 - ii. A separate changing schedule (*i.e.*, utilizing the locker room before or after other students);
 - iii. Use of a nearby private area (*i.e.*, a nearby restroom or nurses office); or
 - iv. Other alternative arrangements provided in a way that keeps the student’s gender identity confidential.
3. To the extent possible, any alternative arrangement should be provided in a way that allows the student’s gender identity to be kept confidential.
4. Restrooms and locker room and changing facilities shall be clearly marked and designated for the assigned sex or sex neutral.
5. The provision concerning use of restroom and locker room and changing facilities shall not apply to a person or persons who enter a single-sex facility for purposes of:
 - i. Maintenance;
 - ii. Providing medical assistance;
 - iii. Protecting a student/students from a threat to school order or safety; and/or
 - iv. Seeking shelter in an emergency.

c) *Participation in school activities*

All students shall be provided equal opportunities to participate in physical education activities. Positive Solutions Charter School will administer its interscholastic athletic competition teams in accordance with Section 33.0834 of the Texas Education Code. Students are eligible to participate in the single-sex extra-curricular activities that correspond to their sex as correctly stated on the student’s official birth certificate (or other government record as permitted by Section 33.0834 if the student’s birth certificate is unavailable) and based on requirements of the specific league or ruling body of the athletic activity.

Positive Solutions Charter School may allow a female student to compete in an interscholastic athletic competition that is designated for male students if a corresponding interscholastic athletic competition designated for female students is not offered or available.

d) *Overnight Activities and Trips*

1. In the planning of sleeping arrangements during overnight activity and trips, the needs of students who are transgender shall be assessed on a case-by-case basis with the goals of maximizing the student's social integration and equal opportunity to participate in overnight activities trips, ensuring the student's safety and comfort, and minimizing stigmatization of the student. In most cases, students will be assigned to sleeping accommodations which correspond to the student's sex as indicated in their current official record.
2. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable accommodation, which may include a private room.
3. To the extent possible, any alternative arrangement should be provided in a way that allows the student's gender identity to be kept confidential.

Sec. 5. COMPLAINTS

Complaints of discrimination on the basis of sexual orientation or gender identity should follow the procedure and process for Title IX complaints set forth in Board Policy PG-3.2. Complaints of bullying, including on the basis of sexual orientation or gender identity, should follow the procedure and process set forth in Board Policy PG-3.3.