

**TEMECULA VALLEY CHARTER SCHOOL  
Board Policy**

**Section 4000 Student Policies**

**4003 TRANSGENDER AND GENDER NONCONFORMING STUDENT  
DISCRIMINATION**

**Board Action: APPROVED**

**Effective Date: 11-2-2015**

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Temecula Valley Charter School ("TVCS") is committed to providing a safe and supportive learning environment for all students and to ensuring that every student shall have access to the schools' educational programs and activities. Additionally, TVCS policy requires that all schools and all personnel promote acceptance and respect among students and staff.

This policy reflects the reality that transgender and gender nonconforming students are enrolled in the school. Its purpose is to advise school staff regarding issues relating to transgender students in order to create and maintain a safe learning environment for all students. The guidelines provided in this policy do not anticipate every situation that might occur with respect to transgender students.

The needs of each transgender student are unique. This policy should be interpreted consistent with the goals of reducing stigmatization and ensuring the integration of transgender students in educational programs and activities. California Education Code §210.7 states that 'gender means sex,' and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. California Education Code §220 and school policy require that all educational programs and activities should be conducted without discrimination based on actual or perceived sex, sexual orientation, or gender identity and expression. California Education Code §201 provides that public schools have an affirmative obligation to combat sexism and other forms of bias, and a responsibility to provide an equal educational opportunity to all students.

Title IX of the Education Amendments of 1972 states, "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." This Policy provides guidelines to ensure protection, respectful treatment, and equal access to educational programs and activities for transgender students.

## **PURPOSE**

The purpose of this policy is:

- A. to foster an educational environment that is safe and free from discrimination for all students, regardless of sex, sexual orientation, gender identity, or gender expressions, and
- B. to facilitate compliance with local, state and federal laws concerning bullying, harassment and discrimination.

This policy should be interpreted consistent with the goals of reducing the stigmatization of and improving the educational integration of transgender and gender nonconforming students, maintaining privacy of all students, and fostering cultural competence and professional development for school staff. Furthermore, this policy will support healthy communication between educators and parents/guardians to further the successful educational development and well-being of every student.

## **SCOPE**

This policy covers conduct that takes place in the school, on any TVCS campus property, at school-sponsored functions and activities, on school buses or vehicles and at bus stops. This policy also pertains to usage of electronic technology and electronic communication that occurs in the school, on any TVCS campus property, at school-sponsored functions and activities, on school buses or vehicles and at bus stops, and on school computers, networks, forums, and mailing lists. This policy applies to the entire school community, including educators, school and school staff, students, parents, and volunteers.

## **DEFINITIONS**

The following definitions are provided not for the purpose of labeling students, but rather to assist in understanding this policy and the legal obligations of school staff. Students may or may not use these terms to describe themselves. These definitions are intended as functional descriptors.

Transgender and gender nonconforming youth use a number of words to describe their lives and gendered experiences. To list just a few examples, these students may refer to themselves as trans, transsexual, transgender, male-to-female (MTF), female-to-male (FTM), bi-gender, two-spirit, trans man, trans woman, and a variety of other terms. Terminology and language describing transgender individuals can differ based on region, language, race or ethnicity, age, culture, and many other factors. Generally speaking, school staff and educators should inquire which terms students may prefer and avoid terms that make these students uncomfortable; a good general guideline is to employ those terms which the students use to describe themselves.

- A. Gender: a person's actual sex or perceived sex, and includes a person's perceived identity, appearance, or behavior, whether or not that identity,

appearance or behavior is different from that traditionally associated with a person's sex at birth [Title 5, California Code of Regulations, §4910(k)].

B. Gender Identity: A person's deeply held sense or psychological knowledge of their own gender. One's gender identity can be the same or different than the gender assigned at birth. Most people have a gender identity that matches their assigned gender at birth. For some, however, their gender identity is different from their assigned gender. All people have a gender identity, not just transgender people. Gender identity is an innate, largely inflexible characteristic of each individual's personality that is generally established by age four, although the age at which individuals come to understand and express their gender identity may vary based on each person's social and familial social development. A person's internal, deeply rooted identification as female, male or a non-binary understanding of gender, regardless of one's assigned sex at birth. The responsibility for determining an individual's gender identity rests with the individual.

C. Gender Expression: The manner in which a person represents or expresses their gender to others, often through appearance, behavior, clothing, hairstyles, activities, voice or mannerisms whether or not stereotypically associated with the person's assigned sex at birth. Students who adopt a presentation that varies from the stereotypic gender expectations sometimes may describe themselves as gender nonconforming, gender queer, or gender fluid.

D. Gender Nonconforming: Displaying a gender identity or expression that may differ from those typically associated with one's sex assigned at birth. A person's gender expression may differ from stereotypical expectations about how females and males are "supposed to" look or act, such as "feminine" boys, "masculine" girls, and those who are perceived as androgynous. This includes people who identify outside traditional gender categories or identify as both genders. Gender nonconforming is not synonymous with transgender; not all gender nonconforming students identify as transgender. Other terms that can have similar meanings include gender diverse or gender expansive.

E. Transgender: An adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned sex at birth and whose gender expression consistently varies from stereotypical expectations and norms. A transgender person desires to live persistently by a gender that differs from that which was assigned at birth. Other terms that can have similar meanings are transsexual and trans.

F. Transition: The process in which a person goes from living and identifying as one gender to living and identifying as another. Gender transition can occur at any age. It begins internally then expands to

external expression. This can include social, medical and/or a legal transition.

G. LGBTQ: An acronym that stands for “lesbian, gay, bisexual, transgender, and queer/questioning.” Questioning incorporates those who are uncertain or fluid about their sexual orientation and/or gender identity.

H. Sex: The biological condition or quality of being female or male.

I. Sexual Orientation: A person’s emotional and sexual attraction to another person based on the gender of the other person. Common terms used to describe sexual orientation include, but are not limited to, heterosexual, lesbian, gay, and bisexual. Sexual orientation and gender identity are different.

J. Bullying: Bullying means written, verbal or physical conduct that adversely affects the ability of one or more students to participate in or benefit from the school’s educational programs or activities by placing the student (or students) in reasonable fear of physical harm. This includes conduct that is based on a student’s actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion [or any other distinguishing characteristics that may be included by the state or local educational agency]. This also includes conduct that targets a student because of a characteristic of a friend, family member, or other person or group with whom a student associates.

H. Harassment: Harassment means written, verbal or physical conduct that adversely affects the ability of one or more students to participate in or benefit from the school’s educational programs or activities because the conduct is so severe, persistent or pervasive. This includes conduct that is based on a student’s actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion [or any other distinguishing characteristics that may be defined by the state or local educational agency]. This also includes conduct that targets a student because of a characteristic of a friend, family member, or other person or group with whom a student associates.

## **PARENTAL INVOLVEMENT**

The parents and guardians of transgender and gender nonconforming students can play a critical role in establishing a safe and accepting school environment for such youth. Transgender and gender nonconforming youth are both coming out in growing numbers and transitioning earlier. We encourage schools to work with supportive parents and guardians whenever possible to establish healthy communication and ensure the needs of the needs of these often vulnerable students are fully met.

## **FEDERAL PROTECTIONS**

It is important to note that federal law, specifically Title IX, prohibits sexual harassment and discrimination based on gender or sex stereotypes in every jurisdiction. While Title IX does not specifically use the terms “transgender” or “gender identity or expression,” courts have held that harassment and other discrimination against transgender and gender nonconforming people constitutes sex discrimination.

## **GUIDELINES**

The school shall accept the gender identity that each student asserts. There is no medical or mental health diagnosis or treatment threshold that students must meet in order to have their gender identity recognized and respected. The assertion may be evidenced by an expressed desire to be consistently recognized by their gender identity. Students ready to socially transition may initiate a process to change their name, pronoun, attire, and access to preferred activities and facilities. Each student has a unique process for transitioning. The school shall customize support to optimize each student’s integration.

### A. Privacy and Confidentiality

1. All persons, including students, have a right to privacy. This includes keeping a student’s actual or perceived gender identity and expression private. Such private information shall be shared only on a need to know basis. Information about a student’s transgender status, legal name, or gender assigned at birth also may constitute confidential medical information. Disclosing this information to other students, their parents or other third parties may violate privacy laws, such as Federal Family Educational Rights and Privacy Act (FERPA). The School shall ensure that all medical information relating to transgender and gender nonconforming students shall be kept confidential in accordance with applicable state, local and federal privacy laws. School staff shall not disclose information that may reveal a student’s transgender status to others, including parents and other school staff, unless legally required to do so or unless the student has authorized such disclosure

2. Students have the right to openly discuss and express their gender identity and expression, and to decide when, with whom, and how much information to share. The fact that a student chooses to disclose his or her transgender status to staff or other students does not authorize school staff to disclose other medical information about the student. When contacting the parent or guardian of a transgender student, school staff should use the student’s legal name and the pronoun corresponding to the student’s gender assigned at birth unless the student, parent, or guardian has specified otherwise.

3. School personnel may encounter situations where transgender students have not disclosed their transgender status. School personnel must be

mindful of the confidentiality and privacy rights of students when communicating with others, so as to not reveal, imply, or refer to a student's gender identity or expression.

4. To ensure confidentiality when discussing a particular concern such as conduct, discipline, grades, attendance, or health, school personnel's focus should be specifically school-related and not on the student's gender identity or expression.

5. When communicating to the media or community about issues related to gender identity, the school or School shall have a single spokesperson to address the issue. Rather than directly commenting on the issue, other School and school staff shall direct parents and the media to the designated spokesperson. Protecting the privacy of transgender and gender nonconforming students must be a top priority for the spokesperson and all staff, and all medical information shall be kept strictly confidential. Violating confidentiality of this information is a violation of this policy and may be a violation of local, state or federal privacy laws.

#### B. Official Records

1. The School is required to maintain in perpetuity mandatory permanent pupil records ("official records") which include the legal name of the student and the student's gender as indicated on official government issued documents such as birth certificates, passports and identification cards/permits. The official records may include but are not limited to progress and grade reports, transcripts, assessment data, health records, discipline records, Individualized Education Programs (IEP), Section 504 Plans and the cumulative card and file. However, to the extent that the school is not legally required to use a student's legal name and gender on other school records or documents, the school shall use the name and gender preferred by the student.

2. The School will change a student's name and gender on official records when the name of the student is changed by the appropriate court action, such as by a change of name proceedings. The new name is the official legal name of the student for all purposes, including school registration. Upon the submission of proper evidence of the court order, or through amendment of state or federally-issued identification, the student's official name and gender in all school records shall be changed to reflect the legal name change. In situations where school staff or administrators are required by law to use or to report a transgender student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

### C. Unofficial Records

1. The School shall permit a student to use a preferred name and gender on unofficial records. The unofficial records may include but are not limited to identification badges, classroom and homeroom rosters, certificates, programs, announcements, office summons and communications, team and academic rosters, diplomas, newspapers, newsletters, yearbooks and other site-generated unofficial records. The preferred name shall also appear on the student's cumulative folder (official record) as "Also Known As" (AKA).
2. The School shall input the student's preferred name and gender in the appropriate fields of the School's electronic data system to indicate how the student's name and gender will appear on unofficial records.
3. The School shall permit a student or parent/legal guardian to request a change of name and/or gender so that a student may be registered in school under a name and gender that corresponds with the student's gender identity without obtaining a court order or without changing the student's official records.
4. After the school receives and verifies the contents of the completed form, the school shall change the name and/or gender of the student in the School's electronic data system and enter the preferred name as AKA in the cumulative folder. In the cumulative folder and registration card, name and gender should be cross-referenced.

### D. Names/Pronouns

1. Students shall be addressed by the name and pronoun that corresponds to their gender identity asserted at school without obtaining a court order, changing their official records or obtaining parent/legal guardian permission. It is recommended that teachers privately ask transgender or gender nonconforming students at the beginning of the school year how they want to be addressed in class, in correspondence to the home, or at conferences with the student's parent or guardian.
2. Students shall be known by their name and gender of identity. However, there may be situations (e.g., communications with the family, official state or federal records, and assessment data) where it may be necessary and recommended for staff to be informed of the student's legal name and gender. In these situations, staff should prioritize the safety, confidentiality, and respect of the student in a manner that affirms the law.
3. If school personnel are unsure how a student wants to be addressed in communications to the home or in conferences with parents/legal guardians, they may privately ask the student. For communications with a

student's parent/legal guardian, school personnel should refer to this policy's prior section on "Privacy and Confidentiality."

4. Every effort should be made to use the preferred names and pronouns consistent with a student's gender identity. While inadvertent slips or honest mistakes may occur, the intentional and persistent refusal to respect a student's gender identity is a violation of School policy.

#### E. Restroom Accessibility

1. Schools may maintain separate restroom facilities for male and female students. Students shall have access to restrooms that correspond to their gender identity asserted at school.

2. If a student desires increased privacy, regardless of the underlying reason, the administrator shall make every effort to provide the student with reasonable access to an alternative restroom such as a single-stall restroom or the health office restroom. The use of a restroom should be determined by the student's choice; no student shall be compelled to use an alternative restroom.

3. Administrators may take steps to designate single stall "gender neutral" restrooms on their campus.

#### F. Locker Room Accessibility

1. Schools may maintain separate locker room facilities for male and female students. Students shall have access to the locker room facility that corresponds to their gender identity asserted at school.

2. If there is a request for increased privacy, any student shall be provided access to a reasonable accommodation such as:

a. Assignment of a student locker in near proximity to the coaches' office or a supportive peer group.

b. Use of a private area within the public area of the locker room facility (e.g. nearby restroom stall with a door or an area separated by a curtain).

c. Use of a nearby private area (e.g. nearby restroom or a health office restroom).

d. A separate changing schedule.



## G. Sports, Athletics, and Physical Education

1. All students shall be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity. Furthermore, unless precluded by state interscholastic association policies, all students shall be permitted to participate in interscholastic athletics in a manner consistent with their gender identity.

2. When conducting physical education classes and fitness evaluations, the teacher will address and evaluate the student by their gender of identity. Performance on the state physical fitness test (Fitnessgram) is evaluated by the State of California in accordance with the sex reported on the student's initial enrollment, even when the student identifies as transgender. In these events, the physical education teacher shall make every effort to maintain confidentiality of student information.

3. Participation in competitive athletics, intramural sports, athletic teams, competitions, and contact sports shall be facilitated in a manner consistent with the student's gender identity asserted at school and in accordance with the California Interscholastic Federation bylaws.

## H. School Activities and Programs

Students have the right to equitable access to activities and programs in their school. Students may not be excluded from participation in, be denied the benefits of, or be subjected to harassment or other forms of discrimination on the basis of gender identity in any program or activity. These activities and programs may include but are not limited to cheer class, homecoming, prom, spirit day, celebrations, assemblies, acknowledgments, after school activities/ programs and all extra-curricular activities.

## I. Course Accessibility and Instruction

Students have the right to equitable learning opportunities in their school. Students shall not be required to take and/or be denied enrollment in a course on the basis of their gender identity in any educational and academic program.

## J. Dress Codes/School Uniform Policies

1. School may enforce a dress code pursuant to School policy. Students have the right to dress in accordance with their gender identity, within the constraints of the dress codes adopted by the school. A school's dress code and school uniform policy shall be gender neutral. Schools cannot enforce specific attire based on gender.

2. Students have the right to dress in accordance with their gender identity within the parameters of the dress code, as it relates to the school uniform or safety issues (e.g., prohibiting attire that promotes drugs or violence, or is gang-affiliated).

#### K. Student Safety

1. School staff must ensure that students are provided with a safe school environment that is free of discrimination, harassment, bullying and/or intimidation.

2. School staff and families should work together to resolve complaints alleging discrimination, harassment, bullying and/or intimidation based on a student's actual or perceived gender identity or expression. Complaints of this nature are to be handled in the same manner as other complaints. Consideration should be given as to whether a Sexual Harassment investigation is warranted.

3. School staff shall take all reported incidents of bullying seriously and take appropriate measures to ensure that the bullying stops.

4. School administration shall respond immediately to incidents of discrimination, harassment, bullying and/or intimidation by taking actions that include, but are not limited to the following:

- a) intervening to stop the behavior;
- b) investigating and documenting the incident;
- c) determining and enforcing appropriate corrective actions; and
- d) monitoring to ensure that the behavior does not reoccur.

5. School staff should take all reasonable steps to ensure safety and access for transgender and gender nonconforming students at their school. School staff shall support students' rights to assert their gender identity and expression.

6. Students shall not be disciplined solely on the basis of their actual or perceived gender identity or expression.

7. Students shall be informed that they have the responsibility to report situations/incidents of discrimination, harassment, bullying and/or intimidation to the designated site administrator in cases where they may be a target or witness.

8. Students shall be informed of their role in ensuring a school environment that is free from discrimination, harassment, bullying and/or intimidation. Students should consider how others may perceive or be affected by their actions and words.

#### L. Student Transitions

In order to maintain privacy and confidentiality regarding their transition and gender identity, transgender students may wish — but are not required — to transition over a summer break or between grades. Regardless of the timing of a student’s transition, the school shall act in accordance with the following age-appropriate policies.

When a student transitions during the school year, the school shall hold a meeting with the student (and parents if they are involved in the process) to ascertain their desires and concerns. The school should discuss a timeline for the transition in order to create the conditions supporting a safe and accepting environment at the school. Finally, the school shall train school administrators and any educators that interact directly with the student on the transition plan, timelines for transition, and any relevant legal requirements.

#### **Training and Professional Development**

The School shall conduct staff training for all staff members on their responsibilities under applicable laws and this policy, including teachers, administrators, counselors, social workers, and health staff. Information regarding this policy shall be incorporated into training for new school employees. To the extent funding is available, the School shall implement ongoing professional development to build the skills of all staff members to prevent, identify and respond to bullying, harassment and discrimination. The content of such professional development shall include, but not be limited to:

(a) terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents;

(b) developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy;

(c) developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyberbullying;

(d) school policies regarding bullying, discrimination, and gender identity and expression issues and responsibilities of staff