



State of Connecticut COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

Executive Office – 450 Columbus Blvd., Suite 2, Hartford, CT 06103

Promoting Equality and Justice for all People

April 29, 2024

Dear Colleague:

In recent years, several shifts have occurred in the way that federal bodies have applied federal law to the rights of gender diverse students (i.e., students whose gender identity or expression differs from what is associated with the sex they were assigned at birth) and the obligations of schools with respect to such rights. Nevertheless, Connecticut has remained one of the most steadfastly protective states in the nation. As the state agency that enforces Connecticut's civil rights and antidiscrimination statutes, the Commission on Human Rights and Opportunities ("CHRO") is writing to remind you of certain rights and obligations provided by Connecticut law.

Connecticut was one of the first states to affirm nondiscrimination protections based on gender identity and expression. In 2000, the CHRO had recognized that gender identity and expression were protected under the statutory bans on sex discrimination, something the United States Supreme Court would not recognize for another two decades. In 2011, the General Assembly passed a comprehensive transgender rights bill specifically prohibiting discrimination based on gender identity and expression in education, employment, public accommodation, housing, and other areas. And in 2017, then-Governor Malloy issued Executive Order No. 56, which confirmed that discrimination on the basis of gender identity or expression in public schools and institutions of higher education is covered under our state public accommodations statutes.¹

This canopy of directives requires Connecticut schools to provide educational opportunities and a school environment that are safe and free of discrimination or harassment on the basis of gender identity or gender expression. Failure to treat students in a manner that is consistent with and respectful of their gender identity creates a discriminatory environment in violation of state and federal law. Such failure may give rise to discrimination complaints filed with the CHRO, the Office of Civil Rights of the United States Department of Education, or state or federal courts.

Schools must use names and pronouns consistent with a student's stated gender identity, even if education records or identification documents indicate a different sex. If requested by a student or parent/guardian, the name and gender marker on the student's educational records should be changed to ensure that school records accurately reflect the student's chosen name and gender identity. Failure to use a student's chosen name, gender marker, or pronouns at school or in records, or otherwise neglecting to treat the student in a manner that is consistent with their gender identity, is likely to violate the student's civil rights – in addition to potentially causing the student severe psychological or emotional harm. This remains the case even if a parent/guardian of a student under 18 disagrees with the student regarding the name, gender marker, or pronouns to be used at school or in the student's records.

¹ Executive Order No. 56 also directed the CHRO to work with the State Department of Education in developing guidance related to school responsibilities and best practices in this area. A recent "update" to that guidance, released unilaterally by the State Department of Education, departs from these state laws in favor of federal interpretations.

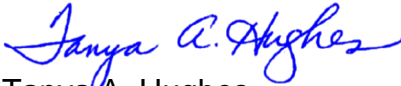
State and federal laws permit schools to have restrooms, locker rooms, and athletic teams separated by sex. Nevertheless, schools must allow students to access and use the facilities, opportunities, and activities that correspond with their gender identity, regardless of whether that gender identity is different from the sex assigned to the student at birth. Under no circumstances should a school require a student to use facilities that are inconsistent with their gender identity, use individual-user facilities when other students are not required to, or participate in activities in a manner that does not correspond with the student's gender identity, even if students, parents, guardians, staff, or other community members raise objections. Failure to provide a student with access or participation consistent with their gender identity is likely to constitute a violation of state and/or federal antidiscrimination laws.

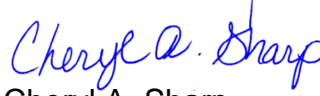
The right of students to be treated in a manner that is consistent with their gender identity is not contingent on the agreement or acceptance of others. In the event that a school employee or other individual requests an accommodation that would exempt them from adhering to the civil rights of a student, schools should keep in mind that 1) they retain the obligation of ensuring that no student is subjected to discrimination in the school environment on the basis of their gender identity or expression, and 2) accommodations that would require an employer to violate the law are typically considered to pose an undue hardship, and would therefore be unreasonable.

Lastly, a student whose gender identity differs from the sex they were assigned at birth may – but need not – have gender dysphoria, a medical condition characterized by significant and persistent distress arising from the difference between an individual's gender identity and their sex. Gender dysphoria is considered a disability under state and federal antidiscrimination laws. Students with gender dysphoria and their parents/guardians accordingly have a right to request reasonable accommodations or other services as they would for any other disability, and schools have an obligation to consider and potentially provide such accommodations. These rights and obligations, however, are distinct from and in addition to those that exist with respect to a student's gender identity or expression. Given the injurious historical and present effects of contrary approaches, it cannot be overstated that being a member of the LGBT+ community is not a medical condition, and LGBT+ identities should not be considered or described in pathological terms.

Thank you for your ongoing work in keeping Connecticut schools free of discrimination. As always, the CHRO is available to provide training, information, and resources to you and your staff on these critical issues. Please feel free to contact us with any questions; for legal advice, you should consult with your district's legal counsel.

Sincerely,


Tanya A. Hughes
Executive Director


Cheryl A. Sharp
Deputy Director