

Memo on Student Records â?? Name, Sex, and Means of Address

Purpose

The purpose of this model policy is to eliminate confusion over student names, sex, and pronouns, to respect the right of parents to determine what their children are called at school, and to protect the consciences of teachers or students who may have religious objections to using certain means of address.

By requiring teachers to use only the legal name for a student, as well as the pronouns appropriate for that student's sex, this policy prevents confusion about which name or pronouns to use for a student. At the same time, it gives parents or adult students the ability to change the names or pronouns the student uses at school in accordance with their preferences.

Legal Basis

It is well established that parents have fundamental rights to the care, custody, and control of their children.¹ This right includes the right of parents to determine what their child will be called in school.² Where a school uses alternate-gender names and pronouns for a student to help facilitate that student's social transition to a different gender, this may constitute a mental health intervention. Since parents also have a well-established right to make medical and mental health decisions for their children, only a parent or eligible student should be able to change the name or pronouns a student uses at school; school administrators do not have this right.³

Some students or teachers may have religious or philosophical objections to using the preferred name or pronouns of another student or employee. Under the First Amendment, no student or employee can be compelled to speak a message that they do not believe.⁴ This includes being compelled to use preferred names or pronouns.⁵ State and federal nondiscrimination laws also prohibit discrimination on the basis of religion and entitle employees to a religious accommodation to workplace requirements that conflict with their religious beliefs.

State and federal nondiscrimination laws may prohibit school employees from intentionally using a name or pronoun that a student and their parents have requested the employee to not use. However, for the constitutional reasons outlined above, no state or federal law can compel such an employee to use a name or pronoun they do not wish to use. In cases where an employee objects to using a certain name or pronouns for a student, the District should work to offer a religious accommodation to that employee, such as using only the student's name instead of preferred pronouns, or using the student's last name instead of his or her preferred first name and pronouns.

¹ *Troxel v. Granville*, 530 U.S. 57, 66 (2000).

² See, e.g., *Ricard v. USD 475 Geary Cty.*, 2022 U.S. Dist. LEXIS 83742, *21 (D. Kan. 2022); *T.F., et. al. v. Kettle Moraine Sch. Dist.*, No. 2021-CV-1650, slip op. at 9-10 (Waukesha Cty., Wis. Circuit Ct. Oct. 2,

2023).

³ *Parham v. J.R.*, 442 U.S. 584 (1979).

⁴ See, e.g. *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

⁵ See *Meriwether v. Hartop*, 992 F.3d 492, 505 (6th Cir. 2021); *Vlaming v. W. Point Sch. Bd.*, 895 S.E.2d 705 (Va. 2023).