

**NDE REGULATORY WORKSHOP**  
**Nov. 28, 2017**  
**(R099-17)**

**Written testimony of Amber Reid, MSW (Education Programs Professional, Nevada Department of Education, Office for a Safe and Respectful Learning Environment):**

Good morning Superintendent Canavero. For the record my name is Amber Reid and I am an Education Programs Professional in the Nevada Department of Education's Office for a Safe and Respectful Learning Environment. I am here today to provide some background and an update on the Department's work to amend the policy for safe and respectful learning environments and to provide information and clarification regarding the draft language you have before you today.

The passage of Senate Bill 225 during the 79<sup>th</sup> Session of the Nevada Legislature requires the Department of Education to make amendments to the existing Model Policy for supporting safe and respectful learning environments to include "requirements and methods for addressing the rights and needs of persons of diverse gender identities or expressions." The state's Model Policy as required by NRS 388.133, then, sets the minimum standards for the policies that must be adopted by the boards of trustees of school districts or the governing bodies of charter schools, per NRS 388.134. SB 225 was signed into law by Governor Sandoval on June 13, 2017.

The first public workshop to solicit comments regarding the requirements and needs of persons of diverse gender identities or expressions was held here at the Department of Education on July 31, 2017. The materials that were included in the posting for the July 31<sup>st</sup> meeting listed 11 potential elements for consideration, all of which have been captured in the draft regulatory language we are hearing today. I will add that nothing in the draft language being heard today falls outside of those original potential elements that were presented at the public workshop. There was no opposition to any of the potential elements at the July 31<sup>st</sup> meeting and in fact we heard extensive testimony from students and parents about their experiences of being or parenting a sex/gender diverse student.

Following that initial workshop in July our office continued to collaborate with key stakeholders in crafting proposed language which was then sent to the Legislative Council Bureau to be put into regulatory language that is consistent with existing state statutes and regulations. Those key stakeholders included community partners, parents, students, educators, and school district level personnel, in accordance with the requirements of NRS 388.133. Our office also remained in constant contact with the Office of the Attorney General to be sure that the proposed language fell within the legislative mandate that SB 225 created. Further, an extensive study of professional journals and current research was done in an effort to identify critical elements and best

practices for supporting persons of diverse gender identities or expressions in school settings.

As I go through each section of the draft regulatory language I would like to point out specifically those instances where there has been a great deal of misinformation or misunderstanding over the past few days, with the hopes that by doing so we might address the fears that we have heard from parents and which I anticipate we will hear today. In doing so I also provide a record of the Department's intentions which can be referenced in the future as districts and schools begin to implement the requirements of the Model Policy. We value the role of parents and families and we want to hear both their concerns and their affirmations; we know and believe that all parents want the same things for their kids – safety, acceptance, a chance to be successful, and ultimately a healthy and happy life.

**Section 2** of this regulation allows the governing body and administrator of a private school the option of voluntarily complying with the state's anti-bullying laws, wholly or in part, and clarifies that there is no liability attached to any failure to comply with those laws, wholly or in part, by the private school, its governing body, or administrator.

**Sections 4 through 12** of this regulation provide clean-up language that aligns the previous Model Policy language with the changes made by the passage of SB 225, specifically those changes which clarify that the state's anti-bullying laws and the Model Policy apply to state charter schools in addition to state public schools.

**Section 3** of this regulation is where the language regarding the requirements and methods for addressing the rights and needs of persons with diverse gender identities or expressions begins and constitutes the bulk of the proposed amendment.

**Section 3 subsection 1** lays the groundwork of this regulation by emphasizing that the work to address the rights and needs of persons with diverse gender identities or expressions should be done on an individualized basis and that the individual characteristics and unique circumstances of each person should be considered. This may be the most important part of the regulation because it highlights that the intent of the regulation is not to propose school-wide, broad reform or changes that will impact the entire student body, but rather that the intent is to support families in whatever meaningful ways they express in order to increase their child's ability to feel safe and welcome in their school.

**Section 3 subsection 2** then provides the reasoning behind approaching these supports on an individualized basis, which is first and foremost to ensure the right to privacy of the student and the family as well as the right of the student to be physically and psychologically safe in their school, as outlined by **subsection 2 items (a) and (b)**. In considering how a school will address the rights and needs of sex/gender diverse students, the intent is that the school will engage with the parents or guardians as early as possible and as deeply as possible throughout the entire process, with the expectation that that process will likely evolve as the student passes through

developmental stages and that this would be an ongoing discussion for as long as the family or student requested or as long as the child is a student in that district or charter school. The family's right to privacy is critical throughout this process.

The rights and needs that are identified in the remainder of this regulation hinge on an underlying assumption that the methods and measures have been identified by a team that is made up of the parents or guardians, the student, and any trusted adult from the school or community that the family chooses to include. The decisions about the remaining items in the regulation are then made as a team through intentional and careful consideration of both the rights and needs of that unique sex/gender diverse individual as well as the capacity of the school and the rights and needs of the student body at large. Nothing in this language is intended to create an environment where decisions about names or pronouns, restrooms or locker rooms can be made on a whim and changed from day to day, and students will not be given carte blanche in their ability to claim these rights or needs without the thoughtful and collaborative team approach this regulation does endorse.

In addition, nothing in this regulation prescribes disciplinary action for students or staff who fail to comply with the needs as identified by the team. It is not our intent to have students sent to the office because they are young and may use the wrong pronoun, or to invoke disciplinary measures on a substitute teacher or volunteer who calls a student by the wrong name, which would violate **subsection 2 item (c)**. Again, much of the details of the remaining elements in the regulation will depend on the wishes of the family and student according to their desires for privacy, namely "who gets to know" and "who gets to know how much?" Those decisions by the team will then provide the framework for how the information is shared and to whom.

In regards to engaging parents or guardians as identified in **subsection 2 item (d)** we want to highlight that best practices indicate that a supportive family network is one of the most important elements in enhancing academic, behavioral, and mental health outcomes of sex/gender diverse students. Taking that a step further, parents and guardians are not only a critical component of the team, they also continue to maintain their parental rights as long as the child is a minor and none of the remaining rights and needs identified in the draft language could be implemented against the wishes of the parents or guardians.

**Subsection 2 item (e)** outlines the right that sex/gender diverse students have to not be segregated or discriminated against in their academic programming, which includes all of the activities that occur on a day to day basis in schools, from classroom activities and assignments to PE classes and extracurricular activities. This section is in no way intended to state that districts and charter schools will be required to adopt gender neutral curricula or teach content in gender neutral ways. Nothing in this regulation is meant to imply that the rights of students with diverse gender identities or expressions to participate in the day to day activities in their schools necessitates broad and overarching reform of academic programming. This language is meant to support

families and educators in their efforts to deliver academic content in relevant and meaningful ways and can be as simple as allowing a student to choose to do their biography book report on someone they identify with, whether that be Steph Curry or Abbi Wombach, Martin Luther King or Harriet Tubman, Rue Paul or Harvey Milk.

The Nevada Interscholastic Activities Association continues to maintain jurisdiction over all intramural and interscholastic activities and nothing in this regulation makes any changes to the existing policies or jurisdiction of the NIAA, as emphasized in **subsection 2 item (e) part (2)**.

**Subsection 2 item (f)** allows for the ability for students of diverse gender identities or expressions to participate fully in student clubs, recognizing that research consistently and overwhelmingly demonstrates that GSA's, or Gay Straight Alliances, are effective interventions in supporting positive outcomes for sex/gender diverse students.

**Subsection 2 items (g) through (j)** address the rights that students of diverse gender identities or expressions have in choosing the clothing they wear at school, in yearbook photos, or at celebrations or events, including graduations, and that the students have a right to have their chosen name read at those celebrations or school events rather than the name on their birth certificate. Again, nothing in these subsections is meant to imply that the parental rights are not maintained. And again, each of these decisions would be considered by the team as a whole prior and in advance to any requested alterations.

The requirement for accurate use of terminology and definitions as outlined in **subsection 2 item (k)** is closely tied to the required training that will be provided to educators, as outlined in **subsection 2 item (m)**, and is meant to address the misuse or misunderstanding of words or terms in discussing the requirements, needs, and lived experiences of sex/gender diverse individuals.

**Subsection 2 item (l)** highlights existing rights as guaranteed and signed into Nevada law by Governor Sandoval in 2011 which ensure the full and equal enjoyment of facilities in places of public accommodation, which includes schools. Nothing in this regulation is meant to imply that this will require schools to remodel all existing bathrooms to be gender neutral, or that students can decide on a day to day basis which restroom they want to use that day. Decisions about restroom and locker room access would, again, be made by the team while carefully weighing the rights of the sex/gender diverse individual against the capacity of the school and the rights of the student body at large. This regulation does not supersede existing state law regarding full and equal enjoyment in any way and there is currently no case law or court decision that would support a requirement for schools to provide gender neutral restrooms or locker rooms.

In closing, please allow me to reiterate on the record that the language in this regulation is meant support the safety and privacy of sex/gender diverse students and their

families. It is the intent of this language that ensuring that the rights and needs of persons of diverse gender identities or expressions should be addressed at the level of the individual and not at the level of the entire school, and that any efforts to address the rights and needs of sex/gender diverse students be done with the full engagement and input of parents, guardians, or other natural supports.

Nothing in this regulation is meant to imply that students with diverse gender identities or expressions are to be considered a protected class. Rather, NRS 388.132 states that the Legislature will ensure that

*“The public schools in this State provide a safe and respectful learning environment in which persons of differing beliefs, races, colors, national origins, ancestries, religions, gender identities or expressions, sexual orientations, physical or mental disabilities, sexes or any other distinguishing characteristics or backgrounds can realize their full academic and personal potential.”*

We accept that responsibility and commit to providing the supports needed so that when we say that all students are held to high academic standards and that all students are provided the supports needed to be successful, we really do mean that “all means all.”

I’m happy to answer any additional questions the Superintendent may have.