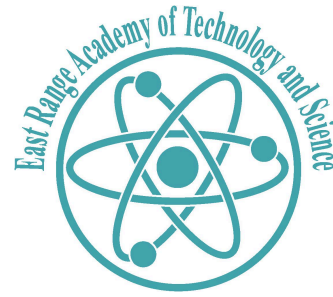


Board Policy
710
Gender Inclusion



Adopted: May 2022

I. PURPOSE

The students of East Range Academy of Technology and Science deserve respectful and inclusive learning environments that value students' gender identity and gender expression. East Range Academy ensures that all students have access to programming and facilities in which they feel comfortable and safe. This policy addresses the inequities some students—including intersex, transgender, and gender nonconforming students—confront as they navigate a system designed using a gender binary model.

II. DEFINITIONS

1. **Gender** refers to the socially constructed roles, behaviors, activities, and attributes that a given society attaches to femininity or masculinity.
2. **Gender Binary** refers to the social construction of a gender dichotomy between masculinity and femininity. The gender binary often ignores or denigrates alternate gender constructions.
3. **Gender Expression** refers to the manner in which persons represent or express gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
4. **Gender Identity** refers to a person's deeply held sense or knowledge of their own gender.
5. **Gender Nonconforming** is a term for persons whose gender expression differs from stereotypical expectation. This includes persons who identify outside traditional gender categories or identify as both genders.
6. **Sex** refers to a person's biology and is generally categorized as male, female, or intersex.
7. **Intersex** refers to a combination of features that distinguish male and female anatomy.
8. **Transgender** is an adjective describing persons whose gender identity or expression is different from that traditionally associated with the sex at birth.

III. POLICY

East Range Academy's staff and systems will work to ensure inclusive access to all programming and facilities. In accordance with procedure, the school will:

1. Respect all students' gender identity and gender expression by honoring the right of students to be identified and addressed by their preferred name and pronoun.
2. Provide all students the opportunity to participate in co-curricular and extracurricular activities in a manner consistent with their gender identity, including but not limited to intramural and interscholastic athletics.
3. Provide all students with access to facilities that best align with students' gender identity.

IV. F.A.Q. AND RATIONALE

ERATS has created the following Frequently Asked Questions (F.A.Q.) document that can be distributed to students, parents/guardians, or staff members who have questions about this policy.

Why was this policy implemented?

- The policy was put into place to foster an educational environment that is safe and supportive for all students, regardless of gender identity or gender expression consistent with State and federal law.
- The policy was adopted, in part, based on the recommendation of the Minnesota School Board Association (“MSBA”), which shared administrative guidelines and the model policy adopted by the Board of Directors and guidance from legal counsel.
- ERATS adopted this policy, instead of adopting less formal practices, to help ensure that all school staff are aware of the steps that must be taken to conform with the policy and the underlying law. Much like other school policies, Policy 710 gives a clear pathway for everyone to follow.
- ERATS is being proactive to ensure these protections are outlined in the policy.

What is the legal basis for this policy?

- Policy 710 implements state and federal laws regarding student gender identity and gender expression.
- Specifically, the Minnesota Human Rights Act (“MHRA”) prohibits schools from discriminating against students on the basis of “sex,” which includes “having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or femaleness.” Minn. Stat. § 363A.03, subd. 44. Similarly, Title IX of the Education Amendments of 1972 (“Title IX”) prohibits schools from discriminating against students on the basis of “sex.” 20 U.S.C. § 1681. The Office for Civil Rights, the federal agency that enforces Title IX, interprets Title IX’s definition of “sex” as including sexual orientation and gender identity. [Visit the explanation at ed.gov](#) for more information.
- With regard to bathroom and locker room usage, the Minnesota Court of Appeals has held that it is unlawful discrimination under the MHRA for a school to require a transgender student to use the bathroom or locker room associated with the student’s biological sex. *N.H. v. Anoka-Hennepin School District No. 11*, 950 N.W.2d 553 (Minn. App. 2020). Likewise, federal courts have held that requiring a transgender student to use the bathroom or locker room associated with the student’s biological sex violates Title IX. *See, e.g., Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020).

How will you help students, parents/guardians, and community members understand what the policy mean?

- A [one-page handout, linked here](#) is available to print, share, or distribute.

Do other schools have this policy?

- Yes, other schools have this policy and others are in the process of adopting a similar policy or making facility adjustments to foster a supportive environment for gender-nonconforming

students. In fact, the Minnesota School Board Association (“MSBA”) has issued a model gender inclusion policy for consideration by school districts and charter schools across the State.

- Some of the school districts and charter schools with similar policies or protections are:

- Anoka-Hennepin, Minnesota’s largest school district
- St. Paul Public Schools
- Minneapolis Public Schools
- Osseo Area Schools
- Nova Classical Academy
- Yinghua Academy

Why did ERATS choose to consider this policy?

- During the 2021-2022 school year, the MSBA recommended all schools consider adopting a policy or following administrative guidance around how to effectively support transgender students. The MSBA also provided policy guidance upon which ERATS’s policy is based. Over the course of two months of committee and full-board meetings, the policy was read, discussed, revised, and ultimately approved.

Does ERATS have gender-neutral bathroom stalls?

- ERATS has traditional multi-stall bathrooms for males and females ~~located in the Commons area~~, but we also have two gender-neutral, single-toilet bathrooms ~~in the west hallway~~ that any staff member, student, or visitor can use. The Nurse area also has a single-toilet, neutral bathroom

Does this policy mean that a male can use the restroom designated for female students (if not a gender-neutral restroom)?

- This policy does not allow for students who identify as male to use the female restroom or vice versa. The policy specifically addresses gender-nonconforming and gender-expressive students. As discussed above, the policy implements existing legal protections for students based on their gender identity and expression.

Does this policy change anything?

- This policy does not change anything about students’ rights, which are protected by law. As discussed above, this policy provides the ERATS community with a clear pathway to ensure protections are upheld.

We understand that this is a state level decision, but when the Board adopted this policy why was it not communicated to parents?

- As with all policies, this policy was reviewed by the Policy Committee at several open, publicly posted meetings and then brought to the full School Board at multiple meetings, each allowing community input. As with all policies considered by the Board, there was an opportunity to provide public comment, reach out to Board members with questions, or otherwise contact ERATS about the policy. ERATS does not typically send notices when new policies are approved, as policies are approved monthly and publicly available at multiple stages.

Is this being brought up to the students by teachers/administration, or is this being dealt with on a case-by-case basis with just the affected student and their parents?

- ERATS has not specifically discussed this policy with all students. Staff discuss it with students on a case-by-case basis as needed.

How is this policy being monitored? Are you giving kids the right to make this choice as they see fit?

- Students' bathroom use continues to be monitored in the way it always has. If a student identifies as gender-nonconforming or transgender and wishes to use the bathroom that aligns with their gender identity or prefers to use the gender-neutral bathroom, ERATS will work with the student in accordance with the policy and applicable law.
- If a student prefers to use an individual restroom/gender-neutral bathroom they can request to use that restroom. There are two individual restrooms located in the west hallway, and the nurse's office also has an individual restroom.