

## Gender Identity and Gender Expression Procedure: Employees

### **RATIONALE:**

Hamilton-Wentworth District School Board (HWDSB) is committed to the principles of equity through inclusive programs, curriculum, services, and operations, in accordance with the [Canadian Charter of Rights and Freedoms](#), the [Ontario Human Rights Code](#) and the [Education Act](#).

HWDSB recognizes that people who are Two Spirit, transgender, non-binary, intersex, gender non-conforming and/or gender questioning experience discrimination, both individual and systemic, and harassment. HWDSB is committed to helping students and employees of all gender expressions and identities to feel safe, supported and accepted. Under the *Ontario Human Rights Code*, the Board has an obligation to address discrimination and harassment because of gender identity and gender expression and to ensure that all individuals are treated with dignity and respect.

### **PURPOSE:**

In support of the [HWDSB Policy 5.4, Equity and Inclusion](#), this procedure specifies roles and responsibilities of the Board, employees and school communities in promoting and safeguarding the well-being of all Two Spirit, transgender, non-binary, intersex, gender non-conforming and/or gender questioning employees.

This procedure outlines the Board's commitment and accountability in ensuring that all policies, guidelines, procedures and practices including, but not limited to, classroom practices, day-to-day operations and communication practices, are free from transphobic and cisnormative biases, stereotypes and prejudices.

The procedure also outlines specific steps that the Board and schools must take to provide reasonable accommodations that are essential to ensure that gender diverse students and employees feel safe, supported and accepted. Accommodations foster an environment that is inclusive and free of barriers for students and employees of all gender expressions and identities. The principles of dignity and inclusion along with individual situation will guide reasonable accommodation requirements. Accommodation is a shared responsibility, and the Board will work cooperatively, and in a spirit of respect and in good faith, with those involved in the accommodation process. The Board will inform its decision to accommodate by applying the *Ontario Human Rights Code's* criteria of undue hardship, applicable Board policies, the *Education Act* and other relevant statutory requirements. Accommodations are made by request.

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### **TERMINOLOGY:**

These terms and definitions are not universal and may be used differently by different people. Language is constantly evolving and so this glossary will be updated regularly to reflect current best thinking and use of terminology.

*Agender:* A person who does not identify with having a gender.

*Ally:* A person who works to end a form of oppression that gives them privilege(s). Allies listen to, and are guided by, Two Spirit and LGBTQIA+ communities and individuals affected by oppression. Forms of oppression within Two Spirit and LGBTQIA + communities include: ableism, ageism, classism, biphobia, homophobia, transphobia, cisnormativity, heteronormativity, racism, sexism, and others.

*Cisgender ("cis" meaning "the same as"):* When a person's gender identity is in line with or "matches" the sex they were assigned at birth. Cis can also be used as a prefix to an assortment of words to refer to the alignment of gender identity and sex assigned at birth including cisnormativity, cissexism, etc.

*Cisnormativity:* The commonplace assumption that all people are cisgender and that everyone accepts this as normal. The term cisnormativity is used to describe systemic prejudice against transgender people. This form of systemic prejudice may go unrecognized by the people or organizations responsible.

*Cissexism:* A system of oppression that considers cisgender people to be superior to transgender people. It includes harmful beliefs that it is "normal" to be cisgender and "abnormal" to be transgender. Examples include scrutinizing the genders of transgender people more than those of cisgender people or defining beauty based on how cisgender people look.

*Duty to accommodate:* Under the Ontario Human Rights Code, people identified by Code grounds are entitled to the same opportunities and benefits as everybody else. In some cases, they may need special arrangements or "accommodations" to take part equally in the social areas the Code covers, such as employment, housing and education. Employers, housing providers, and education providers have a legal obligation to accommodate Code-identified needs, unless they can prove it would cause them undue hardship.

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*Equity:* A condition or state in which access to opportunities and resources are distributed fairly, justly and equitably. Equity involves treating some people differently or giving them what they need so they may meet the same outcomes as others.

*Gender:* Gender can refer to the individual and/or social experience of being a man, a woman, or neither. Social norms, expectations and roles related to gender vary across time, space, culture, and individuals.

*Gender Binary:* A social system whereby people are thought to have either one of two genders: “man” or “woman.” These genders are expected to correspond to one’s sex assigned at birth. In the gender binary system, there is no room for living between genders or for transcending the gender binary. The gender binary system is rigid and restrictive for many people whose sex assigned at birth does not match up with their gender, or whose gender is fluid and not fixed.

*Gender Expression:* How a person publicly expresses or presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language, and voice. A person’s chosen name and pronoun are also common ways of expressing gender. All people, regardless of their gender identity, have a gender expression and they may express it in any number of ways.

*Genderfluid:* Individuals who do not follow gender stereotypes based on the sex they were assigned at birth. A person who does not identify themselves as having a fixed gender, but rather a gender that moves along the gender spectrum throughout time. People who are genderfluid may or may not identify as transgender and/or nonbinary.

*Gender Identity:* A person's internal and individual experience of gender. It is a person's sense of being a woman, a man, both, neither or anywhere along the gender spectrum. A person's gender identity may be the same as or different from their sex assigned at birth. A person's gender identity is fundamentally different from and not related to their sexual orientation.

*Gender Inclusive Pronoun:* The pronoun a person uses when they do not know a person’s name or do not want to make an assumption about the gender of a person they are referring to (e.g., They/Their/Them).

*Gender Non-conforming:* Individuals who do not follow gender stereotypes based on the sex they were assigned at birth. They do not adhere to notions of a fixed gender binary, but rather a gender that moves along the gender spectrum throughout their life. People who are gender nonconforming may or may not identify as transgender and/or nonbinary.

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*Genderqueer:* Individuals who do not follow gender stereotypes based on the sex they were assigned at birth. They see gender as something that moves along the gender spectrum throughout their life or goes beyond the gender binary. People who are genderqueer may or may not identify as transgender and/or nonbinary.

*Gender Spectrum:* The representation of gender as a continuum, as opposed to a binary concept of being either fixed in one of two genders - female or male. It allows for gender to be thought of as fluid or having the ability to change or move throughout a person's lifetime. It allows gender diverse people to go beyond the binary.

*Hate Crime:* Criminal acts which promote hatred against identifiable groups of people, motivated by bias, prejudice or hate. Although individuals and groups that promote this destructive form of human rights-based discrimination often defend their right to "free speech," it is a criminal offense to disseminate hate propaganda and/or to commit hate crimes (e.g., Transmisogyny or Transphobia).

*Human Rights:* The universal entitlement that all people should have access to freedom, justice and protection from discrimination and harassment, and that people should have equal access to a climate that preserves the dignity and worth of individuals and groups.

*HWDSB's student information system:* HWDSB currently uses the PowerSchool platform.

*Intersex:* A term used to describe a person born with reproductive systems, chromosomes and/or hormones that are not easily characterized as male or female. Typically, intersex people are assigned one of the binary sexes, male or female, at birth. Some intersex people identify with their sex assigned at birth, while others do not, and some choose to identify as intersex. Intersex people may or may not identify transgender or nonbinary.

*Legal Name:* The name that appears in the "Legal Name Field" within PowerSchool, usually the name that appears on a birth certificate.

*Lived Name:* The name that a student identifies with and would like to be referred to at school as it affirms their gender identity.

*Non-binary:* An umbrella term for gender identities that fall outside of the male-female binary. They see gender as something that moves along the gender spectrum throughout their life or

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goes beyond the gender binary. People who are nonbinary may or may not identify as transgender.

*Preferred Name:* The name that is entered into the “Preferred Name Field” within PowerSchool.

*Questioning:* A period where a person explores their own sexual orientation, and/or gender identity and gender expression.

*Sex:* Biological classification of a person’s physical anatomy and genetic characteristics of being male, female or intersex.

*Sex Assigned at Birth:* Sex is usually assigned at birth and is based on an assessment of a person’s visible reproductive anatomy. Most newborns are given either a male or female sex designation based on one sex characteristic.

*Transgender:* Transgender identities include people whose gender identity is different from their sex assigned at birth. Transgender can mean transcending beyond, existing between, or crossing over the gender spectrum. It includes but is not limited to people who identify as transgender, non-binary, gender nonconforming, genderqueer, genderfluid, and other diverse gender identities.

*Transition:* A host of activities that some transgender people may pursue to affirm their gender identity. This may include changes to their name, sex designation, dress, the use of specific pronouns, and possibly medically supportive treatments such as hormone therapy, or other medical procedures. There is no checklist or average time for a transition process, and no universal goal or endpoint. Each person will decide what meets their needs.

*Transmisogyny:* Negative attitudes, expressed through cultural hate, individual and systemic violence, and discrimination directed toward transgender women and people with diverse gender identities that are expressed on the feminine end of the gender spectrum.

*Transphobia:* Negative attitudes and feelings and the aversion to, fear or hatred or intolerance of transgender people and communities. Like other prejudices, it is based on stereotypes and misconceptions that are used to justify discrimination, harassment and violence toward transgender people, or those perceived to be transgender. This term for hate is often applied to all diverse gender identities.

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*Two Spirit*: An identifier used by some Indigenous peoples to describe the embodiment of both masculine and feminine spirits. This identity is not limited to gender expression or sexuality but encompasses them both while incorporating a spiritual element as well. This is a term only to be used by Indigenous peoples as it is usually found in traditional teachings and varies from community to community.

### **PROCEDURES:**

#### **1.0. Key Roles and Responsibilities**

All members of the school community have a responsibility to uphold the HWDSB Gender Identity & Gender Expression Procedure. All students, staff, parents/guardians/caregivers, contractors and visitors have the responsibility to treat Two Spirit, transgender, non-binary, intersex, gender non-conforming and/or gender questioning students and employees with dignity and respect.

##### **1.1. All Employees**

- a) Respect the rights of students, families and staff of all gender identities and gender expressions in accordance with the *Ontario Human Rights Code*.
- b) When provided, employees will participate in professional development and learning about their rights and responsibilities in treating transgender and gender diverse employees with dignity and respect.
- c) Uphold the HWDSB Code of Conduct and the related policies and procedures.

##### **1.2. Board Executive Council, System Leaders and School Principals and Vice Principals:**

- a) Respect the rights of employees of all gender identities and gender expressions in accordance with the *Ontario Human Rights Code*.
- b) Provide leadership at all levels that foster an environment of respect for all people regardless of gender identity and gender expression; and endeavor to raise awareness of the needs of transgender and gender diverse employees.
- c) Provide opportunities and support implementation of equity education, professional development, and initiatives to increase understanding and awareness about gender identity and gender expression, and the needs of transgender and gender diverse employees.
- d) Ensure that educational practices are inclusive and reflect the contributions of transgender and gender diverse people and that all forms of biases, stereotypes, prejudice, discrimination



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(including transphobia, cisnormativity and gender stereotypes) are identified, challenged, and eliminated.

- e) Collaborate, communicate, and work in partnership with local Two Spirit, transgender, non-binary, intersex, gender non-conforming and/or gender questioning students, employees and communities in the development and implementation of the Equity and Inclusion policy and procedure on gender identity and gender expression, as well as the application and review.
- f) Provide reasonable accommodations to transgender and gender diverse employees based on individual requests in accordance with the *Ontario Human Rights Code* and *Ontario Human Rights Commission's* guidelines on the duty to accommodate.
- g) Provide leadership in minimizing the need for individual accommodations by using inclusive design and anti-oppressive approaches when designing and planning services and facilities, policies, procedures and programs.
- h) Ensure confidentiality and privacy with respect to disclosure of student and employee gender identity.
- i) Establish a transparent review process and timeframe to monitor and assess the effectiveness of the Policy 5.4 Equity and Inclusion, and the corresponding Gender Identity & Gender Expression Procedure.
- j) Uphold the HWDSB Code of Conduct, Human Rights policy and other related policies and procedures.

### **1.3. Students, Parents/Guardians/Caregivers, Community Partners, Facility Renters, and Visitors**

- a) Respect the rights of students, families, and employees of all gender identities and gender expressions in accordance with the *Ontario Human Rights Code*.
- b) Uphold the HWDSB Code of Conduct, Human Rights Policy and related policies and procedures.

### **1.4. Transgender and Gender Diverse Employees Seeking Accommodation**

- a) Inform the Board or school (e.g., Principal/Manager or Human Resources), through written or verbal request, when they have Human Rights Code-related needs that require accommodation.
- b) Cooperate in the accommodation process to the best of their ability.

## **2.0. Areas of Accommodation for Employees**

Areas of accommodation for employees in HWDSB related to gender identity and/or gender expression, may include, but are not limited to, the following:

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2.1 Addressing Staff and Management of Employee Records (Names/Pronouns)

2.2 Access to Washrooms and/or Changerooms

2.3 Sports and Other Segregated Activities

2.4 Gender Neutral and Inclusive Language

### **2.1 Addressing Staff and Management of Employee Records (Names/Pronouns)**

The goal of this section of the procedure is to ensure employee names and pronouns are respected and that they are used and recorded in ways that affirm their identity in the workplace.

#### **2.1.1 Addressing Employees**

When addressing employees, the following considerations are crucial to ensuring that their gender identity and gender expression are respected and supported:

- i) It is the right of all employees to be referred to by the name and pronouns that correspond to the gender with which they identify. This standard is applicable for any employee, regardless of whether they have obtained a legal name change or legal change to their official sex designation.
- ii) Where an employee has made their pronouns and gender identity known, colleagues and management will use the affirming name, pronouns and honorifics.
- iii) Intentionally addressing an employee by the incorrect name, pronouns or honorifics will be considered a form of discrimination and harassment and will not be tolerated. While it is understood that inadvertent slips or honest mistakes may occur, the intentional and/or persistent refusal to acknowledge an employee's gender identity or use their lived name is unacceptable.
- iv) Where an employee's legal name does not match their lived name, where requested by the staff member, the lived name will be used and included in all correspondence, documentation and records. The change will be made moving forward, but historical records will not be altered.



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v) Where there is a change of management or of work location, management will take appropriate steps to ensure that an employee's affirming name and pronouns continue to be used.

### **2.1.2 Names Appearing in Databases/Records**

Everything related to employees on various platforms used by the HWDSB must use the employee's lived name and pronouns. There should be no assumption that the legal name is required. Following are the parameters around making changes to names appearing in databases and records:

- i) Upon request by an employee, Human Resources will make a change in the employee database, and other electronic systems in which the legal name or previous preferred name appears, to reflect the employee's lived name.
- ii) A log entry will be made in the employee's Human Resources file to safely house their request.
- iii) Any signage/labels will be updated to reflect the employee's lived name and gender identity.
- iv) Report cards, IEPs, and other correspondence, documents and records will be created with the relevant employee's lived name(s) which affirms their gender identity.
- v) The appearance of middle names in correspondence, documents and records must be considered as this might out the employee or cause them distress. In these situations, middle names will be removed from all correspondence, documentation, and records, or changed to use only the middle initial.

### **2.1.3 Confidentiality and Dignity**

These accommodations must be implemented in a manner that respects and protects the employee's confidentiality and dignity; for example, by not disclosing their gender identity or transition to anyone with whom they do not wish to share it. Each individual employee's needs will be different, so they will need to be directly involved in discussions around accommodations. Some key considerations/steps to follow for maintaining an employee's confidentiality and dignity include:

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- i) The information is to be disseminated to only those employees who would require this knowledge in order to affirm the employee's gender identity by using the correct name and pronouns.
- ii) This information must never be disseminated via an all staff email or at a staff meeting, unless requested by the individual.
- iii) There must be clarity around who is responsible for making changes to an employee's name, pronouns, gender marker, etc., in all information systems.
- iv) All employees must show discretion when distributing documents or other items that may contain another employee's legal name and/or gender marker, to ensure their privacy and well-being.

### **2.1.4 Supporting Employee Disclosure**

In the event that the employee wishes to disclose aspects of their gender identity or transition:

- i) The Board will ensure that there is someone available to meet with the employee to engage in discussion around who should be told about the transition, change of name, pronouns, gender marker, etc. The employee may choose who they feel most comfortable engaging in those discussions with.
- ii) Following the discussion with the employee, the agreed upon process for conveying the information must then be carried out.

### **2.2 Access to Washrooms and/or Changerooms**

Everyone has a gender identity and gender expression, and the goal of this area of accommodation is to ensure safe and inclusive access to facilities such as washrooms and changerooms for everyone, regardless of their gender identity and/or gender expression. An individual's self-identification is the sole measure of their gender identity; as such they may choose to use one, or both, gendered washrooms or changerooms, or the use of a private single stall facility.

#### **2.2.1 Safe and Inclusive Washroom and/or Changeroom Facilities**

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Under the Ontario Human Rights Code, it is the right of employees to use a washroom and changeroom that corresponds to their gender identity and gender expression. Each individual employee's needs will be different, so they will need to be directly involved in discussions around accommodations.

### **2.2.2 Facilities in Pre-Existing Schools and Board Buildings**

Where there is not a single occupant employee washroom available within the school, there are certain steps that can be taken to ensure the safety and inclusion of all employees, students and visitors regardless of gender identity and/or gender expression.

- i) The principal should connect with their Facility Operations Supervisor to assist in reviewing the Building Code requirements to determine if facilities are able to be converted.
- ii) In order to ensure that facilities that are converted from pre-existing washrooms/changerooms, are safe, inclusive and accessible to all students, employees and visitors who may utilize them, principals may consult with Facilities Management, the superintendent of student achievement and Equity Department, prior to decision making.

### **2.2.3 Facilities in New Builds and Renovations**

It is the responsibility of Board leadership to address the need for suitable single occupant employee washroom facilities within all new builds and renovations at the planning stages and throughout the process.

## **2.3 Sports and Other Segregated Activities**

### **2.3.1 Sports Teams**

Gender identity and/or gender expression must not limit employees in their choices when volunteering to coach or facilitate extra-curricular activities.

### **2.3.2 Health & Physical Education Classes**

Gender identity and/or gender expression must not limit employees and their assignments for Health and Physical Education classes.

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### **2.3.3 Gender Segregation in Other Areas**

Gender segregation is to be avoided. This means:

- i) Employment duties must be assigned based on qualifications and ability, not based on gender identity.
- ii) When planning staff activities, events must not be gender segregated.
- iii) Dress code or uniform requirements must be substantively similar regardless of gender. Where uniforms are provided by the Board, employees must be allowed to choose their uniform from all the options available to all employees regardless of their gender identity or expression.

### **2.4 Gender Neutral and Inclusive Language**

Ensuring that gender neutral language utilized in classrooms, schools and HWDSB buildings, both verbal and written, helps to recognize diversity and allow people of all gender identities and gender expression to feel safe and included. Employees have the right to be addressed by their lived name and affirming pronoun that corresponds to their gender identity or gender expression not only in person but also on written documentation. Legal documentation is not required.

- i) When referring to employees in the building, be sure to use their preferred honorific and name, and be aware of the names, pronouns and honorifics that people (employees and students) use for themselves. Employees have the right to use the honorific with which they most identify. E.g., they may use the honorific “Mr.”, Ms.”, Mx.”, etc., or to not use an honorific at all.