

Top 5 Offensive Mandates in the DOE's "Treatment of Transgender Students" Policy

The following pages contain a compilation of screenshots (commentary and special emphasis added) from the Virginia Department of Education's "Treatment of Transgender Students" policies.

These screenshots make it abundantly clear that adoption of these policies put local school boards and administrators in grave danger of violating key constitutional principles, including parental rights, religious freedoms and students' rights of privacy and physical safety. (Litigation* is currently pending that challenges the state's mandate for all K-12 schools to implement these policies in a way that is "consistent" or even more "comprehensive" than the DOE model policy.) Evidence is provided on the following pages that the policy:

1. Encourages schools to keep secrets from—and outright deceive—parents.
2. Opens the door to the state punishing parents as "abusers" for simply expressing genuine concerns or deeply held religious beliefs.
3. Requires schools to jeopardize the privacy and physical safety rights of students.
4. Mandates that all school employees and students must use transgender pronouns or face punishment for discrimination—without protection for deeply held religious beliefs.
5. Enforces school-wide protocol that crosses the line from mere harassment prevention into state-enforced promotion of a politicized form of transgender advocacy.

*For an online version with hyperlinks, visit familyfoundation.org/protecteverykid

Offensive Mandate #1: Deceives Parents

The policy encourages schools to keep secrets from—and outright deceive—parents. It also encourages kids to lead a double life, putting them in the precarious position of hiding vital and potentially life-saving information from parents. (At least one court has halted a similar school policy in Wisconsin*.)*

assisting the family in developing solutions in their child’s best interest. For example, a plan may include addressing the student at school with their name and pronoun consistent with their gender identity while using the legal name and pronoun associated with the sex assigned at birth when communicating with parents or guardians. Research has shown that transgender youth with



Note: On Page 14, the policy directly spells out how schools can hide a child’s transgender identity from parents, such as making it a point to use different names and pronouns at school from those used in the presence of the parents.

basis. If a student is not ready or able to safely share with their family about their gender identity, this should be respected. There are no regulations requiring school staff to notify a parent or guardian of a student’s request to affirm their gender identity, and school staff should work with students to help them share the information with their family when they are ready to do so. Refer

behavior” (Russell, Pollitt, Li, & Grossman, 2018). Thus, school staff should be prepared to support the safety and welfare of transgender students when their families are not affirming.



Note: Pages 12 and 14 of the policy again make clear the state’s advice to school staff to hide information from parents deemed not sufficiently “affirming” of their young child embracing a transgender identity. Shouldn’t parents have the right to know if their children are making decisions that could affect their own safety as well as others—such as using opposite-sex bathrooms or locker rooms? It is risky and even damaging to actively hide behaviors that have long-lasting physical and emotional impacts from the child’s parents. Hiding these pertinent facts puts the school in a legally vulnerable position.

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Offensive Mandate #2: Punishes Parents

The policy opens the door to the state punishing parents as “abusers” for simply expressing genuine, good-faith concerns about their young child prematurely embracing a transgender identity.

behavior” (KUSSELL, POHLL, LI, & GROSSMAN, 2018). Thus, school staff should be prepared to support the safety and welfare of transgender students when their families are not affirming. School staff should provide information and referral to resources to support the student in coping with the lack of support at home, provide information and resources to families about transgender issues, seek opportunities to foster a better relationship between the student and their family, and provide close follow-ups with the family and student. Refer to Appendix A for resources to support families of transgender students. To comply with [§ 63.2-1509](#) of the *Code of Virginia*, whenever school personnel suspects or becomes aware that a student is being abused, neglected, or at risk of abuse or neglect (as defined by § 63.2-100 of the Code of Virginia) by their parent due to their transgender identity, they must report those concerns to Child Protective Services immediately. Before making a decision on policies relating to situations when parents or guardians are not accepting of the student’s gender identity, school divisions should consult their school board attorney.



Note: On Page 14, the DOE directs school staff to be on the lookout for families who “are not affirming” and immediately report students “at risk of abuse or neglect by their parent due to their transgender identity” to CPS. While we all agree abuse is always wrong for any reason, the problem is the policy uses vague language to define abuse, creating a real threat of families being illegally targeted because of their religious beliefs. Nonreligious families could also be targeted simply for encouraging their child to delay life-altering decisions, such as transgender surgery or hormone therapy. The question is, how will “affirming” be defined, and who will define it?

Offensive Mandate #3: Jeopardizes Safety

The policy requires schools to jeopardize the privacy and physical safety rights of students, especially young female students—although young boys should be taken into consideration, considering the policy's requirement for schools to provide menstrual supplies in all K-12 school bathrooms.

neutral pronouns such as they/them/their or ze/hir/hirs, use multiple sets of pronouns interchangeably, or use their name in place of any pronoun. School divisions should accept a student's assertion of their gender identity without requiring any particular substantiating evidence, including diagnosis, treatment, or legal documents. A student is considered transgender if, at school, the student consistently asserts a gender identity different from the sex assigned at birth. This should involve more than a casual declaration of gender identity, but it does not necessarily require any substantiating evidence nor any required minimum duration of expressed gender identity. Establishing gender identity can present differently from student to



Note: On Page 13, the policy makes clear there are no reasonable guidelines for allowing biological male students, for instance, to use female bathrooms. Schools cannot require any documentation whatsoever or any "minimum duration" of gender identity expression in order for a student to access opposite-sex bathrooms. Students can even change gender identity expression from moment to moment, making it impossible to establish a clear, safe standard.

restrooms and facilities. School staff should not confront students about their gender identity upon entry into the restroom. Furthermore, as school divisions plan for new school facilities or

Additionally, § 22.1-6.1 of the *Code of Virginia* requires each school board to make menstrual supplies available at all times and at no cost to students in accessible locations in each elementary school and in the bathrooms of each middle and high school. Accordingly, these supplies should be made available in all bathrooms to be gender-inclusive.

Note: These excerpts from Page 18 not only prohibit school staff from even questioning a male student entering a female restroom—or vice versa—but also require menstrual supplies in all male and female restrooms, even at the kindergarten level!



Note: Once again, on Page 19, the policy issues a blanket mandate that every school must allow boys identifying as girls, for instance, to use the girls' bathrooms or change in female locker rooms—and this can be done without ever notifying parents.

Access to facilities such as restrooms and locker rooms that correspond to a student's gender identity shall be available to all students.



intramurals, non-competitive sports leagues, and field trips. For overnight field trips, the school should not force the student into single-occupancy accommodations that are not required for other students; however, such alternative accommodations should be made available to any

Note: Page 17 also explains that this mandate applies to overnight field trips—again, without having to notify parents, schools must allow biological males identifying as transgender to share sleeping quarters with females and vice versa. We would argue that reasonable and compassionate accommodations can be made without jeopardizing the privacy and safety rights of students in overnight sleeping quarters.



Offensive Mandate #4: Violates Religious Freedoms

Without any protections for deeply held religious beliefs, the policy mandates that all school employees and students must use transgender pronouns or face punishment for discrimination and harassment.

of their gender identity. Many transgender students will adopt the gender pronouns typically associated with their gender identity. For example, most transgender girls will use she/her/hers pronouns, while most transgender boys will use he/him/his pronouns. There may be a less common pattern of pronoun usage among nonbinary students. Nonbinary students, as well as transgender students, may use gendered pronouns like she/her/hers or he/him/his, use gender-neutral pronouns such as they/them/their or ze/hir/hirs, use multiple sets of pronouns interchangeably, or use their name in place of any pronoun. School divisions should accept a student's assertion of their gender identity without requiring any particular substantiating evidence, including diagnosis, treatment, or legal documents. A student is considered

Note: The policy mandate includes forced use of recently invented "gender neutral" pronouns such as "ze/hir/hirs" if that is what the student specifies (Page 13).

biological sex. "(OCR, 2020). For transgender students, acts of verbal harassment may include the intentional and persistent use of names and pronouns not consistent with their identity. Sex-based harassment may also include the disclosure of the student's gender identity without their consent as this presents safety concerns for the student.

school staff to abide by the wishes of a student on their name and pronoun. A school employee's intentional and persistent refusal to respect a student's name and pronoun is considered discriminatory. Schools also should be prepared for genuinely innocent confusion or uncertainty

Note: Pages 10 and 13 make clear that failing to use gender-neutral pronouns can result in serious, career-threatening charges of harassment and discrimination. Disclosing the child's transgender identity to parents can also result in a charge of harassment—so even well-meaning teachers could jeopardize their careers by refusing to hide key information about a child from parents.

Schools shall allow students to use a name and gender pronouns that reflect their gender identity without any substantiating evidence. School staff shall, at the request of a student or parent, when using a name or pronoun to address the student, use the name and pronoun that correspond to their gender identity.


Note: On Page 13, once again, absolutely no documentation or substantiation of students' circumstances are required for this enforcement—despite the fact that you are permanently changing student records and imposing serious penalties on staff. It's also worth considering that these issues are still being worked out in the court system (see examples [here](#)* and [here](#)*.)

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Offensive Mandate #5: Politicizes Schools

The policy mandates instruction and schoolwide protocol that goes far beyond prevention of harassment and crosses the line into state-enforced promotion of a politicized form of transgender advocacy—including controversial statements completely unsubstantiated by scientific evidence.

For many people, their gender identity matches their sex assigned at birth. For others, their gender identity does not necessarily correspond to the sex assigned at birth, where the gender identity may be one in a range such as transgender, nonbinary, or gender-expansive. Gender identity is considered an innate characteristic that most children declare by age five to six (Lamb




association with less truancy (Day, Ioverno, & Russell, 2019). While the terminology *transgender* is used throughout this document, it should be interpreted to include gender-expansive, nonbinary, and gender nonconforming individuals who do not identify on the cisgender binary.

Note: Teaching children as young as five or six that their gender is something “assigned” to them rather than being directly connected to chromosomes and DNA is scientifically inaccurate—and yet this is the assumption upon which the entire DOE policy is built. Parents should have the right to know if their young kids are being taught controversial “gender expansive” concepts at school (Pages 8 and 9).

gender-expansive. Since the concept of gender is increasingly being viewed as a gender spectrum, it may be beneficial to remove gender from forms and documents or provide a broader, more inclusive range of options. For purposes of data collection, the VDOE has expanded gender choices to include nonbinary as a third option if the student or parent wishes to use this option.

In order to promote a positive school climate where all students feel safe and supported, school divisions should incorporate regular education about transgender students into staff professional development and training. Periodic professional development should be provided to school

(GLSEN, 2019). School divisions may take an inclusive approach by incorporating educational content that is transgender affirming into the general education curriculum such as history, literature, and science. For example, material may feature or include transgender people or highlight the contributions of LGBTQ+ people in state and US history curricula. School



Note: In these excerpts from Pages 15, 19 and 21, the policy spells out the expectation for transgender advocacy to be incorporated into every part of school life—including professional development and training (Page 19) and the “general education curriculum,” including science (Page 21). It even recommends schools remove any indication of gender from general education forms and data (Page 15).