



School Leaders Risk Management Association

# UPDATE

September 2014



## Does Your School Maintain a Level Playing Field?

Sample Checklist Inside

**The Office for Civil Rights is Applying Title IX to All Aspects of Your District's Treatment of Transgendered and Gender Non-Conforming Students...Are Your Extracurricular Activities at Risk?**

As we reported in SLRMA's May 2014 newsletter, the U.S. Department of Education's Office for Civil Rights ("OCR") formally declared on April 29, 2014, that Title IX is applicable to transgender and gender non-conforming students. The OCR also stated that it will investigate complaints involving discrimination based on gender identity. (See "Questions and Answers Title IX and Sexual Violence" available at SLRMA.org). According to a 2011 survey of 6,500 people who expressed a transgender or gender non-conforming identity, 78% reported harassment, 35% suffered physical assaults and 12% reported suffering sexual violence while attending K-12 schools. These events

led to almost 15% of the respondents leaving their K-12 or higher education school.<sup>1</sup>

Given these statistics, the OCR's enforcement agenda is not surprising. In light of the concerns raised by this agenda, SLRMA published its *District Transgender and Gender Non-conforming Student Practice and Policy: Self-Audit Checklist and Best Practices* (see SLRMA.org). As more and more districts are facing the reality of transgender and

<sup>1</sup> *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey (2011)*; National Center for Transgender Equality and National Gay and Lesbian Task Force.

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# Best Practices and Policies for Serving Transgender and Gender Non-conforming Students– Extracurricular Activities:

Self-Audit Checklist and Best Practices for School Districts on Providing Equal Access to Extracurricular Activities for Transgender and Gender Non-conforming Students.

## I. Does the district’s policy state its scope and purpose? Notice Requirement

- ◆ Does the policy state that it applies to school-sponsored extracurricular activities?  Yes  No
- ◆ Does the policy discuss the reasons why it will further the district’s educational mission?  Yes  No
- ◆ Does the policy require the district to provide to transgender and gender non-conforming students the same opportunities to participate in extracurricular activities as all other students?  Yes  No

## II. Does the district’s policy explain how a student should notify the district that he or she would like to participate in extracurricular activities?

- ◆ Does the policy explain when the district’s designated contact person should be notified about a transgender or gender non-conforming student’s interest in certain activities?  Yes  No
- ◆ Does the policy state that students, and/or their parents or guardians, should explain to the district’s designated contact person that the student has a gender identity different from that listed on his or her school records?  Yes  No

## III. Does the district’s policy explain the process by which a student gains access to state interscholastic athletic association activities?

- ◆ Does the policy explain when the district’s designated contact person should notify the interscholastic athletic association in which the district participates about a transgender or gender non-conforming student’s participation?  Yes  No
- ◆ Does the policy explain whether notification to the interscholastic athletic association must be in writing?  Yes  No

## IV. Does the district’s policy address facilities access for students participating in extracurricular activities?

- ◆ Does the policy address the accessibility of facilities appropriate for extracurricular activities (such as locker room facilities for students playing sports or changing rooms for those participating in theater activities)?  Yes  No
- ◆ Does the policy state that students should have access to alternative facilities if students desire increased privacy and/or safety?  Yes  No

## V. Does the district’s policy address how students will be housed during overnight trips related to extracurricular activities?

- ◆ Does the policy require school personnel to ensure students may participate (including sharing rooms with other students during overnight trips related to extracurricular activities) according to the gender identity that they consistently assert at school (even if it is not their sex assigned at birth)?  Yes  No

# California law allows transgender students to pick the bathrooms & sports teams they most identify with

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gender non-conforming students asserting their rights under Title IX, schools are beginning to draft policies to reflect the needs of these students. A district's duties regarding Title IX and equal protection, however, do not end with the final bell at the end of the school day or when the school is closed. Rather, the obligation to ensure equal treatment of all students extends to the extracurricular opportunities available to students, including athletics, clubs and other events. Some of the biggest challenges that schools may face in this regard is the treatment of transgender and gender-nonconforming students while they are participating in overnight trips related to school extracurricular activities.

In light of these struggles, SLRMA is pleased to provide its members with **Best Practices and Policies for Serving Transgender and Gender Non-conforming Students- Extracurricular Activities**. We hope your school district will use this checklist in conjunction with our prior checklist **District Transgender and Gender Non-conforming Student: Self-Audit Checklist and Best Practices** to help ensure your entire student body has equal access to the whole educational experience, including extracurricular activities. Now is the time to develop an established policy that provides access to extracurricular opportunities and treats all students with dignity. ●

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SLRMA's Checklists are tools to help you avoid potentially damaging liability.

**In the last quarter, SLRMA's most popular checklists were:**

- 1** School Districts Cloud Computing Services Self-Audit Checklist
- 2** District Transgender and Gender Non-conforming Student: Self-Audit Checklist
- 3** District Social Media Policy, Part 2: Administrator/Teacher Social Media Policies Checklist
- 4** District Social Media Policy, Part 1: Student Social Media Policies Checklist



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School Leaders Risk Management Association

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## Changing Sex and Changing Teams

LOS ANGELES — Not so long ago, Toni Bias dreamed of playing in the W.N.B.A. But after starring on the girls' junior varsity basketball team as a high school freshman, Toni came out as transgender last summer, began going by the name Tony and started transitioning to male.

— *New York Times*  
May 6, 2014

**Download SLRMA's**

**2014 Best Practices and Policies for Serving Transgender and Gender Non-conforming Students - Extracurricular Activities Checklist Today and Protect Your School.**