

Student Safety Model Policy

Purpose¹

Every child should have the opportunity to succeed in school and in life. Our role as members of this school board is to create, curate, and protect the education options available to students in our district. The purpose of this policy manual is to make transparent the policies and procedures our board and district staff will use to recognize a parent's role as their child's primary caregiver and develop policies that guard against the discrimination and harassment of students.

This manual provides a summary of the key precedents in U.S. Law that affirm that parents are a child's primary caregiver and are responsible for that child's education and moral and religious instruction. This school district may not burden these fundamental rights unless that policy is narrowly tailored to meet a compelling state interest. This manual also contains a parent bill of rights; a set of policies and procedures directing academic transparency in district schools; rules concerning parental consent for the medical care of their child while on school property; policies regarding sex education; and policies directing the conduct of school officials for reasonable accommodations for students who choose not to abide by his or her sex.

This board will defer to parents regarding the best decisions for a child and will keep parents regularly informed about their child's education and health status while that student is part of our district.²

Furthermore, no public official shall compel a teacher or student to profess or believe any idea, especially ideas that violate state or federal laws including the Civil Rights Act of 1964. School officials in our district must also respect and serve the needs of all students in our district. No student will be discriminated against on the basis of religion or disability, or based on their race, ethnicity, country of origin, sex, or any other immutable characteristic.

Parental Rights and the Law

The Fourteenth Amendment to the U.S. Constitution and four U.S. Supreme Court cases specifically affirm the fundamental rights of parents as their child's caregivers. The Fourteenth Amendment states, in part, that "No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."³

The U.S. Supreme Court cited this amendment in *Pierce v. Society of Sisters* and *Troxel v. Granville* in opinions that uphold parental rights.⁴

Yet even before these cases, in 1923 the Court ruled in *Meyer v. Nebraska* that "[T]he individual has certain fundamental rights which must be respected" and these include the right "to

marry, *establish a home and bring up children*, to worship God according to the dictates of his own conscience.”⁵

The *Meyer* ruling established important due process protections that future courts would use in later opinions. Incontrovertibly, however, this ruling described parents’ “fundamental” rights to raise their children.

Pierce v. Society of Sisters followed this ruling. In this case, the court ruled that “the child is not the mere creature of the state,” and, expanding, it would seem, on *Meyer*, wrote that “those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.” In deference to the Fourteenth Amendment’s limit on State authority over fundamental rights, the opinion also said, “The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children.”

In 1972, the Court ruled in *Wisconsin v. Yoder* that the “primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.”⁶

This case dealt with the decision of Amish parents not to send their children to public school after the eighth grade because the content of secondary school instruction were “in sharp conflict with the fundamental model of life mandated by the Amish religion.”⁷

A Wisconsin law, then, that required public school attendance after eighth grade violated a parent’s right to direct a child’s religious upbringing.

Finally, the Court’s ruling in *Troxel v. Granville* again cited the Fourteenth Amendment: “[It] cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.”⁸

The Court in *Troxel* recognized that “the interest of parents in the care, custody and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court,” and that the U.S. Constitution does not allow for burdens on parental rights “simply because a state judge believes a ‘better’ decision could be made.”⁹

Under these opinions, our responsibility as school board members is to defer to a parent’s rights over the upbringing of their children (under lawful oversight and discretion to protect a child from harm that may have occurred in the home). This board shall inform parents of any and all education- and health-related matters involving their children. And this board and schools within our district shall adopt policies and procedures according to this manual that prevents discrimination on the basis of immutable characteristics, accommodates students with diverse needs, and maintains student privacy in accord with his or her parents.

According to these opinions and this board's duties and responsibilities, this board shall operate under the following guiding principles:

1. Parents have the right to direct their children's education, including their moral and religious upbringing.
2. School officials will defer to parents' decisions regarding their children.
3. School officials will partner with parents concerning their child's education.
4. Parents have the right to know of any attempts to provide medical care, including counseling, mental health services, and any attempts to facilitate "social transitioning," to a minor-age child.
5. Parents have the right to make medical decisions for their children whether or not they are at school.
6. Parents have the right to be consulted and affirmatively asked for permission before their children are exposed to any school activity, exercise, or assignment that involves sex education, including sexual orientation, gender identity, contraceptives, abortion, or sexually explicit material.
7. Parents have the right to review the textbooks, curriculum, homework assignments, and other classroom work assigned to their children.
8. Parents have the right to speak during the public comment period of local school board meetings.
9. Children with disabilities that interfere with their learning have the right to receive special education services from this school district.
10. No student will be discriminated against.
11. Terminology/Definitions
 1. "Sex" means biological sex—either male or female—as listed on an individual's original birth certificate.¹⁰

A person's sex is inherent and immutable.

2. "Parent" or "guardian" means a resident of this state who is the parent, stepparent, adoptive parent, foster parent, or otherwise the legal guardian of a qualified student.
3. "Student" means an individual under the age of 18 and/or an individual who has not been emancipated under the law.
4. "Employee" means any individual working in any capacity, whether performance of such work is voluntary or paid, including but not limited to teachers, administrators, janitors,

cafeteria workers, or other individuals working at any state-funded preschool, primary, or secondary school.¹¹

5. “Gender identity” refers to the contested and wholly subjective notion that one can have an internal “sense of gender” that can be male, female, or something else separate and distinct from one’s sexed body. This concept should not be confused or conflated with sex.
6. “Social transition” refers to an intervention intended to conform language and policy to an individual’s stated “gender identity” rather than to his or her sex. This may include conforming use of a personal name or pronoun to the student’s stated “gender identity,” even if it is incongruent with the student’s sex. Social transition is the first step in “gender affirming care,” which also includes the use of puberty blockers, cross-sex hormones, and surgery to “transition” a student to a stated gender identity that is distinct from the student’s sex.¹²
7. “Medical transition” means any medical treatment or procedure intended to make an individual’s body mimic his or her stated “gender identity.” This includes puberty-blocking drugs, cross-sex hormones, and surgery when used for this purpose.

Policies on Parental Rights and Safety, Privacy, and Respect for All Students

Fundamental Policies

1. This school board recognizes that parents have a fundamental right to direct the upbringing, education, including their moral and religious education, and medical care of their minor-age children. Parents also have a fundamental right and responsibility to make decisions regarding the care, custody, and control of their children.
2. This school board presumes that parents act in the best interests of their children.
3. This school district and its subdivisions shall not infringe on these rights without demonstrating a compelling governmental interest that is of the highest order and narrowly tailored to meet this interest and cannot otherwise be met through a less restrictive means.
4. No public official shall compel a teacher or student to state, adopt, affirm, or profess any idea contrary to one’s faith or conscience, including ideas that are contrary to the Civil Rights Act of 1964.
5. Nothing in this policy prohibits teachers or students from discussing public policy issues of the day, or ideas that individuals may find unwelcome, disagreeable, or offensive that are otherwise not governed by this Model Policy.

Academic Transparency

1. This school board shall require that schools in this district disclose on a publicly accessible portion of their websites:
 - i. The procedures or processes in effect for the school principal or other staff to document, review, or approve lesson plans or the learning materials and activities used for student instruction at the school;
 - ii. A listing of the teacher and staff training materials and activities used at the school in the current school year; and
 - iii. A listing of the learning materials and activities used for student instruction at the school in the current school year, including at least the following, organized, at a minimum, by subject area, grade, and teacher:
 - a. Textbooks, articles, and other required reading materials; videos and audio recordings; digital materials; websites; instructional handouts and worksheets; online applications for a phone, laptop, or tablet; grade-level or schoolwide assemblies; guest lectures; action-oriented civics learning assignments or projects; service-learning projects.
 - b. The title, the author or organization, and, if accessed online, the Internet address, associated with the material or activity.
 1. Schools shall post these materials at least 10 days prior to the first use of the materials and leave the content publicly available for at least two years after the first use of such material.

Parental Consent Regarding Student Medical Care

1. A parent has the right to access and review all school records relating to his or her minor child, including the right to access and review all medical records of his or her minor child, unless prohibited by law or if the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement agency or official requests that the information not be released.¹³
2. This section does not:
 - i. authorize a parent of a minor child in this state to engage in conduct that is unlawful or to abuse or neglect his or her minor child in violation of general law; condone, authorize, approve, or apply to a parental action or decision that would end life;
 - ii. prohibit a court of competent jurisdiction, law enforcement officer, or employees of a government agency that is responsible for child welfare from acting in his or her official capacity within the reasonable and prudent scope of his or her authority; or
 - iii. prohibit compliance with a court of competent jurisdiction that is otherwise permitted by law.

3. This school board prohibits any school employee or school district employee in this district from encouraging, coercing, or pressuring a minor child to withhold from his or her parents any information, pedagogically related or otherwise. The school board requires the district superintendent to develop a disciplinary policy for any employee who is found to have violated this section, up to and including job termination.

4. Except as otherwise provided by law, a health care practitioner, or an individual employed by such health care practitioner may not provide or solicit or arrange to provide health care services, including counseling or therapy services on or off school property or prescribe medicinal drugs to a minor child without first obtaining written parental consent.¹⁴

5. Except as otherwise provided by law or a court order, a health care provider operating in a school setting in this district, may not allow a medical treatment or procedure to be performed on a minor child in its facility, absent a genuine medical emergency, without first obtaining written parental consent.

Sex Education

1. The school board directs the superintendent of this district to adopt a policy that, in consultation with parents, teachers, and administrators, promotes parental involvement in schools in this district. The policy must include procedures for a parent to be given the opportunity to object to instructional materials used in this district and procedures for withdrawing his or her minor child from any portion of the school district's comprehensive health education including sex education or any instruction regarding sex, sexuality, and related topics.
2. The procedures must allow for a parent to be notified in advance of such content so that he or she may withdraw his or her minor child from the course or portions of the course without penalty or sanction, academic or otherwise.¹⁵

Given Name Requirements

To protect the rights of children, families, and teachers, and maintain order in K–12 public schools, this school board enacts the following provisions:

1. No public education employee, agent, or contractor of a school in this district shall use a name to address a student other than the name listed on a student's birth certificate, or derivatives thereof, without the written permission of a student's parents or guardians.
2. No public education employee, agent, or contractor of a school in this district, shall use a pronoun in addressing a student that is different from that student's biological sex, as noted on his or her birth certificate (as originally issued), without the written permission of a student's parents or guardians.

3. No employee, agent, or contractor of a public preschool, elementary, or secondary school operating in this district, when acting in the course of his or her official duties, shall carry out any act or communication that would violate section (a) or (b).
4. No school in this district may compel an education employee, agent, or contractor in this district to use a pronoun that does not match a person's biological sex if contrary to the employee's or contractor's religious or moral convictions.
5. Nothing in this Model Policy prohibits employees and contractors of a public preschool, elementary, or secondary school in this district from discussing any matters of public concern outside the context of their official duties.

Student Participation in Sex-Specific School Activities

1. For any school program, event, or activity, including extracurricular activities that are separated by sex, the appropriate participation of students shall be determined by sex. This school board shall provide reasonable modifications to this policy with respect to persons with substantiated physical disorders of sexual development (DSDs) to the extent required by disability rights law.¹⁶
2. Overnight travel accommodations, bathrooms, locker rooms, changing rooms, and other intimate spaces used for school-related programs, activities, sports, and events shall be separated by sex.¹⁷
3. School officials shall be strictly responsible for requiring each staff and student to use bathrooms, overnight accommodations, and changing or showering areas that correspond to his or her sex. Single-use stalls that are attached to or continuous with a common bathroom or common changing area do not qualify as an exception to this requirement. School officials may, however, make truly single-user toilet, shower, or changing facilities available for the use of all students and staff on a one-person-at-a-time basis.
4. This school board prohibits every school in this district that operates, sponsors, or facilitates athletic programs or activities from permitting a male student from participating in an athletic program or activity that is designated for women or girls.¹⁸

A school may, however, allow males to train or practice in an athletic program or activity that is designated for women or girls so long as no female faces an increased risk of injury or is deprived of a roster spot on a team or sport, opportunity to participate in a practice or competition, scholarship, admission to an educational institution, or any other benefit that accompanies participating in the athletic program or activity.¹⁹

5. School officials may presumptively apply reasonable and customary sex-specific requirements and standards, to include grooming and dress, for artistic plays and performances, athletic and swimming events, dances and proms, formal presentations,

and similar programs or activities. Interests related to social transition or medical transition of a student or staff member are insufficient to overcome this presumption.

Prevention of and Response to Harassment

1. The physical exposure of a student to a partially or wholly undressed person of the opposite sex, such as in a locker room, shower, or pool, shall be deemed *per se* sexual harassment. Interests related to social transition or medical transition of a student or staff are insufficient to overcome this presumption of sexual harassment.
2. The physical exposure of a partially or wholly undressed student to a person of the opposite sex, such as in a locker room or shower, shall be deemed *per se* sexual harassment, absent a compelling safety reason, such as a medical emergency. Interests related to social transition or medical transition of a student or staff are insufficient to overcome this presumption of sexual harassment.
3. The superintendent of this district shall ensure that any incident of bullying and harassment are brought to the attention of the parents/guardians of the students involved and are addressed according to the due process provisions in [state/federal law].

Protection of Student Data

1. The superintendent of this school district shall ensure that access to student records is limited according to [state law/FERPA/PPRA].
2. The superintendent of this school district shall ensure that school personnel are trained regarding the confidentiality of student records according to the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA).
3. Nothing in these policies prevents parents from accessing student records and data when required by law and in accordance with a parent's role as their child's primary caregiver.

A parent of a minor child in this state has rights that are more comprehensive than those listed in this school board policy and must be respected unless such rights have been legally waived or terminated by a court order. This policy manual does not prescribe all rights to a parent of a minor child in this state.²⁰

References

[1] See Indiana Attorney General Todd Rokita, "Parents' Bill of Rights," Ed. 3.0, June 2022, <https://www.in.gov/attorneygeneral/files/Parents-Bill-of-Rights.pdf> (accessed May 3, 2023), and

Virginia Department of Education, “2022 Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia’s Public Schools,” <https://www.doe.virginia.gov/home/showpublisheddocument/36603/638059383089400000> (accessed May 3, 2023).

[2] See Virginia Department of Education, “2022 Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia’s Public Schools.”

[3] U.S. Constitution, amendment XIV.

[4] *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), and *Troxel v. Granville*, 530 U.S. 57 (2000).

[5] *Meyer v. State of Nebraska*, 262 U.S. 390 (1923) (emphasis added).

[6] *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

[7] *Wisconsin v. Yoder*, and Oyez, <http://www.oyez.org/cases/1971/70-110> (accessed April 14, 2023).

[8] *Troxel v. Granville*, 530 U.S. 57 (2000).

[9] *Ibid.*, and see Emilie Kao, “Safeguarding Parental Rights and Protecting Children from Federally Mandated Gender Ideology,” Heritage Foundation Backgrounder No. 3744, January 10, 2023, p. 8, https://www.heritage.org/sites/default/files/2023-01/BG3744_0.pdf.

[10] Sex refers to the average, normal, physiological reproductive capacity of organisms. “Male” and “female” refer to the two body structures that, under normal development tend to produce indispensably complementary gametes, where male gametes are small relatively mobile and relatively numerous and female gametes are large relatively immobile and fewer in number. In humans, females are the exclusive carriers of children during gestation. Because of this reproductive strategy involving two gametes and corresponding body structures, sex in human beings is binary. For discussion, see Jay W. Richards, “Why States Must Define Sex Precisely,” *The Public Discourse* (March 29, 2023), <https://www.thepublicdiscourse.com/2023/03/88391/> (accessed May 3, 2023).

[11] Definitions 1–4 come from The Heritage Foundation, “Given Name Act,” <https://www.heritage.org/the-given-name-act>.

[12] Ilya Shapiro, Leor Sapir, and John Ketcham, “Correcting the Record on Social Transition,” *City Journal*, March 23, 2023, <https://www.city-journal.org/article/correcting-the-record-on-social-transition> (accessed May 3, 2023).

[13] Florida Statutes Chapter 1014, Title XLIX, http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=1000-1099/1014/1014.html (accessed May 3, 2023).

[14] Ibid. (ibid is an abbreviation for the Latin word *ibīdem*, meaning "in the same place", commonly used in an endnote, footnote, bibliography citation, or scholarly reference to refer to the source cited in the preceding note or list item.)

[15] Modified from Florida Statutes Chapter 1014, Title XLIX.

[16] Modified from Virginia Department of Education, "2022 Model Policies on the Privacy, Dignity, and Respect for All Students and Parents in Virginia's Public Schools," p. 17.

[17] Ibid. (ibid is an abbreviation for the Latin word *ibīdem*, meaning "in the same place", commonly used in an endnote, footnote, bibliography citation, or scholarly reference to refer to the source cited in the preceding note or list item.)

[18] Modified from H.R. 734, "Women and Girls Sports Act" designed by the Independent Women's Forum, 118th Congress, <https://www.congress.gov/118/bills/hr734/BILLS-118hr734eh.pdf> (accessed May 3, 2023). See also Texas H.B. 25, <https://capitol.texas.gov/tlodocs/873/billtext/pdf/HB00025I.pdf> (accessed May 3, 2023).

[19] Ibid. (ibid is an abbreviation for the Latin word *ibīdem*, meaning "in the same place", commonly used in an endnote, footnote, bibliography citation, or scholarly reference to refer to the source cited in the preceding note or list item.)

[20] See Florida Statutes Chapter 1014, Title XLIX.