



Transgender Students and School Bathrooms: Frequently Asked Questions




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About Gender Spectrum

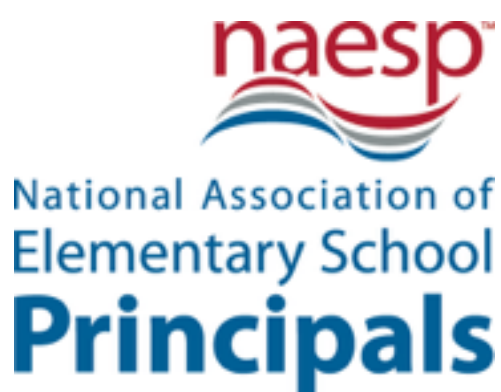


Gender Spectrum works nationwide to educate individuals, families, communities, and institutions seeking to strengthen or create gender inclusive environments for all youth. We provide an array of services designed to help families, schools, professionals and organizations understand and address the concepts of gender identity and expression.

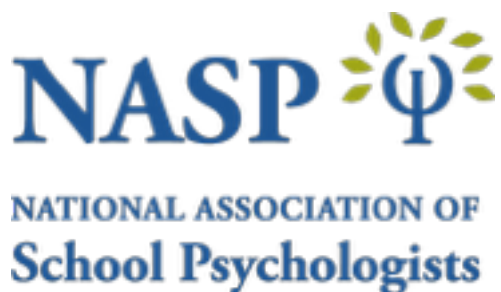
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The American School Counselor Association (ASCA) supports school counselors' efforts to help students focus on academic, career and social/emotional development so they achieve success in school and are prepared to lead fulfilling lives as responsible members of society.



Established in 1921, the National Association of Elementary School Principals (NAESP) leads in the advocacy and support for elementary and middle school principals in the United States and internationally. NAESP supports principals as the primary catalysts for creating lasting foundations for learning through policy development, advocacy, professional development programs, and resources for effective instructional leadership.



The National Association of School Psychologists (NASP) is a professional association that represents more than 25,000 school psychologists, graduate students, and related professionals throughout the United States and 25 other countries. The world's largest organization of school psychologists, NASP works to advance effective practices to improve students' learning, behavior, and mental health.



National Association of Secondary School Principals (NASSP) is the leading organization of and voice for middle level and high school principals, assistant principals, and school leaders from across the United States. Marking its longstanding commitment to student leadership development, NASSP is home to the National Honor Society and the National Association of Student Councils.



Introduction

Concerns about transgender and other gender-expansive students using bathrooms consistent with their gender identity (rather than the sex assigned when they are born) raise many questions for educators, parents, and students alike. Safety, propriety, privacy, and legality are some of the most common topics being brought up by many people in the school community around this subject.

Schools will be best positioned to address these various issues when they are proactive. Anticipating and listening to these concerns and providing concrete responses to them will allow school officials to successfully navigate the vast majority of situations related to this topic. This is a highly emotional subject for many; assuring those in the community that you and the school have seriously considered the issues they're raising is essential. As institutions charged with educating the communities they serve, schools are well positioned to build the awareness of their various stakeholders about a frequently misunderstood subject that is new for many people.

Below you will find many of the frequently asked questions about transgender students using bathrooms consistent with their gender identity. Before exploring these, we want to help you frame the discussion so you can enter the conversation with confidence and certainty.

CSB: Climate, Supervision and Behavior

At the core of all of the scenarios below, one or more of three issues can be identified: climate, supervision, and behavior. Being mindful of these three aspects of a school's functioning is critical to responding to bathroom questions and concerns.

- **Climate** refers to the “feel” a school has when you walk around the building. A positive school climate is established when a school sets concrete expectations for student conduct. It conveys to the community (staff, students, and parents) what behaviors are and are not acceptable at the school. Strong climate is a product of clear policies, the quality of interactions among adults and students in the school, and intentional strategies that build a culture of respect and inclusion.
- **Supervision** refers to the degree to which adults are paying attention to the school's climate, anticipating and preempting those situations where the climate might be compromised. While adults cannot be everywhere at all times, effective and consistent supervision reassures students that the institution is monitoring what goes on, is aware of areas where kids might feel vulnerable, and responds effectively. Consistent supervision reassures all members of the school community that they can expect to be safe at school. Rather than punitive, supervision is ultimately preventative, a key strategy for reinforcing a school's positive climate.
- **Behavior** refers to the specific actions of individuals—what they say and do. Establishing a positive school climate and supervising it accordingly presumes students know how they are supposed to behave. Schools cannot assume every child knows what appropriate behavior looks like. By clearly conveying what behaviors are and are not acceptable, the issues related to bathrooms move from assumptions and misperceptions about an individual's intent and instead focus on their observable actions.

“I've memorized both the locations of and fastest routes to the few gender-neutral bathrooms on campus because it's the only way I can actually use the restroom.”

Options for Everyone

Every child needs to be safe in the bathroom. Too many students avoid using bathrooms out of fear that another student will mistreat or hurt them, physically, or emotionally. The consequences can be severe, impacting a child's health, well-being and their ability to concentrate on learning. By creating a positive climate, supervising it appropriately, and making behavioral expectations clear, schools can reduce all students' fears about safety in these spaces.

For a variety of reasons however, there will remain a small percentage of students who would prefer a more private space than many school bathrooms allow. Whether for cultural or religious reasons, a particular health issue, concerns related to gender or simple modesty, schools should work actively to identify private options that are available to any student who requests access to them. Regardless of the student's underlying reason for using it, such options must be free of stigma; a student who uses a private space should not be ridiculed or singled out by staff or students. Providing private bathrooms should be one of many ways in which schools meet a diversity of student needs. At the same time, a private bathroom space must be **optional**; no child should be required to use such a space.

Gender Support Plans

A Gender Support Plan (GSP) is another essential ingredient in proactively preparing for bathroom-related questions. A GSP is created collaboratively between school leaders, transgender or other gender-expansive students, and their family (when appropriate) to address a variety of issues they may face at school, including bathroom use. GSPs allow the school to establish the necessary conditions for that student to have the most positive experience possible. GSPs also demonstrate the school's commitment to thoughtfully managing the process of addressing these student's needs. However, the development of a GSP should never be used as a way to delay a student's ability to live authentically at school. Rather, it should represent to the student the school's ongoing process for managing student needs and a commitment to their safety.



Frequently Asked Questions

In the scenarios below, you will notice that every situation applies to all students and their behaviors in bathrooms. Despite the concerns being raised, the gender identity and/or body of students are not the variables that need to be accounted for. Instead, focus must be on climate, supervision, and behavior. These, along with non-stigmatized bathroom options and established processes for working with transgender or non-binary students will allow schools to address the various questions and concerns that are raised by parents, staff members and students.

Why can't transgender students just use a private bathroom?

Transgender students already face a great many barriers to acceptance at school, and requiring them to use a bathroom that is designated especially for them is tremendously stigmatizing. A school's insistence that they be segregated from their peers also sends a message that the student's gender identity is not real or valid and represents an official refutation of the child's sense of self. This can be devastating to the child's sense of safety coming from the very adults charged with protecting them. If forced to use a private space, many transgender students will simply not use any bathroom at school, compromising their health and interfering with their ability to focus on learning as they monitor their water intake, avoid foods that will make them thirsty, and/or try to wait to until they get home to go to the bathroom. Make no mistake about it: not allowing a transgender student to use the restroom consistent with their gender identity causes harm—emotionally, physically, academically, and socially. It is not a matter of discomfort. Explicitly denying a transgender student's access to the bathroom corresponding to their gender identity endangers their health and well-being.

What if my child does not feel safe or comfortable being in the bathroom with a transgender student?

Lack of safety and lack of comfort are two different concerns and require different responses from schools.

Schools are legally required to provide a safe learning environment free from physical or verbal harassment. In order to meet this obligation, all schools likely have policies and practices in place to prevent behaviors such as verbal harassment, physical intimidation, inappropriate touching, or invasion of privacy of another student. Accordingly, schools must supervise these spaces appropriately and take action when students violate those policies. However, a student's mere presence does not violate such policies; their simply being in the bathroom does not make another student unsafe. Simply put, a school's responsibility to keep all students safe is not compromised by policies allowing transgender students to use bathrooms consistent with their gender identity or by the presence of transgender students in those bathrooms.

Comfort, on the other hand, is a separate issue. For any number of reasons, a student may not feel comfortable being in the bathroom with other students and require increased privacy. Remedies for these situations include providing more private options such as a staff bathroom, other single stall bathrooms or a bathroom in the nurse's office. Regardless of gender, any student should have access to these alternatives, but no students should be forced to use alternative facilities because some of their peers are uncomfortable with their mere existence. In our experience, when schools make these alternative options available, very few students choose to use them. Their availability is, however, an effective strategy to improve the school climate for those who choose to make use of them.



What if my child is worried about seeing the genitalia of another student or another student seeing their genitalia?

Most students are quite self-conscious about their peers seeing their bodies. With this in mind, it is imperative that schools be specific about which behaviors are and are not acceptable in the bathroom. These include respecting the privacy and honoring the personal space of other students using the facility. Expectations also include not leering at another student or making disparaging comments about another student's body. Students should not be seeing one another partially undressed in the restroom. If for some reason a student needs to disrobe, they should do so privately in a stall or in one of the private spaces described above. These expectations apply to all students.

Regardless of gender identity, it is inappropriate for any student to actively attempt to view another student's genitals. Such behaviors clearly create an unsafe school climate, and may well constitute sexual harassment. Schools have an obligation to respond to such occurrences and have procedures for doing so.

With regard to transgender students, several important ideas must be considered. Even more than their cisgender peers, the vast majority of transgender youth have no desire for anyone to see their bodies. They will typically go to significant lengths to ensure this does not occur. It is extremely unlikely that another student will see their body unless deliberately trying to do so. In fact, this is a very common fear for many transgender youth and their families, and something that schools should be prepared to address in the development of a student's GSP. It should also be noted that much of the fear about transgender students in bathrooms rests on the false notion that a transgender student wants access for an improper purpose, namely to leer at other students. Research has shown this is not an issue in schools with policies that ensure that transgender students can use the bathroom aligned with their gender.

Once again, any student who feels uncomfortable in the student bathroom for any reason should be given the option to use a more private facility as described above.

Q: When a business/school/institution decidedly and clearly shows that it does not recognize and support all gender identities, what effect does this have on you?

“My guard is up, I find myself mentally apologizing for being present (as it is clear I am not welcome there), and I try to avoid that business/school/institution as much as possible for fear of physical harm and verbal abuse.

What is there to prevent a student from pretending to be transgender in order to go into another bathroom (i.e. a boy pretends to be a girl so he can enter the girls' bathroom)?

Kids simply do not announce that they are transgender on a lark. In the experience of the many states and school districts across the country that have had policies in place for years providing transgender students access to the facilities consistent with their gender identity, students have not asserted false gender identities to gain access to facilities. In a recent study of seventeen school districts with such inclusive policies, which together serve over 600,000 students, not a single one reported such scenarios.

Should a student enter bathroom facilities without permission (e.g., on a dare from a classmate), they are violating the school's rules that likely existed long before schools gave transgender students access to the facilities that matched their gender identity. Whether students do so or not will be a matter of the climate and level of supervision at the school. It is entirely unrelated to whether the school has a policy of giving transgender students access to bathrooms based on gender identity. Furthermore, the systematic establishment of Gender Support Plans for transgender students will serve as an effective checkpoint for distinguishing between an authentic versus disingenuous request by a student to use a different restroom.

What should a staff member do if a student requests to use the bathroom consistent with their gender identity and the teacher is unaware that the student identifies as transgender or non-binary?

A staff member caught off guard by a student's use - or request to use - a restroom they've previously not used, might be unsure of how to respond. In such instances, it is critical that the adult proceed respectfully in addressing the situation. This could include speaking privately with the student and inquiring about the request: "I just want to check in and see if this is something new for you. Is using that restroom related to your gender identity? Are there other ways we might support you around your gender at school?" This would be an ideal time to raise the need for developing a Gender Support Plan with the student in order to identify bathroom as well as other gender-related needs. If for any reason the staff member does not feel comfortable in such an instance, they should be instructed to tell the student that they want to insure the child will be supported and request that they be able to share the student's request with a school administrator or counselor.

Are there specific legal requirements associated with allowing or not allowing transgender students to use bathrooms consistent with their gender identity?

On May 13, 2016, the Federal Departments of Education and Justice released a “Dear Colleague Letter” to the nearly 100,000 public schools in the United States. According to the letter, as well as the accompanying guide highlighting policies and emerging practices across the country:

A school may provide separate facilities on the basis of sex, but must allow transgender students access to such facilities consistent with their gender identity. A school may not require transgender students to use facilities inconsistent with their gender identity or to use individual-user facilities when other students are not required to do so. A school may, however, make individual-user options available to all students who voluntarily seek additional privacy.

The letter further recognizes that the recommendations are consistent with Title IX regulations, the federal law prohibiting discrimination based on sex in any educational program or activity receiving federal funding:

A school’s Title IX obligation to ensure nondiscrimination on the basis of sex requires schools to provide transgender students equal access to educational programs and activities even in circumstances in which other students, parents, or community members raise objections or concerns. As is consistently recognized in civil rights cases, the desire to accommodate others’ discomfort cannot justify a policy that singles out and disadvantages a particular class of students.

Furthermore, 14 states and the District of Columbia have explicit protections against discrimination on the basis of a student’s gender identity. Even in states without such protections, discrimination on the basis of sex is prohibited and could encompass a student’s transgender status. Many school districts have further articulated a transgender student’s right to access bathrooms consistent with their gender identity, including in locations without statewide protections. Finally, it is also important to point out that as of this writing, with few exceptions, no laws prevent schools from allowing transgender students bathroom access consistent with their gender identity.

“As a transguy, simple things like using the bathroom become stressful. When schools recognize and support all gender identities, I can finally be stress-free knowing that, though I’m in public, I’m in a safe and supportive environment.”

Do I have to worry about parents of other students filing a suit against my school or me because transgender students are allowed to use bathrooms consistent with their gender identity?

There is nothing that prevents a parent of any student from filing a lawsuit against a school district or individual school employee. However, it should be noted that the scenario that is most likely to unfold is a suit being filed on the basis of a school or district failing to protect a transgender students' safety and access, not the other way around. In terms of protecting students, the data is clear. The only students at risk in relation to bathroom access are transgender students. This was affirmed by the US Department of Education, which found a school district in Illinois in violation of Title IX for denying a transgender high school student access to the sex-segregated facilities. This is yet another reason why it is incumbent upon schools to create a safe school climate, supervise it appropriately, and clearly articulate clear expectations about acceptable behaviors.

What if the bathroom that corresponds to the transgender student's gender identity would not be safe for the transgender student?

If school administrators believe they cannot provide a student with safe use of school facilities, including student bathrooms, then administrators should discuss this with the student during the creation of the GSP. The objective is not to convince the transgender student to rescind the request, but to acknowledge that the school climate and associated supervision are not well enough established to support the student's safety. Potential options for bathroom access should be discussed, such as including greater freedom to use the bathroom during class time, increased teacher presence around bathrooms during passing periods, or a "buddy system." But again, a transgender student should never be forced or pressured into using alternate facilities so that school or district personnel feel more comfortable. Furthermore, the issues related to the transgender student's safety are likely making other students feel unsafe as well. Thus, in addition to addressing this concern with the transgender student, administrators should also identify ways to improve the school climate so that all students can feel safe in the bathroom.

What about students with a non-binary gender identity? Are they allowed to simply switch back and forth whenever they choose?

Students who are non-binary do not identify as either a boy or a girl. School personnel may be confused by the ever-growing variety of labels with which students identify their gender, but addressing bathroom use does not have to be complicated. Schools can accommodate non-binary students by putting a Gender Support Plan in place identifying which bathroom the student will use. What is essential in situations involving non-binary students is working on a case-by-case basis around the student's needs. Our experience has been that doing so within a school climate that is positive and well supervised, with clear expectations for how students are supposed to behave and options for students who request them, non-binary students using restrooms simply does not result in difficulties for anyone on campus.

What can I say to parents or students who are genuinely uncertain about the idea of transgender students using bathrooms?

It can be easy to assume that a parent or student who voices uncertainty about transgender students using bathrooms consistent with their gender identity is insensitive, uncaring or even bigoted. In our experience, that is rarely the case. Most people have never known, or at least been aware of knowing, a transgender person. This lack of familiarity, as well as the public discourse which tends to characterize transgender people as scary or threatening, can create uncertainty, discomfort and sometimes fear. Unfounded as it may be, it is nonetheless often a sincerely held belief.

Thus, in encountering the concerns of others, begin by assuming that they are being raised with positive intent. Recognize and affirm that they may not be familiar with any transgender or gender-expansive children or youth. Reassure them that this is new for many people, perhaps including yourself. Being uncomfortable with something new is natural. Reinforce that your number one priority is making sure every child is safe at school. Every student deserves to use bathrooms and other school facilities and offerings without worrying about being harmed or mistreated. Emphasize the seriousness with which you take any person's behaviors that make another student unsafe.

Ask them to detail the specific concerns that they have. More than likely, they will be one or more of the ideas described above. Try to help them consider for a moment what they would want the school to do if their own child was negatively perceived to be different from the other students, be it for their religion, ability, size or another frequently misunderstood aspect of identity. Ask them how it might feel for such a student to be the subject of others' rejection. If, after all of that, the parent is still concerned about their child using a bathroom that transgender students are also using, gently remind them that you are more than happy to provide their child with a private option. If any student is not comfortable, for any reason, then they can have access to a space where they have the degree of privacy they need, where they will not be worried about the presence of another student.



Should all of our bathrooms be gender neutral?

Given the importance of having options for all students, some schools consider moving towards a campus in which all bathrooms are “gender neutral”, or “all gender”. If these are single user bathrooms, there seems little reason to keep these designated by gender. Like those in our homes, such bathrooms are available to anyone. Gender neutral can also refer to multi-stall bathrooms that can be used by anyone regardless of gender. These are bathrooms where it is likely that one would encounter people of any gender at the sink or coming in and out of stalls. Having some or all multi-stall bathrooms declared “gender neutral” dispenses with labeling them as “male” or “female,” instead opting for signs that indicate anyone is able to use that facility.

If your school decides to create single user or all-gender bathroom facilities, we recommend doing so with an accompanying education plan for informing your community about the purposes for taking this step, and to do so respectfully and with sensitivity to the many viewpoints about this topic. Schools that consider moving towards all gender bathrooms should also be mindful of the need for options for any student who might require or prefer a more private space.

Why are we doing this for just one or two students?

The simple answer is that you are not doing this just for a small group of students. Creating spaces that affirm individuals’ gender benefits all students. By emphasizing positive climate, effective supervision and clear behavioral expectations, along with providing non-stigmatized options for any student who needs them, conditions are established that meet the needs of every child.



Conclusion

Discussions about a community's questions regarding bathrooms can quickly break down, in large measure because gender is something most of us take for granted – we simply haven't needed to give it a lot of thought.

It is incumbent upon educators charged with addressing these concerns to engage their community in a healthy and well-informed conversation. A major purpose of our schools is providing education and modeling for how to resolve issues in a diverse society.

Many of the concerns raised about transgender students and bathrooms are based on a lack of familiarity and knowledge about gender in general, and transgender identities specifically. They are based in the fear of the unknown or unfamiliar. As they have throughout the history of our democratic society, many of the inaccurate assumptions being made about gender can be addressed through reasoned conversation and education, the very mission of our schools.

Q: When a business/school/institution decidedly and clearly shows that it recognizes and supports all gender identities, what effect does this have on you?

“This makes me feel welcomed and understood. As a teenager, I want to feel the same as all of my peers. When a place validates my identity it gives me a sense that being transgender doesn't have to be a big thing. It makes me feel reassured, safer, and more normal.”