

School Committee Policy Review Subcommittee
Monday, March 18, 2019
6:00 PM – 7:40 PM
5th Floor Conference, Town Hall

Policy Review Subcommittee members present: Mr. Glover (Chairman), Ms. Monopoli, and Ms. Schreiner-Oldham.

School Staff present: Mr. Bott, Dr. Brown, Dr. Sevelius, and Ms. Coyne.

Others present: Co-Chair of the Special Education Parent Advisory Council Craig Haller, Town Meeting Warrant Article 20 Petitioner Rebecca Stone, and Brookline High School student Carter Mucha.

1) Approval of Minutes

On a motion of Mr. Glover and seconded by Ms. Monopoli, the Policy Review Subcommittee voted unanimously to approve the minutes of the January 14, 2019 Policy Review Subcommittee meeting.

2) Review of Proposed New Public Schools of Brookline (PSB) Policy to Support Students who are Transgender and/or Gender Non-Conforming

The Subcommittee reviewed the December 20, 2018 draft of the PSB Policy to Support Students who are Transgender and/or Gender Non-Conforming (Attachment A). Subcommittee members were very supportive of the intent of this policy, but suggested some edits for clarity and to streamline the policy. Suggestions included the following: expand the preamble to clarify the intent of the policy; clarify communication and involvement with parents and whether it differs depending on age/grade; remove procedures from the policy so that future procedural changes do not need to go back to the School Committee for approval; refer to applicable laws and PSB policies; consider whether information should be included on the ASPEN student portal, which already includes confidential information; change wording in some sections to clarify that this is under the student's purview, e.g., change "student should contact" to "student may contact"; add a paragraph that clarifies what triggers the creation of a plan.

Based on this discussion, Mr. Glover will revise the draft policy and will send it to Dr. Brown and Dr. Sevelius for their feedback. Dr. Brown will verify that all PSB classes are co-educational. If ready, the revised policy will be discussed at the next Policy Subcommittee meeting on April 2, 2019. Town Counsel will be asked to review the revised draft and it will be posted for public comment. Additional input from students will be solicited. The administration's hope is that with thoughtful planning, the policy could be implemented in early fall of 2019.

3) Discussion of 2019 Annual Town Meeting Warrant Article on Access to Menstrual Hygiene Products in Brookline's Public Buildings

Town Meeting Warrant Article 20 Petitioner Rebecca Stone and Brookline High School student Carter Mucha requested that the School Committee consider endorsing Article 20 (Attachment B) and that the School Policy Subcommittee consider a new policy for the PSB that mirrors the wording of the Warrant Article. The Warrant Article mandates free menstrual products in non-school public restrooms in Brookline's public buildings, essentially treating menstrual hygiene products like toilet paper and paper

towel. Because not all people who experience a period identify as female, the by-law would include all restrooms for the general public.

The Warrant Article covers non-school public buildings as Town Meeting does not have the authority to mandate this for the PSB. If approved by Town Meeting, the effective date for the Town is July 1, 2021. The Article states it will take effect for the PSB upon adoption by the School Committee. As currently written, both Town and (if adopted) schools would have substantial lead time for budget planning, including the possibility of building the start-up costs into renovation budgets, an operating override, etc.

There is currently legislation in front of the State Legislature to mandate free tampons and pads in all Massachusetts public schools grades 6-12. New York State, Illinois, and possibly California have all passed similar laws affecting public schools, prisons, and homeless shelters. Adoption of this Warrant Article by the School Committee would be anticipating the success of that legislation for which there is broad popular support and provide extra time to plan.

Students in our schools currently must go to the nurse's office to obtain tampons or pads, and it is one of the problems identified by menstrual equity advocates: we treat period needs as if the student is sick (shaming), and they lose time in the classroom by having to go to the nurse's office (lost learning). Trans students are particularly at risk for feeling shamed.

Ms. Stone referred to the spreadsheet showing the number of toilets by school (Attachment C) and suggested that Brookline High School student restrooms be prioritized. The cost per dispenser is \$300-\$350. Mr. Simmons's staff could do the installation.

Subcommittee members appreciated the intent of the Warrant Article, but requested additional information on the potential cost to the district (with input from Ms. Dunn, Mr. Gillis, and Mr. Simmons). Members suggested that the School Finance Subcommittee also provide input given that there are financial implications for the district.

The meeting adjourned at 7:40 PM.

Public Schools of Brookline (Revised 12.20.18)

Policy to Support Students who are Transgender and/or Gender Nonconforming

Through the core value, “Respect for Human Differences,” the Public Schools of Brookline affirm the district’s responsibility “...to create an atmosphere of safety in which to acknowledge and express difference while advancing true acceptance and respect.” The Policy to Support Transgender and Gender Nonconforming Students further clarifies and articulates the district’s commitment to ensure that all students are safe, included and respected in school, regardless of their gender identity or expression.

A. Purpose

The purpose of this procedure is to:

1. Establish, maintain and foster an educational environment that is safe, welcoming and free from stigma and discrimination for all students, regardless of sex, sexual orientation, gender identity, or gender expression;
2. Maximize students’ social integration to ensure safety and comfort, while providing equal opportunity and access in school admission, admissions to course content, guidance, and extracurricular and athletic activities for which they are eligible;
3. Ensure that all students have the opportunity to express themselves and live authentically;
4. Facilitate compliance with local, state and federal laws concerning privacy and discrimination.

This procedure is intended to be interpreted in light of applicable state and federal laws and regulations, as well as School Committee policies, procedures and school rules.

This procedure is not intended to anticipate every possible situation that may occur, since the needs of particular students and families differ depending on the student’s age and other factors. In addition, the programs, facilities and resources of each school building also differ. Administrators and school staff are expected to consider the needs of students on a case-by-case basis and to utilize those procedures and other available resources as appropriate.

For the purpose of this Policy, the word “parent” will signify parent, guardian, or caregiver. The pronoun “they” (in the singular form) will be used in place of the pronouns she or he.

B. Definitions

The following definitions are not intended to provide rigid labels for students, but to assist in discussing and addressing the needs of students. The terminology in this area is constantly evolving, and preferences for particular terminology vary widely. Administrators, school staff, volunteers, coaches, students and others who interact with students are expected to be sensitive to the ways in which

individual students who are transgender may wish to be identified. Students may or may not use the terms below to describe themselves or their experiences. The best way to find out is to ask.

- **Gender identity** - a person's deeply held knowledge of being male, female, some combination of male and female, or no gender.
- **Gender expression** - the physical and behavioral manifestations of one's gender identity.
- **Gender nonconforming** - a person whose gender expression differs from stereotypical expectations (also called "gender variant" and "gender atypical").
- **Nonbinary/Genderqueer** - a person who identifies with or expresses a gender identity that is neither entirely male nor entirely female,
- **Transgender** - an adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned sex at birth
- **Transition** - The process in which a person begins to live according to their deeply held identity rather than the gender they were thought to be at birth. This process may or may not involve social, legal, or physical changes.
- **Sexual orientation** - A person's romantic and/or physical attraction to people of the same and/or another gender, such as being straight, gay, bisexual, or asexual. Transgender and gender nonconforming people may have any sexual orientation
- **Cisgender** - a person whose gender identity aligns with the sex assigned to them at birth.

C. Addressing the Needs of Students who are Transgender

A student will be considered transgender if, at school, they consistently assert a gender identity or expression different from the gender assigned at birth. This involves more than a casual declaration of gender identity or expression, but it does not require a medical diagnosis.

Students of all ages can often be the driving force behind a gender transition, and students are transitioning at younger ages. School staff should work with parents whenever possible to establish healthy communication and ensure the student's needs are met.

Each student will follow a unique process for transitioning. Students ready to socially transition often initiate a process to change their name, pronoun, and attire. In situations when students are leading the process, it will be important for school staff to speak with the student prior to involving parents or other family members to determine whether doing so would be safe and support the student's health and well-being.

Some students who are transgender face family rejection, which can result in negative outcomes such as abuse or ejection from the home. Schools are responsible for ensuring a safe and affirming environment with equal opportunity for all students. Staff should take guidance from, and work collaboratively with, each student to ensure that the student remains safe both at school and at home.

Schools may be the only safe space where students feel comfortable fully expressing their gender. Therefore, it is critical that parent approval is never a prerequisite for respecting a student's chosen name, gender identity, and chosen pronouns.

D. Creating A Plan for Students who are Transgender/Transitioning

The following procedure will be used to create a Plan to meet the needs of students who are transgender:

1. A student who is transgender and/or their parent should contact the building administrator or the student's counselor. In the case of students who have not yet enrolled in school, they should contact the Office of Student Affairs as part of the registration process. The Office of Student Affairs will then coordinate with the student's assigned school principal/administrator.
2. The building administrator or designee should schedule a meeting to discuss the student's particular circumstances and needs. The student should help determine who should be at this meeting. In addition to the student and building administrator, other participants may include the parent, school counselor, school nurse, teachers and/or other school staff, and possibly outside providers who can assist in developing a Plan for that student.
3. In consultation with the student and parent/others as appropriate, the school should develop a Plan to address the student's particular needs. While the Public Schools of Brookline do not conflate gender identity and disabilities, if a student has an IEP and/or a 504 plan, the team should consider the provisions of these plans as they develop a Plan. The Plan should:
 - a. In consultation with the student, determine what, if any, information to share with the student's parents.
 - b. Identify resources that could assist parents to better understand how to support their child, if necessary.
 - c. Describe how staff will communicate with building staff, other students, and coaches/trainers.
 - d. Outline how the school will meet the student's specific needs around facilities (i.e. restrooms, locker rooms, overnight accommodations, etc).
 - e. Students who are transgender may dress in accordance with their consistently asserted gender identity.
 - f. The school may request consultation from outside service providers as necessary in an effort to assist staff in developing a Plan appropriate for the student. Such consultation would require a signed release.
4. As in all cases regarding student matters, if agreement about the elements to be included in a Plan cannot be reached, the building administrator and/or a district-level administrator shall be consulted as appropriate.
5. Teachers and other staff who have responsibilities for a student who is transgender will receive support in implementing the student's Plan.

6. The Plan(s) shall be kept in the Counselor's office, with a notification added to the district's data management system informing educators to consult with the School Counselor for further information. For privacy reasons, the actual Plan will not be uploaded to a student's data profile.

E. Continued Guidance: Privacy, Records and Access

Privacy:

The District shall ensure that all personally identifiable and medical information relating to transgender and gender nonconforming students shall be kept confidential in accordance with state law. School staff shall not disclose any information that may reveal a student's transgender status to others, including parents and other school staff, *unless legally required to do so or unless the student has authorized such disclosure.*

The student's Plan shall address how and under what conditions to disclose that the student is transgender. In some cases, a student may want school staff and students to know, and in other cases the student may not want this information to be widely known. School staff should take care to follow the student's Plan and not inadvertently disclose information that is intended to be private or that is protected from disclosure.

Official Records:

Under state law, information about a student's assigned birth sex, name change for gender identity purposes, gender transition, medical or mental health treatment related to gender identity, or any other information of a similar nature, regardless of its form, is part of the individual's student record (see Massachusetts Student Records Regulations, (603 CMR 23.00), is confidential, and must be kept private and secure, except in limited circumstances. (603 CMR 23.04.)

Schools are required to maintain a permanent record for each student that includes legal name and gender. This information is also required for standardized tests and official school unit reports. On school records or other documents, the school should use the name and gender identified in the student's Plan, not the name or gender assigned at birth.

Under Massachusetts law, an individual may adopt a name that is different from the name that appears on the birth certificate, "provided the change is done for an honest reason, with no fraudulent intent. Nothing more formal than usage is required." (MA DESE's *Creating a Safe and Supportive School Environment- Nondiscrimination on the basis of Gender Identity*). The Massachusetts DESE has a process in place to update name changes and gender markers in the Student Information Management System.

Any requests to change a student's legal name or gender in official records should be referred to the Assistant Superintendent for Student Services. State law mandates that data about a student's assigned gender, name change related to gender identity, and other similar information is part of

the Student Record. When a student is using a chosen name and different gender than assigned at birth, the birth name and assigned gender are considered private information. The school will make every effort to update the student's record to reflect the student's chosen name and gender and not circulate records with the assigned birth name and gender. Records with the student's assigned birth name and gender should be kept in a separate, confidential file in the counseling office.

**School staff should remember that under FERPA, student records may only be accessed and disclosed to staff with a legitimate educational interest in the information.*

Disclosures to others should only be made with appropriate authorization from the administration and/or parents or the student at age 14.

Names/Pronouns:

School staff should address students who identify as transgender under these guidelines by the name and pronoun that correspond to the gender identity they consistently assert while at school. Some students may feel most comfortable with gender-neutral pronouns like "ze" or "they," or referred to by their names without the use of pronouns.

Restrooms, Locker Rooms, and Changing Facilities:

A student who has been identified as transgender under these guidelines shall be permitted to use the restroom/locker room/changing facility assigned to the gender the student consistently asserts at school. A student who is transgender and expresses a need for privacy will be provided with reasonable alternative restroom facility or accommodations such as using a separate stall or a staff facility. However, students shall not be required to use a separate non-communal facility over their objection.

Athletics:

Students who are transgender may participate in accordance with the gender identity they consistently assert at school. Interscholastic athletic activities are addressed through the Massachusetts Interscholastic Athletic Association Gender Identity Policy clarification (11/13/2014).

Other Gender-Based Activities, Rules, Policies, and Practices:

According to the Massachusetts Department of Elementary and Secondary Education, "Whenever students are separated by gender in school activities or are subject to an otherwise lawful gender-specific rule, policy, or practice, students must be permitted to participate in such activities or conform to such rule, policy or practice consistent with their gender identity." (MA DESE's *Creating a Safe and Supportive School Environment- Nondiscrimination on the Basis of Gender Identity*).

Since the Public Schools of Brookline are responsible for ensuring a safe and affirming environment for all students, staff will not use gender-based practices such as lining boys and girls up separately to leave the classroom or using phrases like, “boys and girls.” Additionally, staff shall not separate students by gender for instructional or curriculum purposes.

Safety and Support for Students Who Are Transgender:

School staff are expected to comply with any Plan developed for a student who is transgender and to notify the building administrator or other designated support person for the student if there are concerns about the Plan or about the student’s safety or welfare.

School staff should be sensitive to the fact that students who are transgender may be at higher risk for being bullied or harassed. In accordance with M.G.L. c71 sec. 370, the Brookline Bullying Prevention and Intervention Plan provides guidance to administrators and the school community in responding to bullying.

Professional Learning for the Staff:

The District shall conduct training for all staff members on their responsibilities under applicable laws and this policy, including teachers, administrators, counselors, social workers, and health staff. Information regarding this policy shall be incorporated into training for new school employees.

To the extent funding is available, the District shall implement ongoing professional development to build the skills of all staff members to prevent, identify and respond to bullying, harassment, and discrimination. The content of such professional development shall include, but not be limited to:

- (i) terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents;
- (ii) developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy;
- (iii) developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyberbullying;
- (iv) classroom-management practices, curriculum, and resources that educators can integrate into their classrooms to help foster a more gender-inclusive environment for all students;
- (v) school and District policies regarding bullying, harassment, discrimination, and suicide prevention and responsibilities of staff.

Publication:

This policy will be distributed annually to students, parents, and staff. It will be included in any student code of conduct, disciplinary policies, handbooks, and on school websites.

Resources

GLSEN: Model School District Policy on Transgender and Gender Non-conforming Students (Sept. 2018), National Center for Transgender Equality (NCTE)

Acton-Boxborough (MA) Policy on Transgender Students.

https://www.abschools.org/UserFiles/Servers/Server_216027/File/School%20Committee/Policies/J/JP-R-Procedure-Transgender-Students.pdf

MA Department of Elementary and Secondary Education: *Creating a Safe and Supportive School Environment- Nondiscrimination on the basis of Gender Identity*

Brill, Stephanie. Pepper, Rachel. *The Transgender Child: A handbook for families and professionals.* Cleis Press. San Francisco, CA, 2008.

Killerman, Sam. *A Guide to Gender: The social justice advocate's handbook.* Impetus Books. Austin, Texas. 2017.

DRAFT

WARRANT ARTICLE to Create New By-Law 8.37: Access to Menstrual Hygiene Products in Brookline's Public Buildings (Petitioner: Rebecca Stone, TMM 3)

To see if the Town will amend its by-laws to improve gender equity in public toilet facilities by providing free menstrual hygiene products in restrooms serving the general public in its public buildings, as follows:

8.37 MENSTRUAL HYGIENE PRODUCTS ACCESS BY-LAW

SECTION 8.37.1 DEFINITIONS

"Menstrual hygiene products" means tampons and sanitary napkins for use in connection with the menstrual cycle.

"Restrooms serving the general public" mean restrooms established for use by members of the public (as differentiated from staff restroom facilities).

"Public Building" for the purposes of this Warrant Article means any facility owned or leased by the Town of Brookline that contains restrooms for the general public and over which the Town has care, maintenance, custody, and/or control. This shall include, but not be limited to: Public Libraries, the Town Hall Complex (including the Public Health Bldg), the Public Safety Bldg, Recreational Facilities, and Parks.

"Female-bodied" means any individual who experiences a menstrual cycle.

SECTION 8.37.2 ACCESS TO MENSTRUAL HYGIENE PRODUCTS

The Town of Brookline shall make available and accessible at no charge menstrual hygiene products (tampons and pads/napkins) in its public building restrooms that serve female-bodied members of the public.

SECTION 8.37.3 MANNER OF DISPENSING

Machine dispensers for menstrual hygiene products provided under this by-law shall be chosen in consultation with the Building Department and Department of Public Health, but must comply with ADA and other equity-of-access laws and considerations.

Menstrual hygiene products made available at no charge from an employee, office, or other site in a public building upon in-person request *does not* constitute compliance with this by-law.

SECTION 8.37.4 GREEN PRODUCTS

Tampons with plastic applicators may not be provided under this by-law.

SECTION 8.37.5 EFFECTIVE DATE

This by-law shall take effect July 1, 2021. It will become effective for the Public Schools of Brookline upon adoption by the Brookline School Committee.

or act on anything relative thereto.

Warrant Article on Free Menstrual Hygiene Products Explanation and Background

If approved by Town Meeting, this Warrant Article would make the Town of Brookline the first municipality in the country to provide free menstrual hygiene products in its public buildings. With this article, Brookline has a chance to be a leader, again, and to address an issue gaining recognition as fundamental to the just treatment of women and the goal of gender equity.

While some U.S. cities and states have mandated free menstrual hygiene products in public schools and/or prisons and homeless shelters, these policies address only a piece of the problem, focusing more narrowly on how affordability intersects with equity and access. This article embraces the notion that affordability is just one aspect of the larger issue, and that gender equity in public health requires access for all to these basic public hygiene products.

The article is brought on behalf of a group of students at BHS who first raised the issue in the Sagamore: *Stigma around periods produces undue shame (Spring 2017)*. The students contend that a natural bodily function regularly experienced by 52% of the population should be treated not as an issue only for those struggling economically, but the same way we treat other daily public hygiene needs: with free, accessible sanitary products. Tampons and pads are as necessary for public health and hygiene as toilet paper. They should be treated the same way.

Which restrooms? Because not all people who experience a period identify as female, the by-law would include all restrooms for the general public including, but not limited to, Town Hall, the Public Health building, Public Safety building, public libraries, and recreational facilities such as the Pool, the Putterham Golf Course and the Ice Rink at Larz.

What about schools? The School Committee would need to adopt the by-law or a similar measure for it to be in effect in the Brookline public schools. A bill is pending before the State Legislature that would require this of all MA public schools serving students in grades 6-12.

Cost: The most substantial cost of the by-law is the purchase and installation of dispensing machines in our public bathrooms. For that reason, the by-law has an effective date that will allow a phase-in across multiple fiscal years. Installation can be done by existing Town building staff, so the budget impact is principally the machine costs. Once machines are installed, bulk ordered supplies are far less expensive than typical retail and will be included in the budget for toilet paper, paper towel, and other products already provided in public restrooms.

BACKGROUND:

The average female-bodied person will have a menstrual period lasting 3-5 days, twelve times a year, for about 40 years. In the United States, having a period is the reality for 52 percent of the

population, each of whom will use almost 17,000 tampons or pads over their lifetime. Having one's period can be physically painful or even debilitating, it is a time of heightened risk of infection, and even in the best of circumstances can easily disrupt one's day at school or work.

Historically, menstruation has been treated as a social taboo, a topic used to shame women and girls. In the United States, 36 states still tax tampons and pads as "non-essential" or "luxury" items (Massachusetts is one of the 14 states that has eliminated the "tampon tax"). Food stamps may not be used to purchase tampons and pads, nor does WIC -- the federal program supporting health and nutrition for mothers and babies -- cover these essential sanitary products.

The recently re-energized women's movement has begun to challenge these policies and practices. In the past few years, a national campaign to end the tampon tax has expanded the number of states making these products tax-free. In 2017, following local efforts in jails and detention centers, a federal statute established the requirement for free menstrual hygiene products in prisons.

While Brookline would be the first municipality in the U.S. to take the steps outlined in this warrant article, New York State and Illinois have both passed laws mandating free menstrual hygiene products in public schools grades 6-12, in homeless shelters, and in prisons. California has passed a statewide mandate for its grade 6-12 schools that qualify for Title 1 low-income funding. A similar bill to those passed in NY and IL is now before the Massachusetts legislature and enjoys strong public support, so the PSB may face a state mandate regardless of its action on this article.

Menstrual equity has also become a global women's rights issue. Seoul, South Korea is the first city in the world to take municipal action, in 2018 announcing a pilot program to provide free menstrual products at ten public facilities around the capital. (This followed a public report that impoverished girls who could not afford to purchase pads were using the insoles of shoes in place of sanitary napkins.) In August, 2018, Scotland became the first nation in the world to guarantee free sanitary products to all students at schools, colleges, and universities. And the 2019 Academy Award for best documentary short subject went to *Period. End of Sentence*, a documentary about women in a rural village near Delhi, India, who start producing and distributing menstrual hygiene supplies to end the stigma surrounding menstruation.

School	Boys Toilets	Girls Toilets	Staff Toilets	Gender Neutral bathrooms	Unisex		NOTES
Baker	14	20	11	1	7	53	Student bathrooms take priority. PSB may elect to include staff-only toilets.
CCS	14	30	9	4	5	62	
Lynch					6	6	Lynch does not serve grades 6-12
Heath	7	12	6	1	5	31	
Runkle	14	17	13	1	5	50	
New Lincoln	9	11	12	2	2	36	
OLS	6	11	6		1	24	
Pierce	10	13	5	1	4	33	
Pierce historical	3	3	3		5	14	Pierce historical does not serve grades 6-12
Pierce Loft	1	1	1			3	
BHS	19	35	18	2	6	80	
UAB	2	5	1			8	
Tappan	3	5	5			13	
Driscoll	16	15	5	1	15	52	Driscoll should be brought into compliance in the new construction.
Lawrence	11	19	12		4	46	
Baldwin			2		7	9	Baldwin does not currently serve grades 6-12
Total Priority	110	179		12	39	340	
Total	129	197	107	13	65	511	

priority. PSB could elect to make products available in other bathrooms as well (or in the case of mixed grades or bathrooms near all-purpose or specialized rooms such as Auditorium, Gym, Art, etc) but compliance with grades 6-12 access would not require it. In K-8 schools, that could significantly reduce the number of bathrooms where dispensing machines would be installed, at least initially.