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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4394

02/28/2024 Authored by Finke; Curran; Youakim; Lee, K.; Frazier and others
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; requiring a gender inclusion policy; amending Minnesota
1.3 Statutes 2022, section 128C.02, by adding a subdivision; proposing coding for
1.4 new law in Minnesota Statutes, chapter 121A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 121A.033 GENDER INCLUSION POLICY.

1.7 Subdivision 1. Scope and purpose. The gender inclusion policy is intended to ensure
1.8 student access to public school programming, activities, and facilities for each student
1.9 regardless of their sexual orientation, gender identity, gender expression, or gender
1.10 nonconformity.

1.11 Subd. 2. Definitions. (a) For the purposes of this section, the following terms have the
1.12 meanings given.

1.13 (b) "Gender" refers to the socially constructed roles, activities, behaviors, and attributes
1.14 that a given society attaches to femininity or masculinity.

1.15 (c) "Gender expression" means the external appearance, characteristics, or behaviors
1.16 typically associated with a specific gender.

1.17 (d) "Gender identity" has the meaning provided in section 363A.03, subdivision 50.

1.18 (e) "Gender nonbinary" refers to people who transcend commonly held concepts of
1.19 gender through their own expressions and identities. Other terms meaning the same thing
1.20 include gender diverse, gender expansive, gender creative, gender nonconforming, or
1.21 genderqueer.

2.1 (f) "Gender nonconforming" means an individual whose gender expression differs from
2.2 stereotypical expectations or who is perceived as androgynous or gender nonbinary.

2.3 (g) "Public school" or "school" means a public school under section 120A.05, subdivisions
2.4 9, 11, 13, and 17, and a charter school under chapter 124E.

2.5 (h) "Sexual orientation" has the meaning provided in section 363A.03, subdivision 44.

2.6 (i) "Student" means a student enrolled in a school under paragraph (g).

2.7 (j) "Transgender" is an umbrella term for people whose gender identity, gender
2.8 expression, or behavior does not conform with that typically associated with the sex to
2.9 which they were assigned at birth.

2.10 Subd. 3. **State model policy.** The commissioner must develop, maintain, and make
2.11 available to school districts and charter schools a state model gender inclusion policy
2.12 consistent with the policy requirements of subdivision 4.

2.13 Subd. 4. **School policy.** (a) A school district or charter school board, in consultation
2.14 with students, parents, and community organizations, to the extent practicable, must adopt,
2.15 implement, and where appropriate, review and revise on a cycle consistent with other district
2.16 policies, a written policy on gender inclusion consistent with this section. The policy must
2.17 require, at a minimum, a district or charter school to:

2.18 (1) respect all students' sexual orientation, gender identity, gender expression, and gender
2.19 nonconformity;

2.20 (2) identify and address students by their preferred names and pronouns that align with
2.21 their gender identity;

2.22 (3) upon the request of a student and their parent or guardian, change student names and
2.23 pronouns in school digital systems, to the extent possible, to align with their gender identity.
2.24 Medical documentation or legal verification of a student's name change is not required;

2.25 (4) within academic programming, prohibit the separation of students and curricular
2.26 materials based on gender unless it serves as a legitimate pedagogical tool;

2.27 (5) provide all students the opportunity to participate in cocurricular and extracurricular
2.28 activities in a manner consistent with their gender identity, including but not limited to
2.29 intramural and interscholastic athletics, and in conformance with applicable Minnesota State
2.30 High School League rules and regulations adopted under section 128C.02, subdivision 10;

2.31 (6) provide all students with access to facilities that align with students' gender identity;

3.1 (7) respect the safety and privacy of all students, according to state and federal privacy
 3.2 laws;

3.3 (8) ensure that all school and district policies apply to all students, regardless of their
 3.4 sexual orientation, gender identity, gender expression, or gender nonconformity;

3.5 (9) require school officials to work with families and students to identify at least one
 3.6 safe staff member in each school building that gender nonconforming students can access
 3.7 when they require additional support during the school day;

3.8 (10) establish a reporting mechanism for alleged violation of the gender inclusion policy;

3.9 (11) provide professional development for school employees to ensure that staff
 3.10 understands their responsibilities under the gender inclusion policy; and

3.11 (12) include information on the Minnesota Human Rights Act, chapter 363A, and the
 3.12 role of the Department of Human Rights in investigating complaints of discrimination.

3.13 (b) The policy must be conspicuously posted throughout each school building, distributed
 3.14 to each district or school employee and independent contractor at the time of hiring or
 3.15 contracting, and included in each school's student handbook on school policies.

3.16 Subd. 5. **Relation to existing law.** This section does not:

3.17 (1) establish any private right of action;

3.18 (2) limit rights currently available to an individual under other civil or criminal law,
 3.19 including but not limited to chapter 363A; or

3.20 (3) interfere with a person's rights of religious expression and free speech and expression
 3.21 under the First Amendment of the United States Constitution.

3.22 **EFFECTIVE DATE.** This section is effective for the 2024-2025 school year and later.

3.23 Sec. 2. Minnesota Statutes 2022, section 128C.02, is amended by adding a subdivision to
 3.24 read:

3.25 Subd. 10. **Gender identity.** The league must adopt league rules and regulations providing
 3.26 students the opportunity to participate in extracurricular activities in a manner consistent
 3.27 with their gender identity, including but not limited to athletic activities and competitions.