



Date: August 7, 2023

To: Dr. Maria Vazquez, Superintendent
Dr. Michael Armbruster, Deputy Superintendent

From: John C. Palmerini, Deputy General Counsel
Office of Legal Services

Recipients: Cabinet, Executive Leaders, Principal Leaders, Principals, Assistant Principals, and
Technical College Directors

Subject: **Condensed Guidance House Bill 1069 Regarding Pronouns and House Bill 1521
Regarding Restrooms**

All Principals/Technical College Directors – please distribute a copy of this memorandum to all employees and/or contractors who work on your school site.

In the 2023 Legislative session, the Florida Legislature passed House Bill 1069 regarding pronouns. The Legislature also passed House Bill 1521 regarding restrooms. This memorandum will provide guidance on both laws below.

House Bill 1069 (§1000.071, Fla. Stat.)

This law deals with the definition of sex and usage of pronouns. The bill requires as follows:

- “Sex” is defined as the hormones and genitals present at birth. This means a student’s sex or employee’s sex is defined by birth sex, not the gender in which the student or employee identify.
- The bill states that ‘Sex’ is an “immutable biological trait” and that it “is false to ascribe to a person a pronoun that does not correspond to such person’s sex.” Since sex is identified as determined by the genitalia “present at birth” that means a person’s sex is his or her biological sex at birth under House Bill 1069.
- The bills states that employees, contractors or other students “may not be required, as a condition of employment or enrollment or participation in any program, to refer to another person using that person’s preferred personal title or pronoun if such personal title or pronouns do not correspond to that person’s sex.”
- The bill states that a transgender employee or contractor may not provide a personal title or pronoun to students which does not correspond the employee’s or contractor’s biological sex at birth.
- The bill states an employee or contractor may not ask a student to provide his or her preferred personal title or pronoun.



Usage of Personal Titles and Pronouns

Questions have arisen about whether a parent can approach an employee and ask the employee to utilize a pronoun which does not correspond with the student's biological sex at birth. The State Board of Education has not given guidance on this precise question. An educator cannot solicit a child's pronouns, as this is directly prohibited by law – a parent would have to approach the educator about utilization of a pronoun differing from the child's biological sex at birth.

Until further guidance is given by the State, I would recommend that educators concerned about the usage of pronouns and potential liability for doing so use only the first name of students as identified in the class roster provided to the teacher when calling on the student in class. Alternatively, a teacher may use a nickname approved by the parent as identified in the form which the parent completes (a copy of which is linked [here](#)) in order to authorize a nickname for the child. Another option teachers may use is to only use the last names of children when calling on them in class. This would avoid any issues with pronouns or first names which do not match the biological sex of the child at birth.

Rulemaking by the State Board of Education

- Violations of the pronoun rule by educators is considered a violation of the Principles of Professional Conduct for the Education Profession in Florida. A violation of the pronoun rule can lead to sanctions on an educator's certificate up to and including revocation of the certificate.
- The State Board passed a new rule stating that the School Board must adopt a policy for education records which must include for parents to specify the use of any deviation from the child's legal name (i.e. Robert being referred to as Rob).

House Bill 1521 (§553.865, Fla. Stat.)

The Legislature created a new section of law in §553.865, Fla. Stat., which it titles the "Safety in Private Spaces Act." The law states as follows:

- Section 553.865(3)(l), Fla. Stat., defines "Sex" as based upon biological sex at birth.
- The law requires bathrooms other than single stall bathrooms to be separated by biological sex at birth. For our transgender students and employees, they must be provided single stall restrooms for their usage. Transgender students and employees may not enter into a group restroom which is designated for the sex other than their biological sex at birth.
- The law requires changing rooms to be separated by biological sex at birth. For our transgender students, they must be provided single stall restrooms or coaches offices when changing for classes such as physical education.
- The statute lists exceptions allowing a person to enter a restroom or changing facility designated for the opposite sex. The following are the exceptions:



- To “assist or chaperone a child under 12, an elderly person..., a person with a disability..., or a person with a developmental disability...”;
 - “For law enforcement or governmental regulatory purposes”;
 - “For the purpose of rendering emergency medical assistance or to intervene in any other emergency situation where the health or safety of another person is at risk”;
 - “For custodial, maintenance or inspection purpose, provided that the restroom or changing facility is not in use”;
 - “If the appropriate designated restroom or changing facility is out of order or under repair and the restroom or changing facility designated for the opposite sex contains no person of the opposite sex.”
- The law requires that our Code of Student Conduct have a penalty for any student who willfully enters a bathroom or changing facility designated for the opposite sex if the student refuses to depart when asked to do so by any instructional personnel, administrator, or school resource officer. Instructional and Administrative Personnel will provide disciplinary referrals to the Dean or Administrator in charge of discipline to ensure uniform processing of such cases. Unlike last year, transgender students may not utilize group restrooms which do not correspond with the student’s biological sex at birth.
 - Instructional or administrative personnel who enter a restroom other than a restroom based upon his or her biological sex at birth (unless for the exceptions cited in §553.865(6), Fla. Stat.) who refuse to leave when asked to do so are subject to discipline as a violation of the Principles of Professional Conduct for the Education Profession in Florida. Principals/Site Administrators shall work with transgender employees to identify single-stall restrooms so transgender employees may comply with this Florida law.
 - Any visitor who enters a restroom or changing facility designated for the opposite sex of the visitor’s biological sex at birth who refuses to depart when asked by school personnel commits the criminal offense of trespass.
 - If the School District and its employees do not comply with this law, the Florida Attorney General is empowered to file a civil lawsuit to enforce this provision. Willful violations by the School District and its employees may subject the School District to a fine of up to ten thousand dollars (\$10,000.00).

If you have any questions, please do not hesitate to contact me at extension 2002954.