Proposed Policy and Administrative Regulations
Sex-Based Discrimination - Students (JBB & JBB-RA)

Presentation to the Baltimore City Board of School Commissioners

March 12, 2019
Sex-Based Discrimination Policy
Proposed Policy - JBB

- Proposed new policy JBB (Sex-Based Discrimination-Students) is an update and replacement of Policy ACC (Sexual Harassment-Students).

- Policy moved to Section J to ensure that administrators, school-based staff, students and parents know where to locate it.

- Proposed policy expands protections of students to extend beyond sexual harassment.
Title IX of the Education Amendments of 1972 ("Title IX") requires educational institutions to have a sex discrimination policy and grievance procedures. "Sex discrimination" extends beyond sexual harassment:

- Discrimination based on sex
- Sexual violence
- Sexual orientation
- Gender identity
The OCR mandates that sex discrimination policies and sex discrimination grievance procedures adhere to certain standards:

- Identification of Title IX Coordinator who oversees sex discrimination investigations
- Notice requirements
- Confidentiality
- Timeline for completion of investigations
Goals of Proposed Non-Discrimination Policy

• Update discrimination and harassment policies so that they address all categories protected by local, state and federal laws.

• Establish clear complaint and investigatory procedures for students complaining of discrimination and harassment based on a protected category.

• Make student discrimination and harassment policies easier to find for administrators, school-based staff, students and parents.

• Establish a holistic sex discrimination policy and regulation for students that is compatible with the mandates of Title IX of the Education Amendments of 1972.
Proposed Policy JBB

Nondiscrimination Statement Added to Policy Statement:

The Baltimore City Board of School Commissioners (“Board”) shall assure that all Baltimore City Public Schools (“City Schools”) students are protected from discrimination and harassment on the basis of sex, sexual orientation, gender identity, gender expression, marital status, disability and pregnancy (collectively, “protected categories”) in its programs and activities.
Proposed Policy JBB

- Definition of “Discrimination and Harassment” added to mirror MSDE’s definition.
- Revised definition of Gender Expression to mirror MSDE’s definition.
- Revised definition of “Transgender” to mirror MSDE’s definition.
- Definition of “Transition” added to mirror MSDE’s.
- Revised definition of “Cisgender” to mirror MSDE’s definition.
Proposed Policy JBB

Gender-Based Discrimination:

- Use of Pronouns and Names
- Dress Codes
- Access to Gender-Segregated Facilities
- Athletics and Physical Education
- Student Records
- Requesting a Name or Gender Change
Use of Names/Pronouns:

Requires schools to allow transgender, gender neutral, or gender non-conforming students to use their chosen name and gender pronoun that reflects their identity regardless of whether they have legally changed their name.

(MSDE Guidelines, October 2015)
Dress Codes:

• Students may dress in accordance with their individual gender identity and gender expression.

• Dress codes designated for school events like dances, graduations and other ceremonies shall be gender neutral.

• School staff cannot enforce a school’s dress code more strictly against transgender and nonconforming than other students.

(MSDE Guidelines, October 2015)
Access to Gender-Segregated Facilities:

- Students have access to facilities that correspond with their gender identity. These include restrooms, locker rooms and changing facilities.

- Students who are uncomfortable using a gender segregated facility will be provided a safe, non-stigmatizing alternative. (e.g. privacy curtains, separate changing schedule, private or office restrooms).

- Students cannot be required or directed to use a private restroom.

(MSDE GUIDELINES, OCTOBER 2015)
Proposed Policy JBB

Athletics and Physical Education:

- School Districts must have a criteria for students to participate on interscholastic athletics teams consistent with their bona fide gender identity.

- Students are permitted to participate in physical education classes in a manner consistent with their gender identity.

- All students’ privacy rights and personal information regarding transgender status, medical history, or sex assigned at birth cannot be disclosed to teammates, or staff or students of other schools without the student’s consent.

(MSDE Guidelines, October 2015)
Proposed Policy JBB

Student Records:

- Schools are required to maintain an official student record of each student, which includes the legal name of the student and birth gender.

- Official student records can be modified as stipulated under Maryland Law and/or in accordance with Maryland State Department of Education (MSDE) guidelines.
Name and/Gender Change:

Requesting a Name or Gender Change requires one of the following documents be submitted to City Schools’ Office of Enrollment, Choice and Transfers:

a. A new or amended birth certificate;

b. A dated court order signed by a magistrate or judge changing the students name, or;

c. A statement, by a healthcare practitioner, who treated or evaluated the student for gender identity issues, requesting that name/gender change and explaining the health-related reasons for the request.

(MSDE Guidelines, October 2015)
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<tr>
<th>Regulation ACC-RA</th>
<th>Proposed JBB-RA</th>
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<td>Only applies to instances of sexual harassment.</td>
<td>• Addresses all forms of “sex-based discrimination.”</td>
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<td>In cases of student-on-student harassment, principals are mandated to conduct investigations, often without any oversight or guidance from the Title IX Coordinator.</td>
<td>• Upon receipt of a complaint, principals must contact the Title IX Coordinator.</td>
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<td>• Title IX Coordinator must oversee investigations.</td>
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<td>OCR says Schools “must inform the Title IX Coordinator of all reports and complaints raising Title IX issues, even if...the investigation will be conducted by another individual.” “The coordinator’s responsibilities include overseeing all Title IX complaints...”</td>
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Once on notice, employees must immediately report the occurrence to the school principal/designee or if appropriate, the Office of Equal Employment Opportunity and Title IX Compliance. (No reporting form).

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<td>Once on notice, employees must immediately report the occurrence to the school</td>
<td>• Student (Parent/Guardian may file complaint with Responsible Employee or</td>
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<td>principal/designee or if appropriate, the Office of Equal Employment Opportunity</td>
<td>directly with Title IX Coordinator using Discrimination Reporting Form</td>
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<td>and Title IX Compliance. (No reporting form).</td>
<td>(JBB-RA Form 1).</td>
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<td>• Responsible Employee must report to victim’s principal/designee within one</td>
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<td>business day.</td>
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<td>• Victims principal/designee must notify Title IX Coordinator within one</td>
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<td>business day.</td>
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<td>• Title IX Coordinator notifies Labor Relations within one business day.</td>
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<td>• Title IX Coordinator investigates complaint.</td>
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Proposed JBB-RA

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<td>Outlines an investigatory process.</td>
<td>Details investigatory process modeled after guidance from the OCR.</td>
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<td>1. Principal/designee conducts investigation with oversight from Title IX Coordinator.</td>
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<td>2. Preponderance of the evidence standard.</td>
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<td>3. Sixty (60) days to complete. Written notice to all parties if deadline cannot be met.</td>
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<td>4. Complaint Resolution consists of Findings and proposed remedies.</td>
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<td>Does not require that students be provided with contact information for the Title IX Coordinator.</td>
<td>• OCR says. Recipients “must notify all of its students and employees of the....designated Title IX Coordinator.”</td>
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| Does not include a provision for staff training. | • Training shall be provided to staff.  
• The Office of EEO and Title IX Compliance will coordinate the delivery of training. |
Community Partners

- LGBTQ Commission – Baltimore City Mayor’s Office
- Disability Rights Maryland
- Associated Student Congress of Baltimore City
- PCAB
- Maryland Legal Aid
- Maryland Alliance of Public Charter Schools
- GLSEN
- ACLU – Maryland
Comments or Questions?

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