



STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

MEMORANDUM

TO: District Superintendents
Public Information Officers

FROM: John E. Tyler, Esq.
Deputy Superintendent, Legal Affairs

DATE: July 23, 2024

RE: Guidance on H. 4624 (Gender Reassignment Procedures)

On May 21, Governor McMaster signed into law [H. 4624](#), a bill relating to Gender Reassignment Procedures. The main portion of the law bans gender reassignment procedures for children under the age of 18. However, the law also adds § 59-32-3 to the Code of Laws, which sets forth requirements for education professionals when it comes to the biological sex and gender identity of minor students.

The new law establishes the following definitions:

1. **Sex** is defined as “the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender.”¹
2. **Gender** is defined as the “psychological, behavioral, social, and cultural aspects of being male or female.”²

This law requires a school’s principal, vice principal, or counselor to immediately notify a minor’s parent or legal guardian if either of the following occur:

¹ §44-42-310 (1)

² §44-42-310 (3)

1. The minor student asserts to any school employee that the minor's gender is inconsistent with his or her sex.
2. The minor student requests a school employee to address the minor using a pronoun or title that does not align with the minor's sex.

In the scenarios above, the school employee who interacts with the student has a legal obligation to notify the school's principal, vice principal, or counselor upon receipt of such information from the student. In order to comply with this law, the SCDE recommends that each school designate a point of contact who is the school's principal, vice principal, or counselor to notify parents, so that there is no question whether the school leadership has provided timely and accurate notification to parents.

Additionally, **this law prohibits** school nurses, counselors, teachers, principals, or other officials or staff from the following:

1. Knowingly encouraging or coercing "a minor to withhold from the minor's parent or legal guardian the fact that the minor's perception of his or her gender is inconsistent with his or her sex."
2. Knowingly withholding "from a minor's parent or legal guardian information related to the minor's perception that his or her gender is inconsistent with his or her sex."

Notification is not and should not be construed as commencement of any disciplinary action. Notification under this law is a natural extension of parental rights consistent with FERPA and HIPAA that allow parents full access to information regarding their minor child's educational, medical, and psychological well-being. When a parent drops off their child at their local school, or at the bus stop, the parent's right to information does not cease – parents remain the primary figure in the "upbringing of their children."³ This notification is intended to give the parents of minors a full understanding of all concerns related to gender identity that a student may express in their educational environment.

These issues require communication and partnership between parents and education professionals. Longstanding Federal and South Carolina law⁴ require the SCDE and local districts to seek ways to increase parental involvement and communication. This new law requires additional avenues of communication as parents and educators work together for the benefit all South Carolina students.

³ *Wisconsin v. Yoder*, 406 U.S. 205 (1972)

⁴ SC Codes Ann. § 59-28, Parental Involvement in Their Children's Education Act

The following page contains sample letters designed to assist your district with communicating to parents and legal guardians in a manner which satisfies this law. If you have any questions, please contact Robert Cathcart, Policy & Legal Advisor at (803)734-2230 or rdcathcart@ed.sc.gov.

Sample Letters

(Assertion that Biological Sex is inconsistent with gender)

Mr./Mrs. _____,

At school today, your child asserted to a school employee that their gender is inconsistent with his/her sex. (Explain situation in detail)

This letter does not serve as a notice of any disciplinary action but is to serve as a notice of your student's desire to change their means of address in the school context.

Long standing federal and state law emphasize the importance of parental partnership in education and the right of parents to know about their child's well-being while they are attending school. If you have any questions or want to discuss this situation further, please contact me at _____.

(Wish to change pronoun, name, or title that does not align with minor's sex)

Mr./Mrs. _____,

At school today, your child asserted to a school employee that he/she wished to be addressed by a name/use pronouns/use title that is inconsistent with his/her biological sex. (Explain situation in detail).

This letter does not serve as a notice of any disciplinary action but is to serve as a notice of your student's desire to change their means of address in the school context.

Long standing federal and state law emphasize the importance of parental partnership in education and the right of parents to know about their child's well-being while they are attending school. If you have any questions or want to discuss this situation further, please contact me at _____.