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To: House Judiciary Committee
From: Christopher Dodson, Executive Director
Subject: Senate Bill 2231 - Public Employees and Public Schools
Pronoun Policies
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The North Dakota Catholic Conference supports Senate Bill 2231 to protect the rights of public employees and public school parents, and to set limits on when and how a public school can adopt policies regarding expressed gender.

The first part of the bill prohibits a government entity from:

- Mandating that a public employee use an individual's preferred pronoun when addressing or mentioning the individual in work-related communications;
- Requiring that a public employee designate the employee's preferred pronoun in work-related communications.

The bill does not prohibit an employee from using someone's preferred pronoun. It does not prevent an employee from designating their preferred pronoun in work communications. It does not prevent any government entity from complying with federal law or from making the best language choices when providing health care or similar services. It only prohibits the government employer from mandating those specified actions, unless it is otherwise required by law.

The second part of the bill states that, unless it is otherwise required by law, a board of a school district, a public school, or a teacher in a public school may not:

- Adopt a policy or practice regarding expressed gender;
- Provide or authorize classroom instruction recognizing expressed gender; or
- Provide or require professional development recognizing expressed gender.

If such a policy concerning a specific student's expressed gender or pronoun is required by law, SB 2231 requires that the policy be made in consultation with and with the approval of the parents. In 2021, a school district in North Dakota adopted a policy that prohibited school employees from revealing a student's "transgender status" and preferred pronoun to the student's own parents. (The policy is attached.) The policy has since been changed, but this infringement upon parental rights should not have happened. Senate Bill 2231 ensures that it will not happen again.

Finally, SB 2231 reiterates that, unless otherwise required by law, public schools cannot require teachers to use a student's preferred pronoun. It does not, however, prohibit the teacher from using the student's preferred pronoun if the teacher has consulted with, and received approval from, the student's parent or guardian and the school administrator.

Over the last two years, my office has heard from public employees and the pastors of public employees about how such policies conflict with sincere religious beliefs or strong non-religious convictions. Some public employees were forced to attend professional development sessions devoted solely to the promotion of adopting policies and practices accommodating expressed gender and preferred pronouns. Then I heard from legislators who heard the same concerns from their constituents.

This legislative body is considering many bills related to gender this session. Senate Bill 2231 addresses the basic issues — parental rights, public employee rights, and public school policies.

We ask for a "Do Pass" recommendation on Senate Bill 2231.

TRANSGENDER AND GENDER NONCONFORMING STUDENT PROCEDURE

This administrative rule serves as a guide on how to best support the needs of the district's transgender and gender nonconforming students and their families. This regulation does not anticipate every scenario and situation that may occur with respect to transgender and gender nonconforming students, and not all transgender and gender nonconforming students' needs may be the same. Therefore, administrators are encouraged to discuss these issues with each transgender and gender nonconforming student and their families on a case-by-case basis to determine how best to support the student within the parameters of this administrative regulation.

Student Transition Meeting

The principal or designee shall request a meeting with the transgender or gender nonconforming student and their parent/guardian upon the student's enrollment in the District or in response to a currently enrolled student's change of gender expression or identity.

The goals of the meeting are to:

1. Develop an understanding of the student's individual needs with respect to their gender expression or gender identity, including any accommodations that the student is requesting or that the District may provide according to district policy and procedure, and/or under state and federal law; and
2. Develop a shared understanding of the student's day-to-day routine within the school so as to foster a supportive relationship and help alleviate any apprehensions the student may have with regard to their attendance at school.

The school may not require the student to attend a meeting as condition of providing them with the protection to which they are entitled under district policy and procedure, and/or state and federal laws regarding gender expression or gender identity.

Official Records

The District is required to maintain a permanent student record which includes the student's legal name and the student's gender. The District must change a student's official records to reflect a change in legal name upon receipt of documentation that the student's legal name has been changed pursuant to a court order or through amendment of state or federally-issued identification.

To the extent that the District is not legally required to use a student's legal name and biological sex on school records or documents, i.e., rosters, student ID cards, or awards, the District must use the name and gender by which the student identifies.

In situations where school employees are required by law to use or report a student's legal name or gender, such as for standardized testing, school staff shall adopt practices to avoid the inadvertent disclosure of the student's transgender or gender nonconforming status.

Privacy/Confidentiality

The District shall ensure that all personally identifiable and medical information relating to a transgender and gender nonconforming student shall be kept confidential in accordance with applicable state, local, and federal privacy laws. School staff shall not disclose any information that may reveal a student's transgender status to others, including parents or guardians and other school staff, unless legally required to do so or the student has authorized such disclosure. In the rare instance that a school is legally required to disclose a student's transgender status, the school should provide the student an opportunity to make the disclosure

themselves, where practicable. This would include providing the student with any support services the student may need to make the disclosure in a safe and supportive environment.

Communication and Use of Names and Pronouns

The principal or designee shall privately ask the transgender or gender nonconforming student how they would like to be addressed in class, in correspondence to the home, and at conferences with the student's parent/guardian. That information shall be included in the electronic student record system along with the student's legal name in order to inform teachers and staff of the name and pronoun by which to address the student. When appropriate or necessary, this information shall be communicated directly with staff to facilitate the use of proper names and pronouns. A student is not required to change their official records or obtain a court-ordered name and/or gender change as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity.

When communicating with transgender or gender nonconforming students regarding particular issues such as conduct, discipline, grades, attendance or health, school employees shall focus on the conduct or particular issues rather than making assumptions regarding the student's actual or perceived gender identity. When communicating with parents of transgender or gender nonconforming students, school employees shall refrain from the use of gender pronouns and refer to the student by name whenever practicable. The District shall not condone the intentional and persistent refusal to respect a student's gender identity, or inappropriate release of information regarding a student's transgender status.

Dress Code

The District shall allow students to dress in a manner that is consistent with their gender identity and/or gender expression within the constraints of the dress code adopted at the student's school of attendance and within the constraints of the district guidelines for dress as they relate to health and safety issues (e.g., prohibitions on wearing gang-related apparel). The school dress code must be gender-neutral and shall not restrict a student's clothing choices on the basis of gender.

Restroom Accessibility

Students shall have access to a restroom that corresponds to their gender identity. A student shall not be required to use a restroom that is incongruent with the student's gender identity. Where available, a single use bathroom may be used by any student who desires increased privacy, regardless of the reasons. The use of a single use bathroom shall be a matter of choice for a student, and no student shall be compelled to use such a bathroom. Use of restrooms by transgender or gender nonconforming students shall be determined on a case-by-case basis depending on specific circumstances.

Locker Room Accessibility

Use of locker rooms by transgender or gender nonconforming students shall be assessed on a case-by-case basis, with the goal of maximizing transgender or gender nonconforming student social integration, providing an equal opportunity to participate in physical education classes and athletic opportunities, and ensuring the student's safety. In most cases, the district shall provide the student access to the locker room that corresponds to the gender identity they assert at school. Reasonable alternatives to locker room conditions include, but are not limited to:

1. Use of a private area (e.g., nearby restroom stall with a door, an area separated by a curtain, an office in the locker room, or a nearby restroom); or
2. A separate changing schedule (i.e., utilizing the locker room before or after the other students).

Any alternative to locker room conditions shall be provided in a manner that allows the student to keep his or her transgender or gender nonconforming status private. No student, however, shall be required to use a locker room that conflicts with his or her gender identity.

Physical Education, Athletics and Activities

Students shall be permitted to participate in gender-separated physical education, intramural athletics, and non-high school interscholastic athletics and activities in accordance with the student’s gender identity. Participation in high school interscholastic athletics and sports is governed by the [North Dakota High School Activities Association](#), which has its own policy with respect to transgender student participation. Activities that may involve the need for accommodations to address student privacy concerns, such as overnight trips, shall be addressed on a case-by-case basis using the guiding principles of safety and honoring the student’s gender identity and expression.

End of Grand Forks Public Schools Administrative Regulation FDI-AR..... Approved: 3/22/2021

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