

**A RESOLUTION REGARDING THE PHYSICAL, MENTAL, AND EMOTIONAL SUPPORT  
FOR ALL STUDENTS, STAFF, PARENTS, AND OTHER STAKEHOLDERS OF  
JEFFERSON COUNTY PUBLIC SCHOOLS REGARDLESS OF  
GENDER IDENTITY, GENDER EXPRESSION, OR SEXUAL ORIENTATION**

**WHEREAS**, it is the right of every child, regardless of gender identity, gender expression, or sexual orientation, to access a free public K-12 education, and the District welcomes and supports all students; and

**WHEREAS**, the District has a responsibility to ensure that all students who reside within its boundaries, regardless of gender identity, gender expression, or sexual orientation, can safely access a free public K-12 education; and

**WHEREAS**, the District recognizes that there are employees and educators who are gay, lesbian, bisexual, and transgender, and that all employees are valued members of the school community, regardless of their gender identity, gender expression, or sexual orientation; and

**WHEREAS**, the District recognizes that families in our community have diverse backgrounds, and the District values all our families, regardless of the family members' gender identity, gender expression, or sexual orientation; and

**WHEREAS**, the District recognizes that creating Lesbian, Gay, Bisexual, Transgender, Queer/Questioning ("LGBTQ") inclusivity in the District is not about any single action, and it will not happen with just the passage of a resolution or the change of a policy; rather it is about effectuating a paradigm shift through facilitating deeper understanding of sexual and gender diversity, and this requires appropriate communication, professional development, and a commitment from the Board, the District, and all schools - of all grade levels - to support this shift and commit to moving forward with the resolve to learn and further best practices into the future; and

**WHEREAS**, systemic transphobia, biphobia, and homophobia push LGBTQ youth out of school and those same systems of oppression may cause long-lasting negative mental health outcomes; and

**WHEREAS**, LGBTQ students experience high rates of bullying, victimization, and harassment at school on the basis of their actual or perceived sexual orientation or gender identity; and

**WHEREAS**, this bullying, victimization, and harassment has led to negative educational

*Aligned to table consideration*

outcomes for LGBTQ students, including higher rates of dropping out, higher absence rates, lower postsecondary school aspirations, and can lead to homelessness and incarceration; and

**WHEREAS**, affirmation of gender identity and gender expression for youth of all ages is proven to be one of the most effective mental health interventions for supporting transgender youth, gender-expansive youth, and gender-nonconforming youth; and

**WHEREAS**, Board Policies 09.42811 and 09.428111 prohibit the harassment or discrimination of students based upon sexual orientation, gender identity, gender expression or appearance, or sex, including sexual harassment; and

**WHEREAS**, Louisville Metro Government Civil Rights Ordinances prohibit discrimination, including discrimination based on gender, gender expression, gender identity, and sexual orientation; and

**WHEREAS**, the U.S. Department of Education has upheld the interpretation of Title IX to protect students from discrimination on the basis of their gender identity; and

**WHEREAS**, on June 15, 2020, the United States Supreme Court ruled, in the case of *Bostock v. Clayton County*, that discrimination on the basis of sexual orientation or gender identity is necessarily also discrimination "because of sex" as prohibited by Title VII of the Civil Rights Act of 1964; and

**WHEREAS**, the language of the federal educational privacy law FERPA (Family Educational Rights and Privacy Act) protects students' rights to privacy about their personal information; and revealing a student's transgender status, birth name, sex assignment at birth, or medical history to classmates, parents, teachers, and others may put the school in violation of FERPA; and

**WHEREAS**, over the past several years, the U.S. Department of Education has been engaged in the rulemaking process required under law to revise and amend the federal regulation implementing Title IX of the Education Amendments of 1972; and

**WHEREAS**, the amended final rule for Title IX is expected to be published in the Federal Register in the Fall of 2023 and become the law for the entire United States of America, preempting all state laws that contravene its provisions; and

**WHEREAS**, the final rule for Title IX is expected to make explicit that the meaning of sex includes sexual orientation and gender identity for the purposes of protecting people from harassment and discrimination in an educational setting under Title IX, codifying into law the

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long-standing guidance of the U.S Department of Education and the vast preponderance of rulings by federal courts across the nation; and

**WHEREAS**, the U.S. Department of Education may sue districts that discriminate against transgender students and seek to deny them federal funding if they do not follow the Title IX requirements; and

**WHEREAS**, the persuasive authority of a majority of opinions of federal U.S. Courts of Appeals and District Courts suggest that many of the school-related provisions of Senate Bill 150 may violate Title IX of the Education Amendments Act of 1972 or the Equal Protection Clause of 14<sup>th</sup> Amendment to the U.S. Constitution, or both;

**NOW THEREFORE, BE IT RESOLVED BY THE JEFFERSON COUNTY BOARD OF EDUCATION:**

The District shall provide access to resources that are specifically responsive to gender identity, gender expression, and sexual orientation;

**FURTHERMORE**, the District shall allow students and staff to use requested names and pronouns without requiring a legal name change or medical diagnosis; this includes allowing students to list a chosen name other than their legal name in school records and use this name for most school purposes, while keeping a legal name the student does not use in a segregated, confidential file;

**FURTHERMORE**, the District shall allow students to dress in a way that matches their gender identity which includes not having to conform to stereotypical notions of masculinity and femininity;

**FURTHERMORE**, the District and schools shall incorporate LGBTQ people and issues in school curricula, including in health and sex education; school libraries shall include materials in school libraries that portray LGBTQ figures in a positive light; the District and schools shall ensure that the curricula include diverse perspectives, especially LGBTQ working class people and people of color, and issues specific to communities of color;

**FURTHERMORE**, the District will not reveal a student's transgender status, birth name, sex assigned at birth, or medical history to classmates, parents, teachers or others unless there is a legitimate educational reason to share it; even if a student discloses information about their transgender status to some people in some settings, this does not authorize teachers, staff, or the District to disclose it to others; however, parents will be granted student's official school records if requested;

*Aligned to table consideration*

**FURTHERMORE**, the District prohibits bullying and harassment against all persons, whether student or District employee, on the basis of actual or perceived sexual orientation, gender identity, or gender expression, or the actual or perceived sexual orientation, gender identity, or gender expression of their associates;

**FURTHERMORE**, every School within the District shall, within ninety (90) days of the date of this Resolution, take steps to create a safe climate for LGBTQ students, including designating an LGBTQ liaison and providing support for any LGBTQ student groups including Gay-Straight Alliances or Gender and Sexuality Alliances (“GSAs”); create procedures to address anti-LGBTQ bullying and harassment which will include procedures for how students may report bullying and harassment, and require schools to track and report data on incidents of anti-LGBTQ bullying and harassment;

**FURTHERMORE**, the District shall, within ninety (90) days of the date of this resolution, work with the relevant exclusive bargaining representatives to determine how LGBTQ anti-discrimination policies can best be incorporated in existing or future collective bargaining agreements;

**FURTHERMORE**, the District shall within ninety (90) days of the date of this Resolution, create a plan for Professional Development related to anti-LGBTQ bullying and harassment, so that all District employees are trained to recognize and respond to anti-LGBTQ bullying and harassment;

**FURTHERMORE**, the Superintendent shall report back on compliance with this Resolution to the Board within one-hundred twenty (120) school days of the date of this Resolution;

**FURTHERMORE**, the Board declines to adopt policies to implement Senate Bill 150 until the amended final rule for Title IX, which is expected to make explicit that the meaning of sex includes sexual orientation and gender identity for the purposes of protecting people from harassment and discrimination in an educational setting under Title IX and is expected to be published in the Federal Register in the Fall of 2023;

**FURTHERMORE**, the District has deep and abiding concern regarding the severe negative consequences of implementation of SB 150, and strongly supports efforts for impacted children and their parents/guardians to seek relief through the courts to protect their rights to equal educational opportunities in public schools, and looks forward to clarification from the courts that will ensure equal educational opportunity for all students;

**FURTHERMORE**, the District shall distribute this Resolution to District staff, students, and parents using usual means of communication, and the Resolution will be translated into multiple languages spoken by students at home; and

*Aligned to table consideration*

**FURTHERMORE**, District-affiliated contractors having contact with District students shall be notified of this Resolution.

**IN WITNESS WHEREOF**, we have set our hands, and caused the seal of the Board of Education of Jefferson County, Kentucky, to be affixed on the 25<sup>th</sup> day of July 2023. This resolution shall take effect upon its passage. I, \_\_\_\_\_, Assistant Secretary to the Board, do hereby certify that the above is a true and accurate copy of the resolution adopted at the July 25, 2023 meeting of the Jefferson County Board of Education at which a quorum was present and voted.

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Superintendent Marty Pollio, Ed.D.

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Board Chairperson Diane Porter