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This national guidance document has been adopted from a document created by a Western Region Program Leaders Workgroup (Katherine E. Soule, James Lindstrom, Sarah Chvilicek, and Jean Glowacki). It has been approved by the National 4-H Program Leaders Working Group and 4-H National Headquarters.

4-H Guidance for Inclusion of Individuals of All Gender Identities, Gender Expressions, Sexual Orientations, and Sexes

As the nation's largest youth development program, 4-H engages millions of people from all areas of the country to provide opportunities for youth to learn life skills, confidence, and compassion. The 4-H Program is committed to being inclusive and welcoming of all forms of diversity. This 4-H Program guidance was developed to guide 4-H Programs around the country on how to be inclusive for individuals of all gender identities, gender expressions, sexual orientations, and sexes. These guidelines shall serve as guidance for all members of 4-H communities, including staff, faculty, youth members, adult volunteers, families, and other community members.

As noted by the United States Department of Agriculture: "The use of the 4-H Name and Emblem is defined through 7 Code of Federal Regulations (CFR) 8...The U.S. Congress has legislated responsibility for the proper management of the 4-H Name and Emblem to the Secretary of Agriculture...The Secretary of Agriculture has delegated that authority to 4-H National Headquarters in the Division of Youth and 4-H, housed at USDA's National Institute of Food and Agriculture (NIFA)."¹ The USDA prohibits discrimination of any individual based on gender identity, gender expression, sexual orientation, and/or sex.² These guidelines summarize recommendations to 4-H Programs regarding inclusion of individuals of all gender identities, gender expressions, sexual orientations, and sexes.

Terminology

Sexual orientation refers to who an individual is attracted to (generally based on gender identities). A person who is a *lesbian* is a woman who is attracted to women. A person who is *gay* is a man who is attracted to men. A person who is *bisexual* is a person who is attracted to two genders (most commonly men and women). A person who is *polysexual* is a person who is attracted to others regardless of sex, gender identity, gender expression, or sexual orientation.

Gender expression refers to an individual's presentation of gender to others, including their dress, grooming, speech, mannerisms, and other factors.

Sex is a medical term referring to a combination of physiological attributes, including chromosomes, gonads, hormones, sex and reproductive organs, as well as secondary sex characteristics. Most commonly, individuals are assigned to be either male or female at birth.

Intersex describes those individuals who are born with physiological attributes that include a combination of male and female anatomy, which may include chromosomes, gonads, hormones, or sex and reproductive organs. There are countless ways physiological attributes might vary. One example, is an individual may have male-typical anatomy externally while having mostly female-typical anatomy internally.

¹ USDA, 2017. 4-H Name and Emblem

² USDA, 2015. And Justice for All

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Sex assigned at birth refers to a person's sex designation as recorded on their birth certificate. Generally, a medical professional or guardian designates either "male" or "female" sex after examining a newborn infant's genitalia.

Gender identity describes a person's internal sense of gender. A person's gender identity may or may not match the person's sex assigned at birth. Some common gender identities include: man, woman, gender neutral, transgender man, transgender woman, and gender non-binary.

Transgender describes a person whose gender identity is different than the sex they were assigned at birth. A *transgender male* describes a person who identifies as male but was assigned female sex at birth. A *transgender female* describes a person who identifies as female but was assigned male sex at birth.

Gender transition describes the process in which a person asserts the sex that corresponds to their gender identity rather than the sex assigned at birth. A person in gender transition may (or may not) alter their dress/grooming habits, change their name, or use pronouns that are consistent with their gender identity. A person may begin gender transition at any point in their life, and gender transition may happen over a short or extended duration of time.

Guidance for Inclusion

4-H shall not segregate or otherwise distinguish individuals on the basis of their sex, gender identity, gender expression, or sexual orientation, in any 4-H activities or the application of any 4-H rule.³ This guidance is consistent with courts' and other agencies' interpretations of Federal laws prohibiting sex discrimination,⁴ as well as research-based and emerging best practices⁵ for positive youth development. When an individual (youth or adult) notifies 4-H administration (at the county/parrish/local, and/or state level as appropriate) that the individual will assert a gender identity that differs from previous representations or records, 4-H will begin treating the individual consistent with the individual's gender identity. There is no medical diagnosis or treatment requirement that individuals (youth or adult) must meet as a prerequisite to being treated consistent with their gender identity.⁶ Because transgender and intersex individuals often are unable to obtain identification documents that reflect their gender identity (e.g., due to restrictions imposed by state or local law in their place of birth or residence),⁷ requiring individuals to produce such identification documents in

³ USDA, 2015. *And Justice for All*

⁴ See, e.g., *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989); *Oncale v. Sundowner Offshore Servs. Inc.*, 523 U.S. 75, 79 (1998); *G.G. v. Gloucester Cnty. Sch. Bd.*, No. 15-2056, 2016 WL 1567467, at *8 (4th Cir. Apr. 19, 2016); *Glenn v. Brumby*, 663 F.3d 1312, 1317 (11th Cir. 2011); *Smith v. City of Salem*, 378 F.3d 566, 572-75 (6th Cir. 2004); *Rosa v. Park W. Bank & Trust Co.*, 214 F.3d 213, 215-16 (1st Cir. 2000); *Schwenk v. Hartford*, 204 F.3d 1187, 1201-02 (9th Cir. 2000); *Schroer v. Billington*, 577 F. Supp. 2d 293, 306-08 (D.D.C. 2008); *Macy v. Dep't of Justice*, Appeal No. 012012082 (U.S. Equal Emp't Opportunity Comm'n Apr. 20, 2012). See also U.S. Dep't of Labor (USDOL), Training and Employment Guidance Letter No. 37-14, *Update on Complying with Nondiscrimination Requirements: Discrimination Based on Gender Identity, Gender Expression and Sex Stereotyping are Prohibited Forms of Sex Discrimination in the Workforce Development System* (2015); USDOL, Job Corps, Directive: Job Corps Program Instruction Notice No. 14-31, *Ensuring Equal Access for Transgender Applicants and Students to the Job Corps Program* (May 1, 2015); DOJ, Memorandum from the Attorney General, *Treatment of Transgender Employment Discrimination Claims Under Title VII of the Civil Rights Act of 1964* (2014); USDOL, Office of Federal Contract Compliance Programs, Directive 2014-02, *Gender Identity and Sex Discrimination* (2014).

⁵ See, e.g., *The New York State Education Department* (2015); GLSEN (2016); *California School Boards Association* (2014); *Massachusetts Board of Elementary and Secondary Education* (2015); *Connecticut Safe Schools Coalition* (2012); *Schools in Transition: A Guide to Supporting Transgender Students in K-12 Schools*; *Trevor Project*, *American Foundation for Suicide Prevention*, *the American School Counselor Association*, and *the National Association of School Psychologists*.

⁶ See *Lusardi v. Dep't of the Army*, Appeal No. 0120133395 at 9 (U.S. Equal Emp't Opportunity Comm'n Apr. 1, 2015) ("An agency may not condition access to facilities—or to other terms, conditions, or privileges of employment—on the completion of certain medical steps that the agency itself has unilaterally determined will somehow prove the bona fides of the individual's gender identity.").

⁷ See *G.G.*, 2016 WL 1567467, at *1 n.1 (noting that medical authorities "do not permit sex reassignment surgery"). The 4-H Youth Development Program is the youth outreach program from the land-grant institutions' Cooperative Extension Services, and the U.S. Department of Agriculture (USDA). USDA is an equal opportunity provider and employer. March 2018.

order to treat them consistent with their gender identity may have the practical effect of limiting or denying individuals equal access to an educational program or activity.

As is consistently recognized in civil rights cases, the desire to accommodate others' discomfort cannot justify a practice that singles out and disadvantages a particular class of individuals.⁸ The USDA has identified the following as protected classes: gender identity, gender expression, sex, and sexual orientation.⁹ 4-H shall ensure nondiscrimination to provide transgender and intersex individuals equal access to programs and activities even in circumstances in which staff, faculty, youth members, adult volunteers, families, other community members, and/or a youth members' own guardian raise objections or concerns. Likewise, 4-H shall provide individuals of all gender expressions and sexual orientations equal access to programs and activities. 4-H shall not discipline individuals or exclude them from participating in activities for appearing or behaving in a manner that is consistent with their gender identity or in a manner that does not conform to stereotypical notions of masculinity or femininity (e.g., in uniform or other attire requirements, at dances, or at recognition ceremonies).¹⁰

Safe and Nondiscriminatory Environment

4-H has a responsibility to provide a safe and nondiscriminatory environment for all individuals. Harassment based on an individual's sex, gender identity, gender expression, or sexual orientation shall be prohibited¹¹. If harassment creates a hostile environment, 4-H shall take prompt and effective steps to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects. 4-H's failure to treat individuals consistent with their gender identity may create or contribute to a hostile environment. For a more detailed discussion of Title IX requirements related to sex-based harassment, see guidance documents from ED's Office for Civil Rights (OCR) that are specific to this topic.¹²

Identification Documents, Names, and Pronouns

4-H shall treat individuals consistent with their gender identity even if their program records or identification documents indicate a different sex. 4-H, including all paid and volunteer personnel, as well as youth members, will use pronouns and names consistent with a transgender or intersex

for persons who are under the legal age of majority").

⁸ 34 C.F.R. § 106.31(b)(4); see *G.G.*, 2016 WL 1567467, at *8 & n.10 (affirming that individuals have legitimate and important privacy interests and noting that these interests do not inherently conflict with nondiscrimination principles); *Cruzan v. Special Sch. Dist. No. 1*, 294 F.3d 981, 984 (8th Cir. 2002) (rejecting claim that allowing a transgender woman "merely [to be] present in the women's faculty restroom" created a hostile environment); *Glenn*, 663 F.3d at 1321 (defendant's proffered justification that "other women might object to [the plaintiff's] restroom use" was "wholly irrelevant"). See also *Palmore v. Sidoti*, 466 U.S. 429, 433 (1984) ("Private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect."); *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 448 (1985) (recognizing that "mere negative attitudes, or fear . . . are not permissible bases for" government action).

⁹ USDA, 2015. [And Justice for All](#).

¹⁰ See 34 C.F.R. §§ 106.31(a), 106.31(b)(4). See also, *In re Downey Unified Sch. Dist.*, CA, *supra* n. 9; *In re Cent. Piedmont Cmty. Coll.*, NC, *supra* n. 11.

¹¹ See, e.g., [Resolution Agreement, In re Downey Unified Sch. Dist., CA, OCR Case No. 09-12-1095, \(Oct. 8, 2014\)](#) (agreement to address harassment of transgender student, including allegations that peers continued to call her by her former name, shared pictures of her prior to her transition, and frequently asked questions about her anatomy and sexuality); [Consent Decree, Doe v. Anoka-Hennepin Sch. Dist. No. 11, MN \(D. Minn. Mar. 1, 2012\)](#) (consent decree to address sex-based harassment, including based on nonconformity with gender stereotypes); [Resolution Agreement, In re Tehachapi Unified Sch. Dist., CA, OCR Case No. 09-11-1031 \(June 30, 2011\)](#) (agreement to address sexual and gender-based harassment, including harassment based on nonconformity with gender stereotypes). See also *Lusardi*, Appeal No. 0120133395, at *15 ("Persistent failure to use the employee's correct name and pronoun may constitute unlawful, sex-based harassment if such conduct is either severe or pervasive enough to create a hostile work environment").

¹² See, e.g., OCR, [Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties \(2001\)](#); OCR, [Dear Colleague Letter: Harassment and Bullying \(Oct. 26, 2010\)](#); OCR, [Dear Colleague Letter: Sexual Violence \(Apr. 4, 2011\)](#); OCR, [Questions and Answers on Title IX and Sexual Violence \(Apr. 29, 2014\)](#).

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individual's gender identity.¹³

Sex-Segregated Activities and Facilities

Title IX's implementing regulations permit 4-H to provide sex-segregated restrooms, locker rooms, shower facilities, housing, and athletic teams, as well as single-sex classes under certain circumstances.¹⁴ If 4-H provides sex-segregated activities and facilities, transgender and intersex individuals shall be allowed to participate in such activities and access such facilities consistent with their gender identity.¹⁵ 4-H shall not segregate individuals from activities and facilities on the basis of gender expression or sexual orientation.

Restrooms and Locker Rooms. 4-H may provide separate facilities on the basis of sex, but should allow transgender and intersex individuals' access to such facilities consistent with their gender identity.¹⁶ 4-H shall not require transgender or intersex individuals to use facilities inconsistent with their gender identity or to use single-user facilities when other individuals are not required to do so. 4-H shall not require individuals to use single-user facilities based on gender expression or sexual orientation when other individuals are not required to use single-user facilities. 4-H may make individual-user options available to all individuals who voluntarily seek additional privacy.¹⁷

Athletics. Title IX regulations permit 4-H to operate or sponsor sex-segregated athletics teams (such as Special Interest [SPIN] Soccer Clubs) when selection for such teams is based upon competitive skill or when the activity involved is a contact sport.¹⁸ 4-H shall not, however, adopt or adhere to requirements that rely on overly broad generalizations or stereotypes about the differences between transgender or intersex individuals and other individuals of the same sex (*i.e.*, the same gender identity) or others' discomfort with transgender or intersex individuals.¹⁹ 4-H shall not segregate individuals' participation based on their gender expression or sexual orientation and should allow individuals to participate on team with others of the same gender identity. The USDA does not prohibit age-appropriate, tailored requirements based on sound, current, and research-based medical knowledge about the impact of the individuals' participation on the competitive fairness or physical safety of the sport.²⁰

Single-Sex Classes. Although separating individuals by sex in classes and activities is generally

¹³ See, e.g., [Resolution Agreement, *In re Cent. Piedmont Cmty. Coll., NC*, OCR Case No. 11-14-2265 \(Aug. 13, 2015\)](#), (agreement to use a transgender student's preferred name and gender and change the student's official record to reflect a name change).

¹⁴ 34 C.F.R. §§ 106.32, 106.33, 106.34, 106.41(b).

¹⁵ See 34 C.F.R. § 106.31.

¹⁶ 34 C.F.R. § 106.33.

¹⁷ See, e.g., [Resolution Agreement, *In re Township High Sch. Dist. 211, IL*, OCR Case No. 05-14-1055 \(Dec. 2, 2015\)](#), (agreement to provide any student who requests additional privacy "access to a reasonable alternative, such as assignment of a student locker in near proximity to the office of a teacher or coach; use of another private area (such as a restroom stall) within the public area; use of a nearby private area (such as a single-use facility); or a separate schedule of use.").

¹⁸ 34 C.F.R. § 106.41(b). Nothing in Title IX prohibits schools from offering coeducational athletic opportunities.

¹⁹ 34 C.F.R. § 106.6(b), (c). An interscholastic athletic association is subject to Title IX if (1) the association receives Federal financial assistance or (2) its members are recipients of Federal financial assistance and have ceded controlling authority over portions of their athletic program to the association. Where an athletic association is covered by Title IX, a school's obligations regarding transgender athletes apply with equal force to the association.

²⁰ The National Collegiate Athletic Association (NCAA), for example, reported that in developing its policy for participation by transgender students in college athletics, it consulted with medical experts, athletics officials, affected students, and a consensus report entitled [On the Team: Equal Opportunity for Transgender Student Athletes \(2010\)](#) by Dr. Pat Griffin & Helen J. Carroll (*On the Team*). See [NCAA Office of Inclusion, *NCAA Inclusion of Transgender Student-Athletes 2, 30-31 \(2011\)*](#), (citing *On the Team*). The *On the Team* report noted that policies that may be appropriate at the college level may "be unfair and too complicated for [the high school] level of competition." *On the Team* at 26. After engaging in similar processes, some state interscholastic athletics associations have adopted policies for participation by transgender students in high school athletics that they determined were age-appropriate.

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prohibited, 4-H may offer single-sex classes and activities under certain circumstances.²¹ When offering such classes and activities, 4-H shall allow transgender and intersex 4-H participants to participate consistent with their gender identity. 4-H shall not segregate individuals based on their gender expression or sexual orientation.

Housing and Overnight Accommodations. 4-H may provide separate housing on the basis of sex.²² In such cases, 4-H shall allow transgender and intersex individuals to access housing consistent with their gender identity. 4-H shall not require transgender or intersex individuals to stay in single-occupancy accommodations or to disclose personal information when not required of other individuals. 4-H shall not require individuals to stay in single-occupancy accommodations based on gender expression or sexual orientation or to disclose personal information when not required of other individuals. 4-H may honor individuals' voluntary requests for single-occupancy accommodations.²³

Privacy and Program Records

4-H collects as little personally identifiable information (PII) as possible, collecting only that information that is necessary to conduct 4-H. 4-H may maintain records with birth name and sex assigned at birth, if there is a legitimate programmatic need, but such records shall be kept confidential. As 4-H is a national program, privacy policies vary according to federal, state, university policies, and other contractual agreements.

Protecting transgender and intersex individuals' privacy is critical to ensuring they are treated consistent with their gender identity. 4-H shall take reasonable steps to protect individuals' privacy related to their transgender or intersex status, including protecting their birth name or sex assigned at birth.²⁴ Additionally, nonconsensual disclosure of personally identifiable information, such as an individual's birth name or sex assigned at birth, could be harmful to or invade the privacy of transgender and intersex individuals.

Disclosure of Personal Information. PII from an individual's program records must be kept confidential. PII records shall only be disclosed to 4-H personnel who have been determined to have a legitimate programmatic need for the information.²⁵ Even if an individual has disclosed that they are transgender or intersex to some members of 4-H community, 4-H shall not disclose PII from program records to others (including 4-H personnel), who do not have a legitimate programmatic need for the information. Even if an individual has disclosed their sexual orientation to some members of the 4-H community, 4-H shall not disclose this information to others.

Disclosure of Directory Information. 4-H may disclose appropriately designated directory information from an individual's program record to approved 4-H personnel (including club leaders) if disclosure would not be considered harmful or an invasion of privacy.²⁶ Directory information may include an individual's name, telephone number, date of birth, honors and awards, and dates of attendance.²⁷ To protect youth safety, 4-H must not disclose youth addresses unless necessary and may only disclose youth addresses to approved 4-H personnel. 4-H officials shall not designate individuals' sex, including transgender or intersex status, or sexual orientation as directory information because doing so could be harmful or an

²¹ 34 C.F.R. § 106.34(a), (b). Schools may also separate students by sex in physical education classes during participation in contact sports. *Id.* § 106.34(a)(1).

²² 20 U.S.C. § 1686; 34 C.F.R. § 106.32.

²³ See, e.g., Resolution Agreement, *In re Arcadia Unified Sch. Dist.*, CA, OCR Case No. 09-12-1020, DOJ Case No. 169-12C-70, (July 24, 2013), www.justice.gov/sites/default/files/crt/legacy/2013/07/26/arcadiaagree.pdf (agreement to provide access to single-sex overnight events consistent with students' gender identity, but allowing students to request access to private facilities).

²⁴ 34 C.F.R. § 106.31(b)(7).

²⁵ 20 U.S.C. § 1232g(b)(1)(A); 34 C.F.R. § 99.31(a)(1).

²⁶ 34 C.F.R. §§ 99.3, 99.31(a)(11), 99.37.

²⁷ 20 U.S.C. § 1232g(a)(5)(A); 34 C.F.R. § 99.3.

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invasion of privacy.²⁸

Amendment or Correction of Participant Records. 4-H may receive requests (from youth, adults, and/or parent/guardian) to correct an individual's enrollment records to make the records consistent with the individual's gender identity. Updating a transgender or intersex individual's enrollment records to reflect the individual's gender identity and new name (if applicable) helps to protect privacy and ensure that 4-H consistently use appropriate names and pronouns.

- 4-H shall respond to the request of an individual (youth or adult) to amend information in the individual's enrollment records that is inaccurate, misleading, or in violation of the individual's privacy rights. 4-H shall correct names and gender identities in participant records to be consistent with a transgender or intersex individual's gender identity.²⁹
- 4-H shall respond to a request to amend information related to an individual's transgender or intersex status consistent with its general practices for amending other individual's records.³⁰ If the individual (or a youth members' guardians) complain about 4-H's handling of such a request, 4-H shall promptly and equitably resolve the complaint.³¹

²⁸ [Letter from FPCO to Institutions of Postsecondary Education 3 \(Sept. 2009\)](#).

²⁹ See, e.g., [Resolution Agreement, In re Cent. Piedmont Cmty. Coll., NC](#), OCR Case No. 11-14-2265 (Aug. 13, 2015), (agreement to use a transgender student's preferred name and gender and change the student's official record to reflect a name change).

³⁰ See 34 C.F.R. § 106.31(b)(4).

³¹ 34 C.F.R. § 106.8(b).

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