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# Policy Advocacy: Transgender Students in a Public School Setting

Rob McElligott

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POLICY ADVOCACY: TRANSGENDER STUDENTS  
IN A PUBLIC SCHOOL SETTING

Rob McElligott

Educational Leadership Doctoral Program

Submitted in partial fulfillment

of the requirements of

Doctor of Education

In the Foster G. McGaw Graduate School

National College of Education

National Louis University

April, 2019

A THREE-PART DISSERTATION

CHANGE PLAN:  
RETHINKING THE HIRING PRACTICES  
OF A SMALL SUBURBAN  
CHICAGO SCHOOL DISTRICT

PROGRAM EVALUATION:  
EVALUATING THE HIRING PRACTICES  
OF A SMALL SUBURBAN  
CHICAGO SCHOOL DISTRICT

POLICY ADVOCACY:  
TRANSGENDER STUDENTS IN A  
PUBLIC SCHOOL SETTING

Rob McElligott

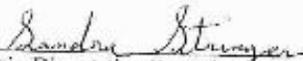
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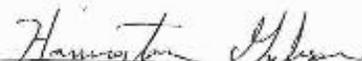
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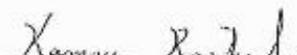
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Approved:

  
Chair, Dissertation Committee

  
EDL Program Director

  
Member, Dissertation Committee

  
Dean's Representative

  
Dean, National College of Education

April 22, 2019  
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## NLU Digital Commons Document Origination Statement

This document was created as *one* part of the three-part dissertation requirement of the National Louis University (NLU) Educational Leadership (EDL) Doctoral Program. The National Louis Educational Leadership EdD is a professional practice degree program (Shulman et al., 2006).

For the dissertation requirement, doctoral candidates are required to plan, research, and implement three major projects, one each year, within their school or district with a focus on professional practice. The three projects are:

- Program Evaluation
- Change Leadership Plan
- Policy Advocacy Document

For the **Program Evaluation** candidates are required to identify and evaluate a program or practice within their school or district. The “program” can be a current initiative; a grant project; a common practice; or a movement. Focused on utilization, the evaluation can be formative, summative, or developmental (Patton, 2008). The candidate must demonstrate how the evaluation directly relates to student learning.

In the **Change Leadership Plan** candidates develop a plan that considers organizational possibilities for renewal. The plan for organizational change may be at the building or district level. It must be related to an area in need of improvement, and have a clear target in mind. The candidate must be able to identify noticeable and feasible differences that should exist as a result of the change plan (Wagner et al., 2006).

In the **Policy Advocacy Document** candidates develop and advocate for a policy at the local, state or national level using reflective practice and research as a means for supporting and promoting reforms in education. Policy advocacy dissertations use critical theory to address moral and ethical issues of policy formation and administrative decision making (i.e., what ought to be). The purpose is to develop reflective, humane and social critics, moral leaders, and competent professionals, guided by a critical practical rational model (Browder, 1995).

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## **ABSTRACT**

The purpose of this policy advocacy paper is to encourage the State of Illinois to implement a statewide policy on how school districts can best support students undergoing a gender transition. It has been proven that students in the LGBTQ community are subject to more harassment and bullying than their straight, cisgender peers. It is incumbent on schools to provide a safe, caring environment for all students. This policy was analyzed from educational, economic, social, legal, and ethical points of view. The implementation of this policy will help to guide students who are struggling with their gender identity by helping them through many of the items that are within the control of the school, allowing them to direct more energy to the socialization challenges they will be facing. The expected impact of the implementation of this policy was also included.

## ACKNOWLEDGEMENTS

First and foremost, I would like to offer copious amounts of gratitude to my wife Shannon and my daughters, Jordan and Madison, for their support on this journey. They each showed immense amounts of patience and tolerance with me as I spent countless hours at the dining room table instead of being with them over these past several years. I did my best to balance my responsibilities, but I know I missed out on things. For that, I apologize. Thank you all!

I'd also like to thank my parents, Bob and Mary Ellen, for instilling in me the importance of hard work and learning how to push through when the challenge seems too great for words. There were definitely times like those during the writing of this dissertation and I would not have been able to complete it without the work ethic created during my upbringing, so, thank you.

Finally, I'd like to thank all of my professors and the educational leaders at the Educational Leadership Program of National Louis University. Each of you know the right thing to say and the right way to say it to get me through to the end of this journey. I tried to thank you often, but I am not sure it was enough. I am eternally grateful for your support and guidance.

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## **SECTION ONE: VISION STATEMENT**

### **Introduction to the Problem**

The vision for this policy advocacy plan is based on a simple concept: all students have the right to feel safe at school while being true to themselves and their personal identity. The challenge of educating a child is a difficult enough proposition if the child is fully available for challenge and learning. The task borders on impossible if the child does not feel like he is in a place of safety or does not feel able to express himself as he truly feels. Abraham Maslow (1943) talked about the need for safety as a necessity just slightly less than that of food, air, and water. Maslow hypothesized that unless a being had basic physiological and safety needs met, they would be unavailable to become part of a group, develop a strong self-esteem, or to become self-actualized, Maslow's idea of a highly functioning individual. As educators, we have seen students in our classrooms who may not have had a good meal or a good night's sleep and know that it can be difficult to teach those students. The same can be true about students who do not feel a sense of security or belonging in the school. Those students may be more difficult to identify, but their unfulfilled needs will still stand in the way of proper learning. The good news is that we can do a great deal to meet those safety and security needs in the school.

Over the past decade, there has been a rise in the number of public school students who are experiencing gender dysphoria. The Diagnostic and Statistical Manual of Mental Disorders (American Psychiatric Association, 2013) defines gender dysphoria as a conflict between a person's physical or assigned gender and the gender with which he/she/they identify. Schools have had to scramble to determine how to meet the needs

of these transitioning students, without compromising the rights of other students. Sometimes, these situations have ended up in court (Whitaker v. Kenosha, Grimm v. Gloucester, Doe v. Clenchy, etc.) when the families and the district cannot get on the same page. Often times, these court cases receive a significant amount of media coverage and grab the attention of many. These high profile cases were how this subject first intrigued me, well before any student in my district was known to be facing a gender transition.

### **Definitions**

There are many terms related to a person's gender identity and expression that are not a part of most people's everyday vernacular. There are also a good number of terms that are widely misinterpreted or misunderstood. In order to try to alleviate any misunderstanding, below is a list of terms related to this topic and their definitions. The definitions below come from the Ann and Robert Lurie Children's Hospital of Chicago Gender and Sex Development Key Terms Document.

Cisgender (cis): Term used to describe people whose gender identity is congruent with biological sex.

Gender diverse/fluid/expansive/creative: Conveys a wider, more flexible range of gender identity and/or expression. It reinforces the notion that gender is not binary, but a continuum; and that many children and adults express their gender in multiple ways.

Gender Expression: An individual's characteristics and behaviors such as appearance, dress, mannerisms, speech patterns, and social interactions that are perceived as masculine or feminine.

Gender Identity: A person's internal, deeply felt sense of being male, female, something other, or in between. Gender identity is not determined by genitals or sex assigned at birth.

Gender Nonconformity: (gender creative, gender expansive): Gender expressions that fall outside of societal expectations for one's sex assigned at birth may (or may not) impact gender identity:

Natal male: "I am a girl and I like to express femininity."

Natal male: "I am a boy and I like to express femininity."

Non-Binary Gender: An umbrella term that reflects gender identities that don't fit within the accepted binary of male and female. Individuals can feel they are both genders, neither, or some mixture thereof. Terms under this umbrella: genderqueer, gender fluid, agender, bigender, etc. Non-binary folks may use they/them/theirs or other neutral pronouns.

Sex (Sex Assigned at Birth): A biological construct that refers to our physical attributes and our genetic makeup. This includes birth-assigned male or female sex.

Sexual Orientation: The gender to which one is romantically and/or sexually attracted.

Transgender or Trans: Individuals with an affirmed gender identity different than their sex assigned at birth. Transgender can be used as an umbrella term that encompasses diversity of gender identities and expressions. Applies to identity, *not necessarily body parts*.

## **Critical Issues**

The two primary differing viewpoints are based on whether you are the transgender student, or a member of the student body. Many transgender students prefer to use the restrooms and locker rooms of the gender with which they identify. In their mind, they are a boy, so they should be able to use the boy's restroom. The counterpoint comes from the rest of the student body. If you are a girl using the girl's locker room, you may feel uncomfortable with a biological male, who identifies as female, using the same locker room. In my own personal experiences, I have learned it is usually the adults involved that have the biggest issue. The students don't seem disturbed by it at all and, if they are, they find a way to problem solve around it. My own daughters both go to school with students who are undergoing a gender transition. These students were born male and identify as female. Neither of my children have any issue with that individual using the same bathroom or locker room as they do.

There is also research supporting that adults generally have a harder time with a student undergoing a gender transition than other students (Almeida, Johnson, Corliss, Molnar, & Azrael, 2009; Kosciw, Greytak, Bartkiewicz, Boesen, & Palmer, 2012; McGuire, Anderson, Toomey, & Russell, 2010). Many interviews associated with these cases show the same thing: the students themselves are much more accepting and tolerant of this transitioning student than their middle aged parents are. In a March of 2017 article posted on the website for an Illinois State University radio station on the transgender bathroom access issue in Palatine, IL, students who were interviewed made comments like, "It's a really simple issue in my opinion. Everyone should be able to use the facilities that they want to use. I don't really understand why it's been such an issue."

or “As Millennials, we’re more liberal, but our parents would be more conservative” (Lutton, 2017).

Can a school district force a student who was born male, but identifies as female, to use a boy’s restroom? As we have learned more and more about transgender students, it has been concluded that these children believe in their gender identity as much as a child born of that same gender. So, how can we justify sending them to the bathroom of the other gender? It does not seem right. Many families, and sometimes entire communities, have protested that the accommodation should not be made as it puts their child in an uncomfortable position to have a child of the opposite sex changing with them in a locker room. It becomes a case of, “whose rights are more important than whose?” Courts have ruled on that very idea, as in *Students and Parents for Privacy v. United States Department of Education* (2016), stating “high school students have no constitutional right not to share restrooms and locker rooms with transgender students whose sex assigned at birth is different from theirs.”

One solution that has been used is to make private, single person restrooms available to the student. Sometimes, this accommodation is acceptable to the family as they may not be ready to go into the opposite sex locker room yet. Other families protest that no other student is “forced” into a single use restroom and their child should be treated the same as every other child. This solution has not been widely embraced by the courts either. In Pennsylvania, the court decision *Evancho v. Pine-Richland Sch. District* (2017) stated that students could not be denied access to the restroom of the gender with which they identify, even if a single use restroom was the other option.

When a school finally moves to allow a transgender child to use the restroom/locker room of their identified gender, they begin to explore things like changing stalls or privacy curtains. These are not just for use by the student who is transitioning, but anyone who feels like they need additional privacy for any reason.

### **Recommended Policy**

First and foremost, I would recommend a State-wide policy that states that school administration will meet and have an open discussion with any student who is undergoing a gender transition about which they are ready to make public and his or her family. This was one of the key recommendations made by Orr and Baum (2015) in their research and is supported by the work of the organization Gender Spectrum, a group endorsed by many educational organizations. At this meeting, every effort will be given to help the student feel comfortable with their transition and feel supported by the school. At this meeting, at a minimum, it will be discussed the name the student wishes to be called, the gender with which they identify, the pronoun they prefer to be used when referring to them, and the restroom and locker room facilities they would like to use. The school shall direct school employees to use that preferred name and pronoun when speaking to or about the student. These are the issues around which transgender students report the most anxiety when it comes to their transition in the school environment (Greytak, Kosciw, & Diaz, 2009; McGuire et al., 2010).

I am recommending a policy be created which states that all school children should be allowed to use the bathroom and locker room facilities of the gender with which they identify, should they so choose. Reasonable accommodations will be made to create privacy areas in locker rooms that may be used by any student who desires

additional privacy. In regard to restrooms, schools will make a reasonable effort to maximize the number of private stalls in all restrooms.

Currently, Illinois Administrative Code offers protection for all students from discrimination and harassment based on many things, including sexual preference and identity (23 IL Admin Code 200). What it does not do is provide guidance to assist schools with the assimilation of a transitioning student into the school. In a May 2016 joint “Dear Colleague” letter from the U.S. Departments of Education and Justice, specific guidance was provided to school districts on how to assist transgender students with name changes, preferred pronoun usage, and preferred restroom/locker room usage. Much of the policy that I am proposing comes from that joint guidance. Unfortunately, in February of 2017, shortly after Donald Trump was elected, he issued a second “Dear Colleague” letter that rescinded the guidance provided in the May 2016 letter. This left much more of the Title IX language to be interpreted by various courts, leading to the current situation of district courts looking to one another for rulings which set precedence.

In a 2005 article in *The Educational Forum*, Richard Elmore talked about internal versus external accountability in public schools. At that time, it was still early in the era of states wanting data that could be used to hold districts accountable for the progress of their students. This is a topic that could be, and has been, researched and dissertated on in its own realm. When applying it to this current topic, schools are internally accountable to and for their current students, whomever they may be. When a federal government creates guidance, or a purposeful lack of guidance, that stands in the way of serving those students, something needs to change. Elmore stated, “The formation of

explicit organizational values requires the creation of settings in which those values can be discussed and agreed upon” (p. 136). It is difficult for an organization to form values it can stand behind if the federal government is dictating what those values should be.

### **Envisioned Effect**

With the above policy in place, no student of any gender will be made to feel singled out or forced into a space where they feel uncomfortable by their surroundings. By making the conference with the family a policy, it will leave no grey area about the importance of working with the family to come up with a plan. Many times, just by sitting down together, a reasonable, easily implementable process can be agreed upon. By creating a policy around the design of facilities, restrooms and locker rooms will be more private and comfortable for all students. This applies to transitioning students, students in a locker room with a transitioning student, or just students who would prefer a little more privacy.

## **SECTION TWO: POLICY ANALYSIS AND RECOMMENDATIONS**

### **Introduction**

This portion of my dissertation was not strongly connected to the first two parts, which involved an analysis of the hiring practices within a school district and some recommendations on how to improve that process. The primary connection was that both topics involve items about which I had a great deal of passion. At the core of my belief system is that every child should have an equal access to a quality education, free of distractions that could stand in the way of that access. A transgender student in attendance at a public school is a relatively new topic, and schools across the country are looking for guidance on how to proceed. No educator worth his salt wants to make any student feel isolated or less valued, but in an effort to make all students feel comfortable, the needs of the individual are often overshadowed. As school districts consult with students, families, staff members, and attorneys, solutions to allowing transgender students feel comfortable at school, while not infringing on the rights of all students, are coming to light. Developing a policy to solidify that guidance is incumbent on school administrators and school boards to ensure all students feel safe at school and can, therefore, take advantage of that access to their education.

The reasoning behind the contents of the policy discussed in section one revolved around two main ideas. First, through a consultation with our District's attorney, the advice we received was that the majority of issues that came up in these cases involving transgender students revolved around the school coming out and specifically stating to which facilities and/or programs a student had or did not have access. The experiences he shared showed that when an open dialogue took place between the school and the

family, including the student, most public outcry and hostility was avoided. Second, that most of the conflict that does come up in any situation of a student undergoing gender transition in a public school involves access to restrooms and locker rooms. Schools need to proactively develop a policy that is researched and reviewed carefully by attorneys so that there can be procedures in place prior to any student coming forward and looking for assistance in navigating this already difficult transition.

### **Analysis of Needs**

#### **Educational Analysis**

Analyzing the assimilation of a student undergoing a gender transition into a school is first and foremost about access to education. If any student does not feel comfortable in their surroundings, then they will not be able to fully access the information provided to them by their teachers. It is the responsibility of the school administration to create an environment in which every student feels safe and secure, both physically and emotionally. A big part of that is to ensure that a student is comfortable accessing all facilities one would need access to over the course of the school day. A student who is coming to terms with a disparity between his sex assigned at birth and his perceived gender does not want to become involved in a debate over which restroom to use (“Transgender students and school bathrooms,” n.d.; Orr & Baum, 2015). It is up to the school to provide guidance to that student, as well as all other students, on both how and why the school policy is set up the way it is.

In a 2011 school climate survey (Kosciw et al., 2012), The Gay, Lesbian and Straight Education Network (GLSEN) surveyed over 8,500 students aged 13-20 in over 3,000 distinct school districts across all 50 states. This survey found that:

- More than one fifth of students said that their schools or school personnel discriminate against LGBT people through formal or informal policies and practices.
- Students also expressed feeling invisible in the school setting, since their classes rarely included LGBT-related curricular content, and school policies against harassment/bullying did not specifically protect them.

This survey also showed that LGBT students who reported being harassed had significantly lower grade point averages and were less likely to go forward with their education following high school than straight peers.

### **Economic Analysis**

There will undoubtedly be an economic impact on school districts as they look for creative ways to adapt their current building structures to fit the needs of all students given this relatively new emergence of the transgender student. The most commonly utilized response to the challenge of taking a student of one genetic makeup and allowing them to use the facilities of the opposite gender with which they identify is to go to gender-neutral spaces. For example, many staff restrooms in schools are single stall facilities with one toilet, one sink, and a lockable door. A challenge exists that you cannot tell a transgender student they must use those facilities. Some are fine with that accommodation, but it must be a jointly agreed upon decision. Recent court decisions point toward students being granted access to the restroom of the gender with which they identify if they so choose. This is the fact that many conservative people balk at, stating that their child is not comfortable using a restroom with another student who is undergoing a transition into the gender, but was born a different sex.

Districts that are constructing new facilities are keeping this issue in mind when they build new schools, some creating gender-neutral restrooms that consist of a series of single-user stalls with doors that are available to anyone and then just a common hand washing area. This does create a space that could be used improperly by students who make poor choices, but that can be handled through normal disciplinary processes. For schools that already have existing structures, the challenge is a little more complex. The simplest, and least expensive option, is simply to allow any transitioning student to use the restroom of the gender with which they identify, if that is their wish, and let students who may be uncomfortable know that the transgender student has a right to use that restroom. If they are not comfortable with it, they can also find another restroom. Schools may also open up as many single user restrooms as they can for use by any student in the school. Depending on the chosen path, the economic impact can run anywhere from simply purchasing a few signs to significant reconstruction of restroom spaces.

There is also an economic impact to society if we do not take measures to create an inclusive environment for all. In 2014, Badgett, Nezhad, Waaldijk, and Rodgers released a study looking at the relationship between LGBT inclusion and economic development. They found a conclusive link between those two things:

The macro-level analysis reveals a clear positive correlation between per capita GDP and legal rights for LGB and transgender people across countries as measured by the Global Index on Legal Recognition of Homosexual Orientation (GILRHO) and the Transgender Rights Index (TRI) respectively. The simplest correlation shows that one additional right in the GILRHO (out of eight rights

included) is associated with \$1,400 more in per capita GDP and with a higher HDI value. In other words, countries with more rights for LGBT people have a higher per capita income and higher levels of well-being. (p. 2)

One other socio-economic issue that merits consideration in this analysis is the impact that a policy supporting students undergoing gender transitions would have on other underserved populations that make up a much larger segment of the general population. There is a great deal of research (Harper & Davis, 2012; Solorzano, Villalpando, & Oseguera, 2005; Losen, Hodson, Ee, & Martinez, 2014) about the significantly higher number of minority students receiving special education services and a higher percentage of office discipline referrals. Would the time and money spent in training and facilities improvements while implementing a transgender support policy be better spent working with school staff members to help them better understand the needs of the minority students and working toward minimizing that disproportion? Many would say it would.

The reality is, there are many areas of education in America that could benefit from increased attention and/or financial support. In Illinois, there has been much made of the disparity of financial support for public schools due to the funding formula coming from local property taxes (Kurban, Gallagher, & Persky, 2012). This creates a system where affluent neighborhoods, where students are already at an advantage compared to inner city students, are well-funded and inner city schools have to scramble for resources. There are many topics like these that need and deserve attention. This paper is merely meant to shine a light on one of these areas.

## **Social Analysis**

Schools are social environments at their very core. Finding ways to fit in and establish an identity are age-old challenges faced by students around the world. Adding the challenge of being confused about your gender identity to the list of challenges faced by teenaged children is just one more layer for them to have to navigate. Helping those students find ways to be true to themselves while protecting them from ridicule is a daunting task, but one that must be taken up.

The Gay, Lesbian, Straight Education Network (GLSEN) conducts a biannual school climate survey of American schools. The most recent published report showed about 95% of transgender students reported that they heard derogatory comments about their sexuality (i.e., – dyke, faggot) in school. Just under 60% of that same group of students reported feeling unsafe at school because of how they expressed their gender (GLSEN, 2017). This most recent survey was the first time in a decade where the data did not show a marked decrease in the feelings of victimization based on sexual orientation. It appears that progress in this area is slowing.

There is data being collected from schools that have successfully created transition plans for transgender students that provides hope for those undergoing transition. Non-profit watchdog group Media Matters (Perceland, 2015) contacted large school districts in 12 states that have enacted laws for the protection of transgender students. All of those districts reported zero cases of “harassment or inappropriate behavior” because they allowed “transgender students to access facilities they are comfortable with.” This does show that while this transition will likely have challenges, it is possible to make it go well for all students.

The other side of this discussion is the social impact on the general student population. The primary argument offered by families that feel it is one's sex assigned at birth that should determine which restroom or locker room a student should use is that their own child is uncomfortable using a facility with a transgender student. The reality is students spend very little time in the locker room and are simply going about their own business and not really concerned with what other students are doing. Even if schools are not putting specific structures in place to provide privacy for a transgender student or another student, there are steps that can be taken: go around a corner, use a bathroom stall, etc. (Gross, 2018; Howell, 2017). Regardless of your point of view on this issue, there is no denying the social responsibility that schools have in providing a safe environment in which young adults can grow.

### **Cultural Analysis**

Another lens through which to analyze this issue is the cultural lens. What does the need for this sort of a policy say about the current culture in the United States? One of the founding tenets of our country, prominently listed in the Declaration of Independence, is that all men are created equal. The fact that a policy needs to be created to allow a student to use the restroom associated with the gender with which they identify shows that we are not treating all men as equals.

There are a number of stories about how human beings have a deeply seeded fear of things they do not know or understand (Winters, 2016). Parent groups demonstrating outside of school board meetings because a transgender student is using a restroom with their cisgender child is an example of that lack of understanding. Schools of all levels are meant to be places for learning and understanding. Espousing narrow viewpoints and not

respecting the differences that all people bring to a melting pot nation simply do not line up in an educational environment.

### **Legal Analysis**

While the legal picture involved in the topic of transgender student access to restroom and locker room facilities is starting to get some clarity, it is still far from clear. Recent judgments [J.A.W. v. Evansville Banderburgh, Grimm v. Gloucester, Parents for Privacy v. Dallas (Oregon)] have leaned toward students being allowed access to the facilities that are associated with the gender with which they identify. The advice my current district has received has revolved around that fact, as stated above. In order for a district to protect itself from litigation, it must create directives about which facility a transgender student must use, even if it is a non-gender specific, single-user facility. The key is to allow students to make the decision based on what makes them feel comfortable.

### **Moral/Ethical Analysis**

As educators, the vast majority of us are interested in the best interests of a child, above all else. So when it comes to a child who is undergoing the anxiety producing process of a gender transition, we should feel morally obligated to support them in whatever way possible. Allowing them to use the restroom that makes them the most comfortable seems like a small concession. Parent groups, like “Parents for Privacy” in the Maday v. Palatine School Board case, say we have a moral obligation to protect the privacy of our cisgender daughters from someone who was born a male, but identifies as a female, using the girls locker room (Kutsyuruba, Klinger, & Hussain, 2015; Lourgos, 2018). The informed person would counter that argument with the fact that the girls in the locker room don’t need protection from the transitioning student any more than they

need it from the other genetic females in the room. In fact, they probably need less protection, as the transgender student is most likely hoping to draw as little attention as possible. Families need to trust that schools will apply the appropriate discipline procedures to all students and minimize any issues. As discussed in the economic analysis, schools can also put some physical barriers in place to make locker rooms more private for all users.

### **Conclusion**

How to assist a transgender student to successfully navigate the hallways of a public school is not an easy task. Regardless of the steps taken, those students will often be the target of harassment, or at the very least, a good deal of unwanted attention. From this perspective, we just have to assure the student and family that we will enforce discipline on students who act inappropriately like we would in any situation. There are a lot of things we can control that we have an obligation to control. This is where a clear policy can guide school leaders in how to put measures in place that will allow a transgender student to feel comfortable being who they are. Creating a policy that starts with clear communication between the school and the student and his or her family will set the proper tone for making a student feel comfortable. Then the team will need the backup of a well-written policy that states all students have the right to use the restroom and locker room of the gender with which they identify. For most students, that will be the same as their birth sex. If it is not, that still does not change this right.

To alleviate any public backlash, it would be wise for schools to communicate this policy prior to having a student who wants to use the facilities of a different gender than their birth sex. Based on the experiences of other school districts, a policy like this

will often be met with some resistance, but an early communication and community education will allow it to be more smoothly implemented once there is a student who wants to apply the provisions of the policy. It is simply the right thing to do.

### **SECTION THREE: ADVOCATED POLICY STATEMENT**

Section 504 of the Rehabilitation Act of 1973 states that all children have a right to a free and appropriate public education. Much of this paper's first two sections laid out how many school environments are not meeting the needs of the transgender community members, while many others are downright hostile toward the LGBTQ community. It is the responsibility of educators to ensure that every child is accessing their right to education. If the environment in our public schools is not providing that, then we need policies in place that will ensure that happens.

#### **Goals and Objectives of the Policy**

The goals and objectives of this policy are simply to ensure that an environment conducive to learning is provided to all students in a public school. Recent studies (Clarke & Russell, 2009; Scherr, 2012) have shown that LGBTQ students are much more likely to experience bullying or feelings of not being safe while at school than their peers. It is easy to understand how students who do not feel safe while at school will not be able to perform at their optimum level. The same can be said about a student who does not feel comfortable using the bathroom of a gender with which he does not identify. Those sorts of things will only get in the way of learning. Scherr went on to say that LGBTQ students are four times more likely to skip school than their non-LGBTQ classmates. If schools can take steps to make LGBTQ students feel more comfortable at school and make them feel in greater control of their decisions, those numbers should come down.

Kutsyuruba et al. (2015) stated that, "bullying prevention policies and programmes must explicitly prohibit discrimination based on sexual orientation and gender expression." It is policy that will mandate the creation of an atmosphere where

this population of students will feel a part of the school community and comfortable enough with how they fit to allow them to maximize their learning. In the end, this will benefit the entire school community.

### **Stakeholders Represented by the Policy**

The primary stakeholders represented in this policy are all transgender students attending public schools. It is their rights that are under-represented in the public school setting and their rights that need some attention that could be provided by the policy for which I am advocating. Much like the civil rights movement of the last century, there is a segment of our population who do not have the same freedoms that most of us take for granted. This policy will be a big step forward in that movement.

The school districts across Illinois are also stakeholders in this policy. In many cases, there will be financial implications attached to the adoption of this policy. But those implications do not need to be large. With some creative problem solving and out-of-the-box thinking, the needs of transgender students in regard to locker room and restroom use can be met without the need for significant reconstruction of facilities.

Finally, to a lesser degree, the entire student body of any school working with a transgender student is also a stakeholder. Any educator who has spent time in a school setting will be able to discuss the importance of school climate and culture on the teaching and learning process. A school with a negative climate or a non-inclusive culture will struggle to meet the needs of its students due to the fact that the students, and/or the teachers, are not available for the educational process because they do not feel safe or comfortable. It goes back to the work of Maslow referred to earlier in this paper.

### **Rationale for Validity of the Policy**

All students have a right to feel safe at school, and students will learn better when they do feel safe. Many authors have spent time writing about that very thing: Fullan (2013), Samdal (1998), McGuire et al. (2010), Twemlow, Fonagy, and Sacco (2002), and Libbey (2004) to mention a few. Greytak et al. (2009) and their follow up work in 2012, clearly showed that an overwhelming number of LGBTQ students do not feel safe, or even comfortable, in their current school. Sitting down with a transgender student and his or her family and having a discussion on how to help this student feel comfortable and help them with this transitional phase of their life is simply the right thing to do. Schools already make use of their resources to help students who are dealing with learning disabilities, head trauma, or mental illness. Meetings are held and supports are put in place to help those students, both because it is right, and in many instances, because there are policies that say schools will provide those supports. Gender transitioning students should be afforded the same privileges.

### **Current Political Landscape Impact on the Policy**

It is unfortunate that providing assistance to a group of students in need has become wrapped up in an increasingly political debate. As mentioned earlier, in early 2017 the current presidential administration revoked the previous guidance provided in a joint “Dear Colleague” memo from the Departments of Education and Justice. The National Center for Transgender Equality tracks the various policies that are unsupportive of the rights of transgender individuals. This includes ordering federal prisons to house transgender inmates in facilities of their birth sex, allowing adoption agencies to refuse adoption to otherwise qualified transgender adoptive parents, and not

allowing transgender soldiers to represent themselves as being of the gender with which they identify.

The discriminatory practices cross many federal agencies. On the heels of the Department of Defense restrictions on transgender service members, the Department of Health and Human Services is preparing to issue guidance to medical professionals and insurance companies that would allow them to refuse service and/or coverage to transgender individuals (Weixel, 2019). Betsy DeVos refused to take any action on a number of complaints filed with the Department of Education regarding transgender discrimination over the past two years. In an April 2019 hearing with the House Education Committee, DeVos acknowledged she was aware of recent data on the poor performance of transgender students who have been harassed and the rise in suicide attempts by transgender students. Even faced with that alarming data, she refused to acknowledge any need to make any changes to the most recent “Dear Colleague” letter (Anapol, 2019).

It is clear that the current political landscape of the United States is having an impact on the ability of transgender students to fully access their right to education. The political party currently in power in the country should not stand in the way of any group of students receiving a proper education. This is an issue that should cross all party lines and be simply considered a human right. Currently, that is not how it is being handled.

## **SECTION FOUR: POLICY ARGUMENT**

The Illinois School Code (105 ILCS 5/10-20.12) offers protection for all students to have equal access to all education related programs and services. The Illinois State Board of Education offers further direction [23 Ill. Admin. Code 1.240(b)] by stating:

No school system may exclude or segregate any pupil, or discriminate against any pupil on the basis of his or her race, color, religion, sex, national origin, ancestry, age, marital status, or physical or mental disability, sexual orientation, pregnancy [775 ILCS 5/1-102(A)], gender identity, or status of being homeless [105 ILCS 45/1-5 and 42 USC 11434a(2)].

This policy is looking to provide some specific guidance to school districts as to how they can navigate this guidance and to stay in line with the guidance handed down in recent court decisions on the topic.

### **Pros**

The biggest pro to support the following of this policy is to protect the school district from discrimination lawsuits and American Civil Liberties Union (ACLU) complaints. As more and more courts hand down judgments in support of protecting the rights of transgender students in a public school setting (Grimm v. Gloucester, Ash v. Kenosha), it is imperative that schools are proactive about their policies and ensure they are both in the best interest of the student and in line with school code. While going against some of these decisions may not be in direct violation of school code at that time, it is part of the responsibility of school administrators to stay on top of these decisions as it is always harder to change course down the road than it is to make an informed decision at the start and maintain that course.

Another pro for adopting a policy that allows students to express their gender identity the same way they feel it internally is the positive impact it would have on school climate. Many issues become an “us vs. them” situation in schools: dress code, workload, and discipline, just to name a few. Granted, for the sake of productive and efficient school operation, it is up to school administration to make decisions that may be unpopular with students. This issue, however, is such an emotional, personal aspect of a student’s life; it would be a shame to not involve the student in this discussion. There is a good deal of research (Elia, 1993; Remafedi, 1987; Unks, 1994) that analyzed the lack of support schools provide to LGBT students and the negative impact that has on their lives, in and out of school. Suicide is the number one cause of death for LGBT teens (U.S. Department of Health and Human Services, 1989). Research has also shown that, “LGBT youth are particularly at risk for suicide, as well as verbal and physical harassment, substance abuse, sexually transmitted diseases, homelessness and prostitution, and declining school performance” (Munoz-Plaza, Quinn, & Rounds, 2002).

Another pro for adopting a policy that honors the voice of the student and family is the investment in the relationship the school has with its parent community. Many, likely most, decisions a school makes about the education of a child are made without any consultation with the parent population. It would be horribly inefficient to try to do that often. When large decisions are made, such as school calendar changes, school hour changes, or the inclusion/exclusion of fine arts programming, there will often be a survey or an information night for parents to become informed about the topic. Even if the parents do not have a say in the outcome, the school wants them to be aware of the motives for the change. In a case such as a transgender student feeling comfortable in the

school environment, parents and students should invariably be a part of that discussion. The sheer fact that some schools have not listened to those voices (*Ash v. Kenosha*, *Grimm v. Gloucester*) is inconceivable. Adopting a policy that mandates a conversation between school leaders and the student and family of a transgender student who is in the process of a gender transition will not only foster a strong relationship with that family, but portray to all families an administration that is willing to listen and work with all families.

### **Cons**

Unfortunately, one of the biggest potential cons for the adoption of this policy also involves relationships with families. The argument that many have used as a counterpoint to allowing a transgender student to use the restroom/locker room of the gender with which they identify is the infringement of a right to privacy of other non-transgender children. Even while this argument has been refuted in multiple cases (e.g., – Federal District Court in Oregon in July, 2018), it is still an emotional argument being made by parents who genuinely feel that the privacy, and sometimes safety, of their child is being compromised by allowing a child who was born a different sex into that restroom. When a school district puts into place a policy that parents feel compromises their children, resistance will be offered.

Recently, a new middle school was built near Reno, Nevada with restrooms that were gender neutral (Gross, 2018). Boys and girls would enter the same room, make use of a private, lockable stall, and then use a common area sink to wash hands. This design was met with the same sort of concern from parents as many of the cases where a transgender student is allowed access to the restroom of the gender with which he/she

identifies. However, courts have ruled multiple times that more needs to be proven than students feeling uncomfortable with that arrangement before a transgender student would be denied access (*Ash v. Kenosha*, *Grimm v. Gloucester*).

In order to meet that resistance in a constructive manner, a detailed and well-thought-out communication plan must be implemented. While carefully communicating the reasoning behind the policy will not remove the anxiety that many feel about a child who was born a different sex sharing a restroom with their child, it will present a forum in which to have those discussions and provide a dedicated outlet for the sharing of concerns. This will limit the unforeseen protests and allow for those discussions to happen at pre-arranged times. Either way, since many of these viewpoints against using facilities associated with gender identity are deeply held beliefs, there will likely be a divide created by some parents and the school district. That is never a good thing.

The second, more practical, con to enacting a policy on working with students and families to allow students to feel comfortable with the facilities they use is the financial impact. The trend right now with the design of new or refurbished buildings is to move toward gender-neutral restrooms (Howell, 2017). This is a challenge at the high school or university level, but especially difficult for elementary buildings, where close supervision is more of a concern. Many school districts are looking to modify their current spaces to provide greater levels of privacy for all users. This, of course, comes at a cost.

At the heart of the restroom use debate is that transgender students are not treated any differently from non-transgender students. While some transgender students may be okay with using a single user staff restroom, that option should not be thrust upon the

student. To work around that, some schools pursue the idea that all restrooms are single user restrooms. In order to provide enough restrooms for a large number of students, this could create a substantial cost. For some larger schools, it is not even a viable option. Even adding curtained off areas in the locker room for any student to use for more privacy will have some expense tied to it. Before enacting a policy that involves providing transgender students access to the facilities of their identified gender, a district should have an in-depth discussion about the potential costs incurred and what they are (or are not) willing to do to create facilities that are equally available to all students.

## **SECTION FIVE: POLICY IMPLEMENTATION PLAN**

There are two main aspects that will need to be addressed when implementing this policy. The first is creating an avenue for discussion between the transgender student, the family, and school administration. The second is more in regard to the physical environment in the building and ensuring that a safe environment with adequate privacy is available for all students. Each of these has their own challenges, but both should be able to be accomplished with a reasonable amount of effort.

### **School/Family Conversation**

At the heart of this policy is the creation of an open dialogue between the school and the family. When a student makes it known to a counselor, social worker, teacher, or other school staff member that he or she is in the process of undergoing a gender transition, school officials will invite the student and his or her parents or guardians to a meeting to listen to the wishes of the student and develop a plan to ensure those requests are met. A form such as the Gender Transition Plan, located in Appendix A (Orr & Baum, 2015), should be used to guide the conversation with the student and family. It is at this time that the student should be given time to share his or her thoughts on how he or she would like to be addressed. Usually, this will involve a change in first name and often a change in the gender pronoun to that of the gender identity pronoun or the non-gender-linked “they.” IL Public Act 100-0360 allows school districts to change the gender on school records to that of the gender with which the student identifies. It also allows for the change of first name and can do both of these things without a legal change in birth certificate, as long as there is information from a licensed health care provider citing that the student is undergoing a gender transition. Once that information has been

gathered from the student and his or her family, it should be disseminated to the student's team of teachers. Every effort should be made to use the student's desired name and preferred pronoun.

The other item to be discussed at this meeting will be which restroom and locker room the student feels most comfortable using. Depending on what point in the gender transition the student is in currently; he or she may not be ready to use the facilities of the identified gender. Some may prefer to use a completely separate location to change for physical education or to use a single use restroom in the school (i.e., in the office or a staff restroom). These options should be made available, but at no time should a student be told those are the facilities they must use. A forced decision like that would open up a district to a discrimination suit as other students are not required to use those options.

Professional development will need to be offered to school staff to help them understand the needs of the transgender student. Health care facilities, such as Lurie's Children's Hospital, offer training for educators to assist them in better understanding what is involved in a gender transition and how to help other students who may need assistance in their interactions with a transgender student. This staff training should happen, ideally, even prior to the adoption of this type of policy. Having a staff educated about the needs of a transgender student will allow this policy to be more seamlessly enacted, but the training should not hold up putting this policy in place.

### **Facilities**

The other aspect of this policy is having proper facilities to ensure all students feel safe and secure in their environment and have the desired amount of privacy they need.

School administration and facilities staff will need to do an analysis of their current restroom and locker room arrangements in regard to privacy. The important thing to keep in mind when analyzing the facilities setup is that all accommodations should be made with all students in mind, not just finding places for a transgender student to change or use the restroom. According to the Gender Spectrum publication, *Transgender Students and School Bathrooms*; “a private bathroom space must be optional; no child should be required to use such a space.” Since most schools are not set up for a high volume of students to use single use restroom facilities, accommodations within the standard restrooms and locker rooms must be provided.

One relatively simple modification to a locker room is to provide privacy-curtained areas for any student to use while changing. This may be a transgender student who desires privacy or a cisgender student who is simply more comfortable in a private area. Adding privacy curtains to already existing areas of each locker room can often accomplish this sort of a modification. Once again, the focus needs to remain on privacy for all.

When it comes to restroom use, as discussed earlier, all students should be allowed to use the restroom corresponding to their gender identity, regardless of the sex at birth. All school bathrooms should be designed with privacy in mind, whether there are transgender students in the population or not. Single-use stalls with functional doors are a must in both male and female bathrooms. If this is present, then that should suffice in most cases. If a student undergoing a gender transition prefers to use a single-user restroom, such as in the nurse’s office, every effort should be made to grant that request.

## **SECTION SIX: POLICY ASSESSMENT PLAN**

The success or failure of the implementation of this policy will be measured through the successful support of students who are undergoing a gender transition in a school. Building principals are already held responsible for the safety and security of all students within their buildings. This policy is simply providing them with guidance and support for working with transgender students and their families. Depending on the school population, it may be an extended period of time before there is a need for this policy or it may impact several students at one time. This variance makes it difficult to set any sort of timeline to measure the success of the policy.

Building principals in a school district will inform the superintendent of any students who are making use of facilities not corresponding to their birth sex while undergoing a gender transition. Additionally, they will make quarterly updates to the superintendent regarding the progress of the student and his or her transition. The superintendent will ensure any needed support from the facilities staff is provided to the building principal.

Building principals will also assign a point person to each transgender student who will periodically check-in with the student on the status of the transition plan and the student's comfort level in school. This point person is ideally a school social worker or counselor, but could also be an IEP or 504 plan case manager if one already exists. That point person will keep the principal informed of these conversations so that any adjustment to the transition plan can be made.

School staff members will undergo professional development from counselors trained in the areas of gender identity and transition. This will help the staff members

best identify students who may be struggling with their identity and help to direct them to the proper resources. It will also help them better understand how to communicate with these students using the correct terminology and to help them coach other students in the same.

Based on the subjective conversations of this researcher with regional colleagues, the number of students undergoing gender transitions in any one school is small. At the time of this writing, only one study has been released attempting to quantify the number of individuals who identify as transgender in the United States (Herman, Flores, Brown, Wilson, & Conron, 2017). This study, conducted by the Williams Institute at the UCLA School of Law found that 0.7% of 13 to 17 year olds identified as transgender. The report stated that there is some variation in the data based on how states have started to collect this information through census data. As educators, it is certainly worth monitoring this demographic of census data. If these numbers start to show a trend in either direction, it could have a large impact on how schools serve this population.

## **SECTION SEVEN: SUMMARY IMPACT STATEMENT**

The primary impact of this policy will be the creation of a safe and welcoming environment that embraces students of all types in a school setting. This sort of inclusion is reflective of the United States Declaration of Independence (US, 1776) that states, “all men are created equal.” It is a widely held belief that people from every walk of life should be treated equally. In recent years, this mindset has become more associated with a liberal view and far-right conservatives do not feel that individuals who are outside of the norm, whatever that is, are considered equal. That is why this sort of policy has not been fully embraced by all school districts attempting to implement it.

As discussed earlier in this document, the State of Illinois has laws in place to protect the rights of transgender students in a school setting. This policy would take that a step further and ensure open lines of communication between the school and the student and his/her/their family. This is the only way to ensure that student’s needs are being met appropriately. If schools can use the Gender Transition Plan document in Appendix A with fidelity, it will create a collaborative relationship between school and family and ensure what is certainly a difficult time in the life of a student goes more smoothly than without such a policy.

Some with ultra-conservative values will say that the needs of the majority of the students in a school are being compromised for the needs of the few. The argument is frequently made that someone’s daughter does not feel safe in a locker room with a student, born male, who is transitioning to meet her female gender identity. The argument to that would simply be that any student who does not feel safe should speak with an adult and share that report. More likely, the feeling that student has is one of a

lack of comfort, not a lack of safety. A transgender student's presence in a bathroom or locker room is not a security threat, but could make some students uncomfortable. This is why the facilities adjustments that are made are available to all students, to help them feel more comfortable. Any compromise in the area of student safety will be dealt with using the school's code of conduct whether the student is transgender or not.

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## APPENDIX A: GENDER TRANSITION PLAN



**– Confidential –**  
**Gender Transition Plan**

This document supports the necessary planning for a student’s formal transition of gender from its commonly assumed status to something else. Its purpose is to create the most favorable conditions for a successful experience, and to identify the specific actions that will be taken by the student, school, family, or other support providers.

School/District _____	Today’s Date _____	
Student’s Preferred Name _____	Legal Name _____	
Student’s Gender _____	Assigned Sex at Birth _____	Student Grade Level _____
Date of Birth _____	Sibling(s)/Grade(s) _____ / _____ / _____	
Parent(s)/Guardian(s)/Caregiver(s) /relation to student		
_____ / _____	_____ / _____	
_____ / _____	_____ / _____	

What is the nature of the student’s transition (male-to-female, female-to-male, a shift in gender expression, etc.) \_\_\_\_\_

How urgent is the student’s need to transition? Is the child currently experiencing distress regarding their gender? \_\_\_\_\_

**PARENT/GUARDIAN INVOLVEMENT**

Are guardian(s) of this student aware and supportive of their child’s gender transition? \_\_\_ Yes \_\_\_ No  
If not, what considerations must be accounted for in implementing this plan? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INITIAL PLANNING MEETING**

When will the initial planning meeting take place? \_\_\_\_\_ Where will it occur? \_\_\_\_\_  
Who will be the members of the team supporting the student’s transition?  
 Student \_\_\_\_\_  
 Parent(s) \_\_\_\_\_  
 School Staff \_\_\_\_\_  
 Other \_\_\_\_\_

**STUDENT TRANSITION DETAILS**

What is the specific information that will be conveyed to other students (be specific)? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
What requests will be made? \_\_\_\_\_  
\_\_\_\_\_

With whom and when will this information be shared?

- With peers in the transitioning student's class only Date: \_\_\_\_\_
- With peers in the student's grade level Date: \_\_\_\_\_
- With some/all students at school (specify) \_\_\_\_\_ Date: \_\_\_\_\_
- Other (specify) \_\_\_\_\_

Who will lead the lessons/activities framing the student's announcement? \_\_\_\_\_

What will the lesson/activities be? \_\_\_\_\_

Will the student be present for the lesson/sharing of info about the transition? \_\_\_\_\_

If yes, what if any role does the student want to play in the process? \_\_\_\_\_

Once the information is shared, what parameters/expectations will be set regarding approaching the student? \_\_\_\_\_

Other notes, considerations or questions \_\_\_\_\_

**KEY DECISIONS PRIOR TO STUDENT'S TRANSITION**

**Communications with Other Families**

Will any sort of information be shared with other families about the student's transition? \_\_\_\_\_

With whom: \_\_\_ Families in child's grade \_\_\_ Whole School \_\_\_ Other (specify) \_\_\_\_\_

Who will be responsible for creating this? \_\_\_\_\_ When will it be sent? \_\_\_\_\_

How will it be distributed? \_\_\_\_\_

What specific information will be shared\*? \_\_\_\_\_

Questions/Notes: \_\_\_\_\_

\* see sample letters

**Training for School Staff**

Will there be specific training about this student's transition with school staff? \_\_\_\_\_ When? \_\_\_\_\_

Who will be conducting the training? \_\_\_\_\_ What will be the content of the training? \_\_\_\_\_

Questions/Notes: \_\_\_\_\_

**Parent Information Night About Gender Diversity**

Will there be specific training for school community members? \_\_\_\_\_ When? \_\_\_\_\_

Who'll conduct it? \_\_\_\_\_ Will it reference the student's transition? \_\_\_\_\_

What will be the content of the training? \_\_\_\_\_

\_\_\_\_\_

Questions/Notes: \_\_\_\_\_

\_\_\_\_\_

**Class Meeting with Parents**

Will there be any meeting with the families of the transitioning student's peers? \_\_\_\_\_ When? \_\_\_\_\_

Who will lead the meeting? \_\_\_\_\_ Who will be attending the meeting? \_\_\_\_\_

What will be the purpose for this meeting? \_\_\_\_\_

\_\_\_\_\_

**Identifying and Enlisting Parent Allies**

Are there any parents/adults in the community you would like to enlist in support of the child's transition? \_\_\_\_\_

If so, who? \_\_\_\_\_

When will you speak with them? \_\_\_\_\_ What will be your request? \_\_\_\_\_

\_\_\_\_\_

Questions/Notes: \_\_\_\_\_

\_\_\_\_\_

**Identifying and Enlisting Peer Allies**

Are there other students you would like to enlist in support of the child's transition? \_\_\_\_\_

If so, who? \_\_\_\_\_

When will they be spoken with? \_\_\_\_\_ What requests will be made? \_\_\_\_\_

\_\_\_\_\_

Questions/Notes: \_\_\_\_\_

\_\_\_\_\_

**Siblings**

Does the student have any siblings at the school? \_\_\_\_\_ What needs to be considered for them?

Training in their classroom(s)? \_\_\_\_\_ Emotional Support? \_\_\_\_\_

\_\_\_\_\_

Questions/Notes: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**TIMELINE**

Which of the following will take place in relation to this student’s gender transition, and when will it occur and who will be responsible for making it happen?

<u>Activity</u>	<u>Date</u>	<u>Lead</u>
<input type="checkbox"/> Initial Planning Meeting	_____	_____
<input type="checkbox"/> Lessons/Activities with Other Students	_____	_____
<input type="checkbox"/> Communications with Other Families	_____	_____
<input type="checkbox"/> Training for School Staff	_____	_____
<input type="checkbox"/> Parent Information Night About Gender Diversity	_____	_____
<input type="checkbox"/> Class Meeting with Parents	_____	_____
<input type="checkbox"/> Identifying and Enlisting Parent Allies	_____	_____
<input type="checkbox"/> Identifying and Enlisting Peer Allies	_____	_____

What are the specific follow-ups or action items emerging from this meeting and who is responsible for them?

Action Item	Who?	When?