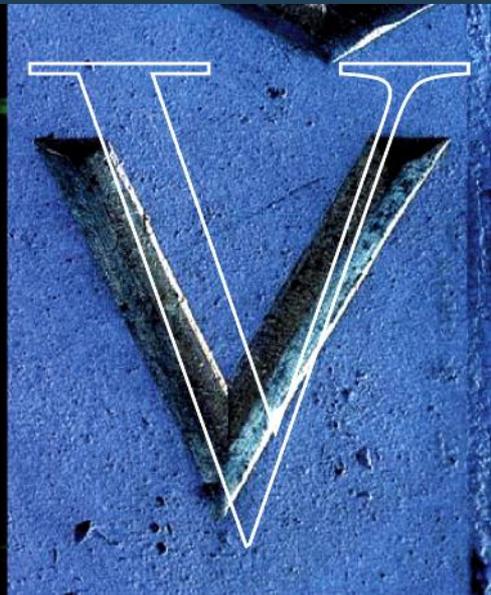
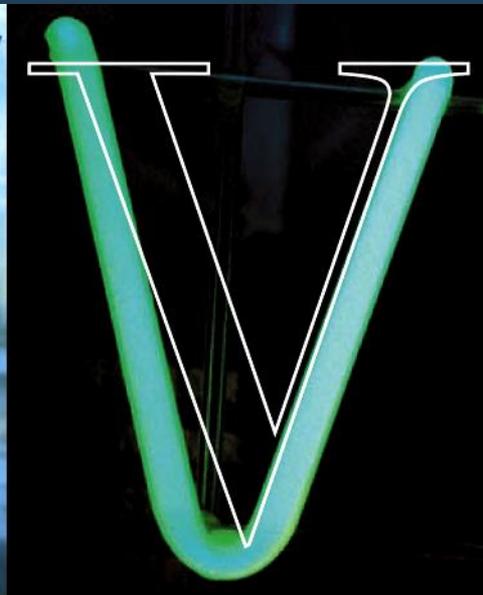
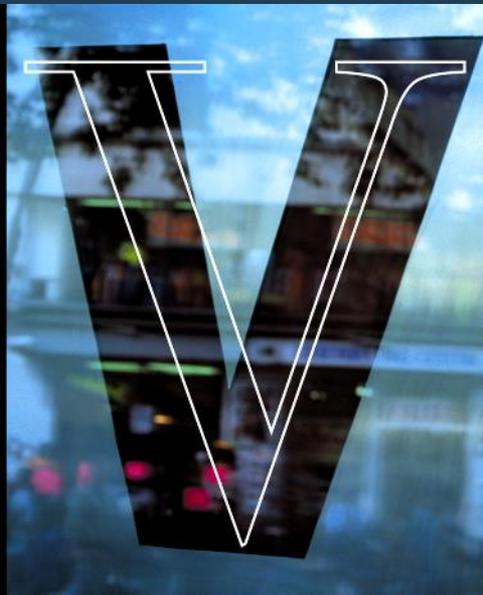
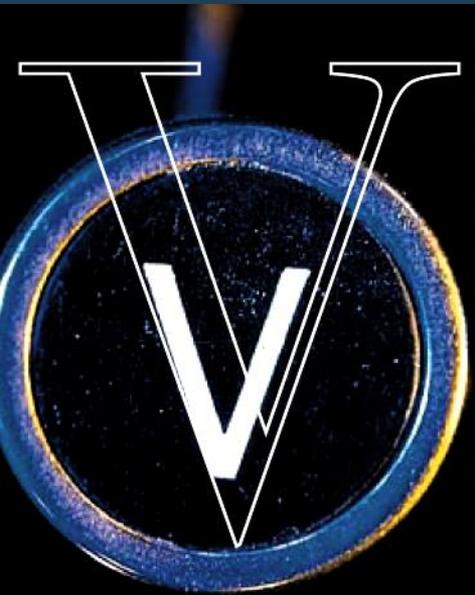


VENABLE[®]_{LLP}

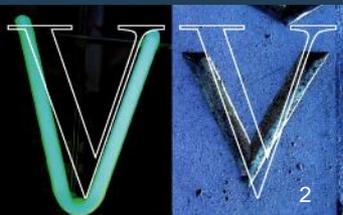
It's A Trans New World:
Creating Safe Space for Transgender Students

*Megan Murphy, NCGS
Caryn Pass & Megan Mann, Venable, LLP
NAIS Annual Conference 2016*



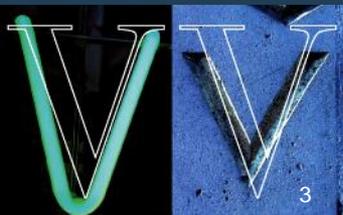
transgender students

- students increasingly self identifying
 - transgender, gender non-conforming other gender based identities
- identifying at younger ages than in years past
 - 2014/15 school year: 25 out of 40 students “k-3”
- experience high levels of harassment and bullying both in their school in their non-school communities.
- authentically identify and express their feelings in a self selecting manner
 - more fully participate in school community
 - higher performance
 - lower feelings of isolation and depression
- fully and safely incorporate into the school community



legal claims

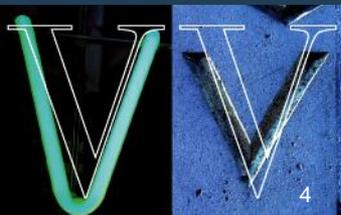
- asserted against schools by students and their parents
- most common claim = negligence on the part of the school
 - bullying
 - failing to address behavior (failure to act or supervise)
 - by other students, faculty, staff and parents
 - results from comments, actions behavior of others (not invited to parties, play dates)
 - failure to take actions ensuring safe space i.e.
 - appropriate **physical facilities**
 - treat students based on his/her self identified gender
 - training and educating faculty and staff
 - educating parents, students, members of community
- other claims
 - **failure to educate:** hostile environment prevented student from receiving an education
 - **misrepresentation and detrimental reliance:** claims of “welcoming”, “open”, “accepting” environment inaccurate
 - return of tuition; payment of other expenses including counseling



terms of identification

- wide range of terms
- students self select; avoid **requiring** preferred self definition
- **Gender Identity***:
 - deeply held sense or psychological knowledge of own gender
 - same or different than the gender assigned at birth.
- **Gender Expression***:
 - manner a person represents or expresses gender to others
 - through behavior, clothing, hairstyles, activities, voice or mannerisms.
- **Transgender***:
 - gender identity or expression different than traditionally associated with assigned sex at birth
 - transsexual and trans
- **Transition***:
 - living and identifying as one gender to living and identifying as another.
- **Gender Nonconforming***:
 - gender expression differs from stereotypical expectations
 - “feminine” boys, “masculine” girls, androgynous.
 - identify outside traditional gender categories
 - identify as both genders.
 - *gender diverse, gender expansive, gender binary*

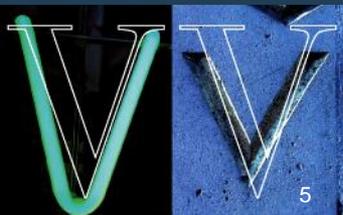
*Wise In The
School World*



*“Model District Policy on Transgender and Gender Nonconforming Students” Gay Lesbian and Straight Education Network (GLSEN) & National Center for Transgender and Equality

creating a safe space

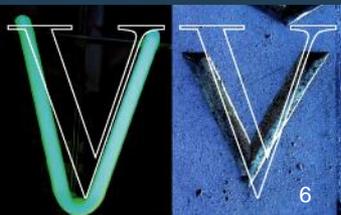
- transgender student response varies
 - listen closely to the individual student(s)
 - regularly evaluate and re-evaluate needs and concerns of transgender students
- community response varies
 - be prepared for the unexpected
- consider all factors that may impact school's response
 - age of the transgender and non transgender students
 - culture of school
 - geography of school
 - learning styles/learning differences
 - religious or other philosophy and beliefs
 - single sex
 - boarding/day



training, communicating, educating

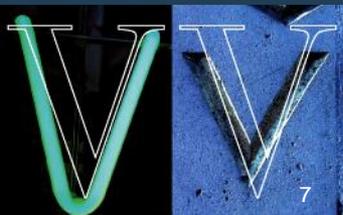
- Employee Training
 - include all employees, consultants others in school
 - do not identify or discuss specific student(s)
 - discuss how to:
 - speak about gender issues, support all students, speak to all students
 - Speak to other members of community (parents, trustees, applicants)
 - Identify, respond to and report bullying, responding to bullying
- Students: communicating and educating
 - all students in school, students in division, in grade, in class
 - consider age of students
 - Consider form of program and follow up
 - Discuss bullying and creating safe spaces
 - Student clubs: Gay Straight Alliance (GSA), Pride, Student Diversity Leadership Conference (SDLC)
- Parents: communicating
 - communicate on basic level with parents
 - what will be communicated to students
 - behavior expected of parents; including in community, protecting privacy of student,

*Wise In The
School World*



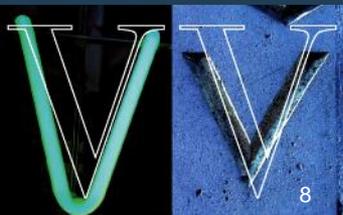
names, pronouns, records etc

- student selected name of choice
 - what is the name chosen by the student?
- dress code/style chosen by student
- sports teams and participation
 - does student play on team of gender of choice or gender of birth?
 - school's position
 - regional, league or other regulating entity
- student selected pronoun: He, she, it, they, them
 - may be applicable to other students in school
- Use of name in written format (birth name or selected name)
 - “Official/Legal” documents – Transcripts, birth certificate, Medical Records, ACT/SAT
 - “Non-official” documents - Class lists, yearbooks, school work & tests
- use of name orally (birth name or selected name)
 - in classroom,
 - during graduation
 - other school activities
 - with colleges



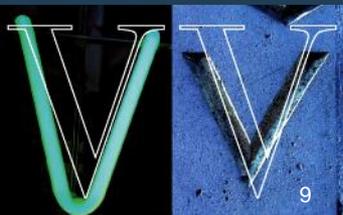
privacy and confidentiality issues

- sharing identity of student with members of the community
 - students, faculty, staff, other members of community (parents of other students)
 - Other entities: college, testing agencies, department of education, courts (guardian ad litem)
- speaking with parents of transgender/gender non-conforming student
- student communications with counselor or nurse
- maintaining and access to records related to transgender/gender non-conforming identity
 - registrar, nurse, testers or other professionals, counselors, division head, teachers
- medical issues
 - hormone therapy and other related medical strategies
 - medication and or treatment for anxiety or depression



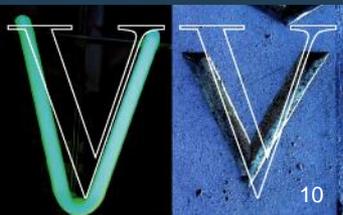
safe physical space

- use of bathrooms throughout the school
 - identified gender
 - use of bathroom in gender of choice or gender of birth
 - gender neutral
 - specific locations/convenient to student
- locker rooms
 - gender of choice or gender of birth
 - other options not in locker room
 - who decides?
- restrooms in sports fields or other out of the way campus locations
- other locations where students dress or use facilities
 - theatre, pool, ice rink
- field trips and other off site overnight sleeping arrangements
 - sport trips
 - international trips



supporting transgender and gender non-conforming student

- meet with student (and parent or guardian if appropriate)
 - discuss name choice, pronoun choice, dressing choice, disclosing to others in community, facilities, and sports
- determine whether student will communicate change and in what format
 - some make public comment, some do nothing
 - younger students often speak in matter of fact manner
- school “contact”
 - identify a school “contact”
 - “contact” regularly checks in with student and assists in other ways
 - if appropriate, communicate with parents
 - consider impact if counselor is “contact”
- confirm strategy for reporting and responding to allegations of bullying or other concerns.
 - avoid over and under reacting



applications and admissions process

- identification on application
 - he, she, other
 - male, female, transgender
- “Additional information that may assist increasing a positive learning environment”
- memorializing conversations with parents, student
 - discussions in admissions meetings
 - preparations prior to visit of student (especially younger students)
- responding to disclosure by parent or student
 - discuss with caution; allow parent/student to share as they deem appropriate
 - consider in advance how school will respond
 - policy guidelines



Venable Independent School Law Practice
wise in the school world

www.Venable.com/education

@schoollawyer

Caryn Pass

cpass@venable.com

(o) 202.344.8039

(o) 212.307.5500

(c) 202.222.8026

Megan Mann

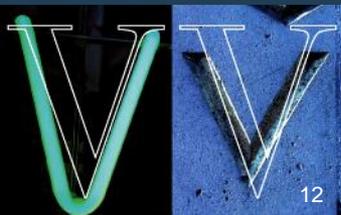
mmann@venable.com

(o) 202.344.4520

(o) 212.370.6260

(c) 917.597.1705

*Wise In The
School World*



New York

Washington D.C.

Los Angeles

San Francisco

Baltimore

the road ahead
is bright

*Wise In The
School World*

