

New Brunswick  
**Child & Youth**  
Advocate



Défenseur des  
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du Nouveau-Brunswick

# ***Model Policy for District Education Councils***

*September 9, 2023*

**FOR GREATER CERTAINTY**, the following guidelines will apply to schools when **interpreting and implementing** the provisions of Policy 713. **In determining this policy, the District Education Council has considered the entirety of Policy 713, Policy 703, (Sections 5.1, 6.1 and 6.4.1) and provisions of the Education Act (Section 1.1(a)), the Right to Information and Protection of Privacy Act (Sections 1, 5, 37, 43-46, 79), and the Human Rights Act (Sections 2.1, 3, and 6(1)(b)). This policy provides interpretations of the language in Policy 713 and resolves conflicting language within Policy 713 and between Policy 713 and those other policies and statutes.**

1. Regarding Sections 5.1, 6.1.2, and 6.3.2, schools will not release a student's personal information, including the name and biological sex, contained in the student's official record without the student's consent or for any purpose other than that for which the information was collected, as defined in the *Right to Information and Protection of Privacy Act Sections 1, 5, 37, 43-46, and 79*. To the degree Policy 713 conflicts with the *Right to Information and Protection of Privacy Act*, the statute shall prevail.
2. Regarding Section 6.3.2, "obtaining consent to talk to the parent" means obtaining the student's informed consent to talk to the parent.
3. Regarding Sections 5.1, 6.1.2 and Section 6.3.2, school personnel shall respect the direction of any student in regard to the name and pronouns they wish to be called in daily interactions with school personnel and other students. The student does not have to provide reasons for the change. For greater certainty daily interactions include but are not limited to classroom communication, extracurricular and co-curricular activities, free time, and social conversation.

School personnel may not withhold use of the student's preferred name and/or pronouns as a means of "obtaining consent to talk to the parent". The use of the student's preferred name and/or pronoun, consistent with their gender identity is an accommodation consistent with the *Education Act, Sections 1.1(a), 27(1)(b.1), 28(2)(c), Human Rights Act, Sections 2.1(n), 3 and 6(1)*, and the *Charter of Rights and Freedoms, Sections 7 and 15*.

4. As per Section 6.3.3 of Policy 713, all teachers, principals, guidance counsellors, psychologists and social workers are "appropriate professionals" and the student's communication with them regarding a preferred name starts a process in which the child is communicating with appropriate professionals on a plan to accommodate their gender identity, which includes encouragement to speak to and engage parents in a way which is appropriate to the individual student.
5. Regarding Sections 5.1, 6.1.2 and Section 6.3.2, school personnel shall not disclose a student's gender identity, gender expression, or requests for informal use of names and pronouns without that student's request. Teachers may not misinform or deceive parents but may advise parents of the student's rights under the *Right to Information and Protection of Privacy Act*, and provide reasonable consultation with the parent on the parent's options consistent with Section 13(2) of the *Education Act*. Schools are encouraged to proactively communicate with parents regarding this policy.

6. Regarding Section 6.1.5, “safe and welcoming” activities are those that allow every student to participate in a manner consistent with their gender identity. Schools should ensure that competitive, interscholastic sports at the middle and high school levels are regulated by arms-length bodies which can ensure universal participation, fair play and competitive balance.
7. Regarding Sections 6.4.2 and 6.4.3, schools will make best efforts to ensure that gender-neutral washroom and changing facilities are safe and of a quality and accessibility consistent with other such facilities. School personnel will use best efforts to accommodate all students’ use of private washroom and change facilities on school trips and extracurricular activities occurring off the school campus.