

## **Executive Summary, Policy Change of 5005-A & 5010-A and Associated Implementation Plans**

- The proposed policy change would add “gender identity/expression” to BSU Policy 5005-A Non-discrimination and Affirmative Action (addendum 1, p. 16) and BSU Policy 5010-A Anti-Harassment Policy (addendum 1, p. 29). The proposal for change was issued by the Professional Staff Senate, with the support of the Classified Staff Senate in the fall of 2004 (addendum 6 & 7, pp. 36 & 37). ASBSU passed a resolution in favor of the change in March 2006 (addendum 8, p. 38) and Faculty Senate passed a resolution in favor in April 2006 (addendum 9, p. 39).
- No current Boise State University policy or state or federal law exists protecting individuals who are transgender and the proposed policy change would extend equal protection to these individuals.
- Boise State has had students and employees who are transgender and will again. Response by staff to transgender individuals in the past has been inconsistent, sometimes positive, other times negative.
- The proposed policy change would require reasonable accommodation for transgender people, with emphasis given to respectful treatment. The policy would not require anyone to change his or her beliefs. Training for employees would be developed and implemented as needed by Training and Development.
- As this is a voluntarily adopted policy, we would define “reasonable accommodation” and the ensuing document does that. The policy is not meant to imply someone could come in one day as one gender then the next day as another gender.
- No employee grievance or student code of conduct procedure would change as a result of this policy proposal.
- The policy DOES NOT require the university to create new “unisex” toilets across campus; the university has several currently. A map of existing unisex toilets has been created (addendum 2, pp. 31-32) which will be provided to individuals in transition.
- Building codes already require that when new facilities are constructed, unisex toilets be in them (addendum 3, p. 33), so more of these restrooms will be in existence as the campus grows.
- Costs of implementation are negligible. Two signs on existing restrooms need to be changed, at an estimated cost of \$100 total and maps of the unisex bathrooms printed at an estimated cost of \$25 for several dozen.
- When an employee transitions, there is the possibility an outside consultant from the Employee Assistance Program will be needed to facilitate discussion with coworkers. Costs are estimated at \$175 per hour, for four hours, totaling \$700 per transitioning employee. The department would fund such costs.
- For students, each area of Student Affairs has created an implementation plan (pp. 8-12 and addendum 4, p. 34). Health, Wellness and Counseling has agreed to manage services for transgender students (no additional costs).
- For employees, each area that may be affected by the policy change has been included in an implementation plan (pp. 12-14 and addendum 5, p. 35). Human Resource Services has agreed to manage services for transgender employees (no additional costs).

# A Report for the President's Cabinet of Boise State University Policy Change of 5005-A & 5010-A & Associated Implementation Plans

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## Introduction

The enrollment of students and the hiring of staff who are transgender has already occurred on this campus. Faculty and staff have tried to meet the needs of transgender people with the same understanding and attitude they provide to all persons. But, without a clear university policy to follow, the overall response to transgender individuals—both employees and students—has been mixed.

The University has committed itself, through its goals, to embrace inclusiveness and accessibility. Specifically, the University's *Charting the Course* goals say Boise State will be: *A university with a vibrant culture that embraces and fosters innovation, responsiveness, inclusiveness, accessibility, diversity and effective stewardship.*

It is therefore time to develop a clear and unequivocal university policy regarding transgender people, reflective of a metropolitan research university of distinction and in keeping with institutional goals, especially in light of the fact transgender individuals have been at Boise State and will again.

## Definitions & Clarifications

- Sex:** The physical anatomy of a **male, female** or **intersexed** person (people born with ambiguous genitals and cannot be considered either male or female).
- Gender:** A social invention used to ascribe physical appearance standards and other social roles based on one's sex. Referred to as **boy/girl, man/woman**.
- Gender Identity:** A person's internal *feeling* of being a male or a female. Everyone has a gender identity. For transgender people, their birth-assigned sex and their own internal sense of gender identity do not match.
- Gender Expression:** The adoption or imposition of society's gender standards by/on a person. **What someone looks like** based on society's definitions of man/woman.
- Transition:** The complex process of altering one's sex. Transition includes some or all of the following: changing one's name and/or sex on legal documents, hormone therapy, and possibly some form of chest and/or genital alteration<sup>1</sup>.

In society, when we look at someone, we never see a person's biological sex; we see their gender. We presume their sex because society has determined males dress/act a certain way and females dress/act a certain way. All the traits assigned to males and females are social inventions—a garnish around biology. This invention is not a "bad" thing, nor should it change in and of itself.

Almost all people know their biological sex, never giving it a second thought. They readily adopt the gender expression society designates for their sex and no emotional conflicts exist because of this.

Individuals who are transgender are born biologically one sex, but their internal sense of being man or a woman (gender identity) does not match their body. When forced to adopt a gender expression corresponding to their biology (rather than what they feel like, gender identity), there is a huge disconnect. Why does this occur? No one knows, but psychologists have identified this discrepancy between internal feeling and biology as "**gender**

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<sup>1</sup>Adapted from the Gay & Lesbian Alliance Against Defamation, <http://www.glaad.org/> and the Human Rights Campaign, <http://www.hrc.org/>.

**identity disorder.”** Its existence is a medical fact<sup>2</sup>. Imagine someone being forced to wear the clothing of another gender all his or her life—wouldn't that make the person uncomfortable? That discomfort, magnified many times, is exactly what a transgender person feels.

To address this incongruence, transgender people do a number of things, based on personal preference, financial means and life situations. Here is a list (this is not exhaustive, but covers most situations):

1. Ignore it.
2. Dress, in private, as the opposite sex, but not in public.
3. Have a full sex change and *become* the opposite sex.
4. Dress as the opposite sex full-time in public, but don't have a sex change.
5. Have a “partial” physical alteration, but not a full one (i.e. having breast reduction surgery, but not a full sex change) and dress as the opposite sex full-time in public.
6. Take hormones, which alter voice and body composition, but not have any surgery, and dress as the opposite sex full-time in public<sup>3</sup>.

The proposed policy change and the implementation plan outlined below would allow for flexible strategies addressing all of these situations.

### **The Need for Policy Change**

Since 2000, Boise State University has had two known transgender individuals in the campus community. Both were students, but one became an employee in Parking Services and did his transition there. As students, these individuals faced numerous policy obstacles and refusals of accommodation from administrators who felt bound by their interpretations of policy, especially in relation to housing. Both students dropped out of school. As noted, one student returned as an employee and completed his transition as an employee. His experience as an employee was, by his own assessment, very good. Human Resource Services, working with the Employee Assistance Program (EAP), facilitated a meeting between the transgender employee and the staff. Concerns were addressed and questions answered. While colleagues felt some discomfort, that dissipated over time as the transgender employee's transition progressed.

An audience demographic survey conducted by the Student Union over the course of Fiscal Year 2005, gave attendees three options for gender: male, female, transgender. Of some 900+ returned surveys, 12 individuals marked transgender in this category.

While not a massive population of individuals, transgender people do attend Boise State University as students, employees, or guests. In the community, a “Youth Alliance for Diversity” group exists and a number of the high-school aged students there identify as “gender questioning” or transgender. Conceivably, more students and employees could arrive on campus. We need to have policies and procedures in place to meet their unique needs.

No law protects transgender individuals from discrimination, nor does current Boise State policy. In 2004, the Professional Staff Association proposed to the President's Cabinet, with the support of the Classified Staff Senate, a policy amendment to include “gender identity/expression” in Boise State's non-discrimination and anti-harassment policies (addendums 6 and 7), which would provide policy protection to transgender people (addendum 1). Student government passed a resolution of support of this policy change proposal in March 2006 (addendum 8) and the Faculty Senate followed in April (addendum 9).

The proposed change means Boise State would not discriminate against anyone who adopts any of the aforementioned methods of addressing their transgenderism. Non-BSU entities interacting with the school (i.e. employers listed at the Career Center, NCAA, ROTC, construction contractors, etc.) would NOT be affected by

<sup>2</sup> Meyer, Walter MD, et al, *The Harry Benjamin International Gender Dysphoria Association's Standards Of Care For Gender Identity Disorders*, Sixth Version, (February, 2001), [www.hbgida.org/soc.html](http://www.hbgida.org/soc.html), pp. 1-2.

<sup>3</sup> Conway, Lynn, Ph.D., *How Colleges and Universities Can Improve Their Environments for TG/TS Students*, online article <http://www.lynnconway.com/>, (June, 2004), p. 3; and Walworth, Janis, MS, *Managing Transsexual Transition in the Workplace*, online article <http://www.gendersanity.com/shrm.html>, (December, 2003), pp. 2-3.

this policy and will be allowed to continue to do business with the institution even if their nondiscrimination policy is not as inclusive as Boise State's.

Boise State's nondiscrimination clause reads, *currently*, in part (emphasis added):

B. It is the policy of Boise State University not to discriminate against any individual in matters of admission, employment, housing, services or in the educational programs or other activities based on non-meritorious factors including, but not limited to, discrimination on the basis of age, race, color, religion, **sex**, national origin, ancestry, disability, veteran status, or political affiliation.

C. It is the policy of the university not discriminate against any individual on the basis of **sexual orientation** in the following areas: personnel decisions, housing, student admissions and evaluation, facilities, or in educational programs or other activities<sup>4</sup>.

The University's anti-harassment policy reads, in part (emphasis added):

This policy addresses harassment in all forms, covering individuals with legally protected status for reasons of race, **gender**, religion, color, age, national origin, ancestry, or disability, as well as individuals who are harassed for other reasons, such as sexual orientation<sup>5</sup>.

It has been suggested the emphasized portions of the cited policy already protect transgender individuals from discrimination. However, they do not.

"Gender" and "sex" are different things, legally speaking. United States Supreme Court Justice Antonin Scalia has written: "The word gender has acquired the new and useful connotation of cultural or attitudinal characteristics (as opposed to physical characteristics) distinctive to the sexes. That is to say, gender is to sex as feminine is to female and masculine is to male."<sup>6</sup> No federal law protects transgender individuals. Although Title VII of the Civil Rights Act of 1964 prohibits workplace sex discrimination, federal courts of appeal have, until very recently, uniformly held that Congress did not intend that the term "sex" include transsexuals or homosexuals<sup>7</sup>. More recently, the federal courts have recognized that sex discrimination can involve gender stereotypes about traits<sup>8</sup>, and that Congress' 1964 understanding of "sex" should not necessarily control how the law is construed today<sup>9</sup>. The Americans With Disability Act (ADA) specifically excludes transgender individuals from legal protections<sup>10</sup>.

That transgender individuals are not protected under Title VII was further explained in the *Harvard Civil Rights-Civil Liberties Review*:

Courts label individuals outside the constructed male/female classes as deviants beyond the protections of sex anti-discrimination law. They label them transsexuals, homosexuals, or transvestites--groups against which discrimination is not only permitted but, in other contexts, required by law [See, e.g., *Lofton v. Sec'y of the Dep't of Children & Family Servs.*, 358 F.3d 804

<sup>4</sup> Boise State Policy 5005-A.

<sup>5</sup> Boise State Policy 5010-A.

<sup>6</sup> *J.E.B. v. Alabama*, 114 S. Ct. 1419 (1994), as cited by Milton Diamond, Ph.D., University of Hawaii, John A. Burns School of Medicine Department of Anatomy and Reproductive Biology Pacific Center for Sex and Society. "Clinical Child Psychology & Psychiatry" - Special Issue In Press for July 2002. *Sex and Gender are Different: Sexual Identity and Gender Identity are Different*.

<sup>7</sup> *Holloway v. Arthur Andersen & Company*, 566 F.2d 659 (9th Cir. 1977) (pre-operative transsexual not within Title VII); *Ulane v. Eastern Airlines, Inc.*, 742 F.2d 1081 (7th Cir. 1984), cert. denied, 471 U.S. 1071 (1985) (post-operative transsexual not within Title VII); *DeSantis v. Pacific Telephone & Telegraph Company*, 608 F.2d 327 (9th Cir. 1979) (sexual preference not within Title VII), as cited by the Human Rights Campaign, <http://www.hrc.org>.

<sup>8</sup> See *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), as cited by the Human Rights Campaign, <http://www.hrc.org>.

<sup>9</sup> *Oncale v. Sundowner Offshore Services Inc.*, 523 U.S. 75 (1998). Although a federal appellate court has held that gender stereotype-based sex harassment against a gender nonconforming employee may violate Title VII -- see *Doe v. City of Belleville*, 119 F.3d 563 (7th Cir. 1997), vacated and remanded in light of *Oncale* -- and the Supreme Court has acknowledged that gender stereotype-based termination of a gender nonconforming employee violated Title VII where job success required the nonconformity -- see *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), as cited by the Human Rights Campaign, <http://www.hrc.org>.

<sup>10</sup> Americans With Disabilities Act, SEC. 508. Transvestites, 42 USC 12208; Sec. 511. Definitions. 42 USC 12211.

(11th Cir. 2004) (upholding Florida law forbidding "homosexuals" from adopting), *reh'g denied*, 377 F.3d 1275 (11th Cir. 2004); *Corbett v. Corbett*, [1970] 2 W.L.R. 1306 (Eng.) (ruling that a transsexual could not marry an individual of the opposite gender); Vern L. Bullough & Bonnie Bullough, *Cross Dressing, Sex, and Gender* 23-93 (1993) (discussing contemporary sumptuary laws that punish contra-gender dress or behavior).] While courts often describe contra gender performers as men or women, they refuse to recognize that individuals might break from the traditional sex/gender roles. Gender behavior outside the traditional masculine male/ feminine female model is labeled as an attribute of an unprotected class and, therefore, unrelated to the protected sex categories.

This labeling loophole has provided an ongoing means to deny legal relief to transgender persons. In *Ulane v. Eastern Airlines, Inc.* [1984], for example, the Seventh Circuit ruled that transgender individuals could find no relief under Title VII because their gender behavior was unrelated to their biological sex. The plaintiff in *Ulane* was fired for simply dressing and identifying as a female. Since she lacked the genitalia of a woman or the masculinity of a man, she was considered distinct from the protected sex classes. Because the Seventh Circuit refused to consider *Ulane* a woman and because it determined that men do not wear dresses, the court ruled that the plaintiff was fired because of her transsexual status, not because of her sex. Through labels, the transgender plaintiff qualifies neither as a man nor a woman, and is left outside the protections of anti-discrimination law<sup>11</sup>.

Second, psychologically speaking, sex and gender are also different. To wit, the Publication Manual of the American Psychological Association (2.12) has this to say: “*Gender* is cultural and is the term to use when referring to men and women as social groups. *Sex* is biological; use it when the biological distinction is predominant. Note that the word *sex* can be confused with *sexual behavior*. *Gender* helps keep the meaning unambiguous, ...<sup>12</sup>”

Sexual orientation is different than gender identity/expression. The American Psychological Association identifies Gender Identity Disorder as a mental illness<sup>13</sup>. It does NOT identify sexual orientation (either heterosexual, homosexual or bisexual) as such. Transgender individuals may be hetero, homo or bisexual and depending on what gender they may become, that status could change. Consider this example: If a male is attracted to another male, he is considered gay. If the male has a sex change and becomes a woman, *she* is now considered heterosexual.

According to a report by the University of Michigan, in modern law, statutory or administrative protections for sexual orientation do not extend to gender identity. The report cites *Lie v. Sky Publishing Co.*, 15 Mass. L. Rep. 412 (Superior Ct. Mass., 2002):

...sexual orientation is defined as having an orientation for or alternatively, being identified as having an orientation for heterosexuality, bisexuality, or homosexuality....A psychiatric diagnosis of gender identity disorder is independent of an individual having a heterosexual, bisexual, or homosexual orientation. DSM-IV at 534, 538; A.D.A.M., Health Illustrated Encyclopedia, National Library of Medicine...As a matter of law, a simple claim of discrimination due to one's status as a transsexual does not give rise to a claim of discrimination on the basis of actual sexual orientation. They are unrelated<sup>14</sup>.

<sup>11</sup> Lining, Thomas, “*Smith v. City of Salem*: Title VII Protects Contra-Gender Behavior,” *Harvard Civil Rights-Civil Liberties Review*, Vol. 40:1, (Winter, 2005, Harvard Press publisher), pp. 282.

<sup>12</sup> As cited by Wuensch, Karl L., Ph.D, *Sex/Gender/Whatever*, online article <http://core.ecu.edu/psyc/wuenschk/docs00/Sex-Gender.doc> (undated).

<sup>13</sup> American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition*. Washington, DC, American Psychiatric Association (1994), 302.85.

<sup>14</sup> As cited by Frier, Bruce, Ph.D., et. al., *From Inclusion to Acceptance: Report of the Task Force On the Campus Climate for Transgender, Bisexual, Lesbian and Gay (TBLG) Faculty, Staff, and Students*, (April 23, 2004, University of Michigan), pp. 2, 55.

A final reason to include “gender identity/expression” specifically in policy is related to education—something Boise State, as a university, obviously has a commitment to. The Policy Institute of the National Gay and Lesbian Task Force lists as one of several recommendations on policy composition:

Some activist have argued it is important to make “gender identity” or “gender variance” a separate category in order to underscore the point that trans people are being treated equally with other protected groups. These activists have also pointed out that including transgendered people in the definition of sexual orientation or gender or sex may make it more difficult to educate the public and human rights department investigators about transgendered and gender different people, and the specific kinds of discrimination they face. For example, while most people will never read the complete ordinance, they may see gender identity in widely distributed general policy statements listing all the bases on which it is illegal to discriminate. As trans activist Dawn Atkins pointed out at the Iowa City hearing on a trans nondiscrimination bill, “most people in this community will never read the complete ordinance...What they will see...is the list that you give...If gender identity is subsumed under sexual orientation most of them will never know that...Some people will violate the law not knowing that it is illegal.” [Testimony of Dawn Atkins at a public hearing on an ordinance amending the Iowa City Code Title 2, Human Rights Ordinance, Chapter 2, Section 2-2-2, and 2-1-1, September 26, 1995.]<sup>15</sup>

As no law or current policy protects transgender individuals from discrimination, Boise State must therefore amend its policies to offer protection if we are to be an inclusive organization. A clear policy statement shows the university is serious in its determination to have all employees and students treated equitably in all areas. Dr. Lynn Conway, a professor at the University of Michigan, writes:

...In order to provide an environment in which it is possible to solve many basic practical problems facing transgender students, colleges and universities must usually first change their overall EO [equal opportunity] policies to include protections for "gender identity" and "gender expression". On the other hand, simply putting "EO protections" in place is NOT enough. That by itself will not solve the many practical problems that TG and TS [transgender and transsexual] students face. Practical solutions must be found and implemented to deal with all those problems. Enforcing effective EO protection policies can then insure successful implementation<sup>16</sup>.

To be sure, no policy can end all discrimination, either covert or overt. As Dr. Conway notes, implementation plans must be in place to give a policy life. This paper outlines the implementation strategies departments affected by the potential change have formulated. However, an implementation plan not founded on clear policy can cause confusion and allow for equivocation in practice and enforcement. **An implementation plan without a policy change would be ineffectual in achieving the university’s goals outlined in *Charting the Course*.**

### **Defining Reasonable Accommodation**

The policy changes would require a reasonable accommodation be made for transgender individuals. Unlike with federally mandated access laws, such as the ADA, Boise State University has the ability to define what is “reasonable” accommodation in relation to a voluntarily adopted policy. The remainder of this paper is dedicated to that pursuit.

Transitioning students’ and employees’ gender expression is different from their biological sex. It is important to recognize this causes social isolation for these students due to dominant cultural views of sexuality and gender expression. Many students and employees may feel uncomfortable around a transgender person due to lack of awareness or acceptance, and this could lead to conflicts, especially in areas where biological sex governs interaction. In order to avoid these “**conflict zones**” and to create an atmosphere that would promote inclusiveness, it is important to have a plan to mitigate conflicts.

<sup>15</sup> Currah, Paisley & Mintner, Shannon, *Transgender Equality, A Handbook for Activist and Policy Makers*, (June, 2000, National Gay and Lesbian Task Force publisher) p. 41.

<sup>16</sup> Conway, *ibid*, p. 5.

#### A. Bathrooms/Changing Rooms

A list has been created of single occupancy, “unisex” restrooms on campus, which can be provided to people in transition, or to others who may feel uncomfortable in using a restroom with a transgender person (addendum 2). The Americans with Disabilities Act (ADA), as interpreted by the 2000 International Building Code, ALREADY requires that for new or renovated classroom buildings, at least one unisex restroom be provided in buildings of a certain size (addendum 3)<sup>17</sup>. Therefore, future buildings will have more unisex restrooms, providing broader accommodation for individuals in transition. **This policy would NOT mean all restrooms on campus would have to be retrofitted to have unisex bathrooms in them.**

It would NOT be a reasonable accommodation for a transgender person who is in the early phase of transition to use a restroom that corresponds to their gender expression. Students, in consultation with Health, Wellness and Counseling (HWC) staff and employees, in consultation with Human Resource Services (HRS) (or with their counselor in the Employee Assistance Program, EAP) would assess at what point in their transition it would be appropriate to use a restroom corresponding to their gender expression. This limit on accommodation is intended to mitigate other employee discomfort, to be sure, but also to limit the transgender person’s discomfort as well. The area transgender people face the most discrimination and potential for violence is in restrooms<sup>18</sup>.

Cost of this accommodation is negligible. Two signs will need to be replaced on currently existing unisex bathrooms (Math Geo-Sciences 228 and Health Services, Riverside, 140), at a cost of up to \$50 each, according to the Boise State Sign Shop. Printing costs related to the maps would also be involved (estimated at \$25). The addendum 2 map would be posted online as well.

#### B. Student Housing

According to housing staff, students in transition would *not* be forced to room with someone of the same biological sex. Boise State did that once in 2001—forcing a biologically male student who had a gender expression of a female to live with another biologically male student. The transgender student dropped out of school. Housing staff indicate there are a number of options for students in transition to have single room with a private bathroom. For students who have undergone a full sex change, they would not need special accommodation, as they are now a new sex. Forms for housing assignments have already been amended to inform transgender students to contact the housing office to assess accommodation options.

There would be no additional cost to the university for this accommodation.

#### C. Locker Rooms

Campus Recreation has a private change/shower facility they have ALREADY made available to a transitioning person. Further, ADA requirements state any new recreation facility, of any size, must have at least one unisex change/shower facility in it<sup>19</sup>. As the pool does not have a private change/shower facility, reasonable accommodation would need to be assessed with the transgender person on a case-by-case basis, in conjunction with the Kinesiology Department. Reasonable accommodation would NOT be the construction of a separate shower facility. However, if the current facility undergoes major renovation, an upgrade of restrooms, under ADA policy, must be considered.

<sup>17</sup> *Building Codes Illustrated: A Guide to Understanding the Uniform Building Code* (2003, John Wiley and Sons publisher), p. 204.

<sup>18</sup> *Peeing in Peace, A Resource Guide for Transgender Activists and Allies*, (2005, Transgender Law Center publisher), pp. 3-4.

<sup>19</sup> *Building Codes Illustrated*, *ibid*, p. 204.

In other areas of campus, individuals interact based on gender expression, not sex. While fellow employees or students may feel an understandable level of discomfort initially about a transgender person either Health, Wellness and Counseling or the Employee Assistance Program would counsel them to mitigate their discomfort and to stress fair treatment. A reasonable accommodation would NOT be to ask the other individuals to change their beliefs, but a reasonable accommodation WOULD be to expect respectful and courteous interaction with all. The revised policies would require fair and respectful treatment of transgender individuals.

No other policies or procedures would be altered with this policy amendment. All current employee grievance and student Code of Conduct processes WOULD REMAIN THE SAME. The change in policy would merely add another classification to the protected classes at the University and give the *current* enforcement mechanisms firm basis for responding to discrimination or harassment based on gender identity/expression. The current policy does not allow for such protection.

### **Specific Student Transition Implementation Plan**

The act of transitioning is a very public thing and can cause numerous difficulties for students and those they interact with if not handled properly. As no two transitions are alike, flexible strategies need to be adopted to address the unique needs of transgender individuals<sup>20</sup>.

Dr. Conway writes that transitioning in college is one of the best ways to transition:

Transitioning while in college has now become one of the best paths to a successful early transgender or transsexual gender transition. It is an even better path than just going directly into the workforce into an entry-level job and attempting to transition "on the job" there. Students are very anonymous while in college, much more so than in high school or in an entry-level job, especially if the college is reasonably far from their hometown. The college student's classmates will be more mature, less "gossipy", and less insistent on conformity to group norms than their high school classmates...By completing a hormonal and social transition while in college, transitioning students can graduate in their new name and identity. They can then more easily find employment and start their careers without having to reveal their hormonal and social transition (except, for example, to the human resources people at their new companies). This has become one of the very best paths to early transition<sup>21</sup>.

In consultation with the Student Affairs directors, the following plans have been agreed upon to address the needs of transgender students. This list details responses in every division of Student Affairs, though not all transgender individuals may need access to those areas (e.g. a transgender person who does not live in student housing, obviously, would not require any of the accommodations listed under housing).

Dr. Conway suggests there be a central office or department designated to coordinate services. She writes:

Few schools have any points of contact to help these students negotiate the maze of difficulties they face. Therefore, transitioning students often have to individually fight frightening and lonely battles with the "bureaucracies" at those universities in order to accomplish even the simplest things such as updating their records, or getting access to basic health care<sup>22</sup>.

With this advice in mind, the Boise State Health, Wellness and Counseling (HWC) Department agreed to coordinate services for transgender students. When staff is made aware that a transgender student is requesting accommodation, the student should be referred to HWC, who will coordinate with affected areas. The following is a list of the services Boise State Student Affairs departments will provide transgender individuals (listed in broadest applicability to least), and this plan is summarized in a flow chart (addendum 4):

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<sup>20</sup> Walworth, *ibid*, p. 2.

<sup>21</sup> Conway, *ibid*, p. 2.

<sup>22</sup> Conway, *ibid*, p. 1.



### Health, Wellness and Counseling

- As the coordinating body for service, they would facilitate contact between campus departments and the student, arranging necessary accommodations.
- With the student, a timeline for transition would be developed and a schedule of when various departments they interact with would be contacted. If the student is not yet in transition, a date for when they would start living full-time as the opposite sex would be agreed upon. This timeline would be communicated to appropriate departments. Flexibility in the plan would be important to accommodate delays or unforeseen setbacks.
- During transition, HWC would assess with the student when using the restroom associated with their new sex would be appropriate. In the meantime, the student would be provided a list of single-person restrooms and asked to use those (addendum 2).
- In addition, they would provide the student information on Boise area services, such as:
  - Names/contact of trans-friendly clinicians, endocrinologist and counselors in the area
  - Information on other community resources provided (i.e. Tri States Transgender Group)
  - Information on how to legally change one's name (acquired from the Idaho Department of Records)

### Registrar's Office

- For students who have not yet changed their legal name, the Registrar's Office would assess the student's situation with the HWC staff and then change the student's PeopleSoft record to show only the first initial of the student's first name (in the official name field) when transition commences. The student's last name would not change. In the preferred name field, whatever preferred name the student has chosen would be entered and the student, on their own, would input that preferred name via BroncoWeb. It is a medical requirement that, prior to surgery, a person live full-time as the opposite gender for at least a year. The ability to change one's name, or at minimum change their name to their first initial, is crucial during this period. Being addressed by the proper name is basic to working in society and the institution. A relatively minor amendment to a file by the registrar can immensely help a student in transition<sup>23</sup>.
- For students who have acquired a legal name change the standard procedures would apply. To change a person's first and/or last name, the Registrar's Office requires legal documentation. It is then the student's responsibility to inform HWC and the Registrar's when the legal name change has been performed and provide the documentation. HWC would then send an e-mail to affected departments alerting them to the name change.
- The student's e-mail would be amended to reflect either the new name or the temporary first initial when the person starts living full-time as the opposite sex. Students would need to authorize this on the same form being submitted to the Registrar's Office in order to change first name to an initial.
- The student's sex designation would be removed from PeopleSoft (neither male/female marked) during the transition. When the transition is complete, the new sex would be recorded.
- The transgender student would not need to meet with Registrar's staff, as recommendations for action would come from HWC.

### Classrooms

- On class enrollee lists, the legal name of a student is printed, not preferred names. For students in transition who have not yet acquired a name change, the first initial of their name would appear on the role. If a professor asks what the transgender student's name is in open class, the student would answer with their preferred name. If any difficulties ensue, HWC would need to contact the professor to explain the situation, if the student was uncomfortable doing so.
- Depending on the student's comfort level, HWC, prior to the first day of class, may need to contact a student's professors to explain the situation in order not to embarrass the student in open class, or make them a target for harassment/violence by other students.

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<sup>23</sup> Meyer, *ibid*, p. 9.

- Every situation will be different and each will have to be assessed individually.

### Campus ID

- According to Tony Keife, manager in Campus ID, when a student's name is changed in PeopleSoft, a new ID can be generated upon request. Currently, when a student changes his or her name (i.e. as when a woman marries/divorces), no charge is required. The same standard would apply here to transitioning students. Their preferred name would appear on the ID.
- Having an ID, which matches a name and gender expression, is also key for the transgender student to successfully complete their one-year requirement for pre-operative living.

### Financial Aid

- Under U.S. Law, any change in financial aid records can only occur with official name change as financial aid is tied to a Social Security number. Staff in the Financial Aid Office would need to explain this to the student. Financial Aid records are confidential and do not immediately impact a student's day-to-day living. They would still receive their financial aid, as it is tied to their Social Security number. A consistent financial aid counselor should be established by HWC for the transgender student and when the student needs service, they should arrange, in advance, an appointment with that specific financial aid counselor. For the student, this will alleviate the "hassle" of explaining why their records say "John Doe" but they look like "Jane Doe" every time they meet a random financial aid counselor.
- When legal name change occurs, records would be changed promptly.
- Female-to-male (FtoM) students will need to acquire exemption from Selective Service office to retain financial aid. Staff will explain the process to the FtoM student. Male-to-female (MtoF) students are still eligible for the draft until they have a sex change and must remain registered with Selective Service until then<sup>24</sup>.

### Campus Employment

- The student's transition timeline will determine when conversations need to commence between the employee and the supervisor. If the student prefers, HWC should approach the supervisor of an area to explain the situation. As transition is a public process, co-workers would need to be trained on how to be respectful prior to the beginning of transition. If the student chooses, he or she can be involved with this training. It should not be an expectation of the student to conduct the training or answer private questions. HWC should work with the student to determine the best time and method of informing co-workers. Training and Development could be asked to help in this process, if appropriate.
- Training of co-workers will stress respectful interaction, not try to change beliefs of individuals.
- If no transition is necessary (i.e. the student begins work with their new gender expression already), the area supervisor may not need to be informed of the transgender person status at all.

### Student Housing

- *See Defining Reasonable Accommodation, item B, above for further information.*
- Either HWC or the transgender student would contact the housing office and indicate if he or she would like to request an accommodation based on an issue associated with gender identity/ expression.
- Room options would be provided to the transgender student, who could choose a living option that best suits his or her personal needs.
- Housing staff (i.e. resident advisors and resident directors) would be informed of the student's situation on a need-to-know basis only. For example, if a student has completed his or her transition,

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<sup>24</sup> National Center for Transgender Equality, <http://nctequality.org/default.asp>.

no staff may need to know about it. However, if the student is just beginning transition, the RA and the RD may need to be informed of the student's status.

- Housing applications would be amended to encourage students who need accommodations to contact the housing office.

### Campus Recreation

- HWC would contact Campus Recreation indicating a transgender student needs access to the facility. A meeting with the student would be scheduled with a Campus Rec staff member and the transgender student would be shown the facility and the "family change" room. The fewest number of Student Recreation Center staff necessary to accommodate the transgender employee should be informed. If other staff inquire why the student is accessing the family change room, the standard response would be that he or she has been approved to use it. No further reason need be given.
- The facility manager would explain to the transgender student that there are no lockers in the family change room. Day-use lockers are located throughout the building and baggage and clothes can be stored in one of these for free.

### University Security/Student Conduct Office/Affirmative Action:

- If a transgender student is harassed, intimidated or assaulted, standard procedures would apply.
- Staff in University Security, the Student Conduct Office and Affirmative Action would be invited to general training sessions addressing transgender issues as part of routine training, stressing the need to maintain confidentiality of a student's transgender status.
- If an employee is mistreated or is discourteous to a student, Human Resource Services may need to be contacted by HWC to apprise them of the situation. Appropriate procedures would commence under current policy.
- Depending on where the student is in his or her transition process, there may be a point where their legal name, gender expression and the sex on their driver's license are not congruent and may not match his or her insurance certificate. Idaho, by administrative decisions at the DMV, not via law, will only change the sex designation on a driver's license with proof of a sex change and only change the name on a license with a legal name change. Undoubtedly this will be confusing for an officer during a routine traffic stop or other situation (i.e., car wreck). In these circumstances, a student will have to explain his or her situation to the officer. Training of campus patrol officers for these situations would be important so the student can receive a traffic citation without enduring either unwanted comments or scrutiny above and beyond what an average traffic citation would require. According to Sgt. Stan Niccolls, Boise PD, current city policy requires all individuals be treated in a civil and respectful manner. In the Boise community, officers have already had to deal with this issue in accordance with their policy.

### Parking Services:

- As the university's parking record system is tied to PeopleSoft, changes to names will be reflected at Parking Services.

### Career Center:

- Instruction on how to look up an employer's nondiscrimination clause would be provided to students who request it.

### **Specific Staff Implementation Plan**

Some transgender employees may come to Boise State University already having completed their transition. In such cases, the only accommodation needed is confidentiality. This section outlines the process for employees who are doing all, or part, of their transition while on the job.

Janis Walworth, MS, has compiled a detailed guide for how to handle employee transition in the workplace, which Human Resource Services (HRS) has been provided. Based, in part, on Walworth's recommendations, HRS has agreed to manage the overall process for transgender employees. Walworth writes:

Once the initial contact has been made, a transition team to oversee the process can be formed. This may be an informal association consisting only of the transsexual employee and an HR professional or it may include the employee's manager, additional HR professionals, a union representative, a supervisor, or an outside consultant. If the transsexual worker has contacted the HR department through an intermediary, that person can take the place of the transsexual person on the transition team until the transsexual individual is ready to make him or herself known. The transition team can meet on a regular or an as-needed basis. Once again, sensitivity to appropriate timing and manner of disclosure should be stressed. The team should evaluate whether the employee's desired timeline will work for the organization. Adequate time must be allowed to put training in place, make sure managers understand their role, and prepare solutions for potential problems. Considerations such as a particularly busy time of year, major reorganizations, and scheduled vacation times may influence the optimal timing for transition.<sup>25</sup>

These recommendations, in addition to other considerations such as internal personnel management structures, State of Idaho benefits packages, external benefit providers' rules, have influenced the following implementation plan. Unlike the student implementation plan, the employee plan requires more initiative on the part of the transgender employee. HRS will explain to the transgender employee the expectations of him or her and assist, as the department is able. A flow chart summarizing this process has been created (addendum 5).

### Employee Personnel Records

With PeopleSoft, Boise State University's employee records are tied directly to the payroll distribution system. The federal government requires legal names tied to Social Security numbers be reported to them. Because of this integrated system, it is impossible for Boise State University to change the name of an employee on most official records. Whatever transition timeline the team creates would need to factor a legal name into the early stages of the plan. The "preferred" name field, however, can be changed at will and the employee would instigate changes when he or she plans to live full time as the opposite sex.

When the preferred name change occurs, the employee will inform OIT, who will then change the employee's e-mail and campus phonebook listing. When the employee begins living full-time as the opposite sex, his or her nameplate, business cards and other such items would be changed. Responsibility for ordering such items is the employee's, paid for by their department.

Sex can be changed in the PeopleSoft system with relative ease. No federal or state guidelines yet exist governing sex designation on records. When an employee is ready to live full-time as the opposite sex, they may, on their own through the interactive on-line interface with PeopleSoft, change their sex designation. Boise State University is required by the federal government to report the names and sex of all its employees, therefore leaving the sex designation blank in PeopleSoft, as we are doing with students in transition, is not an option.

### Campus ID

The preferred name as displayed on the Campus ID can be changed as soon as that preferred name change occurs. According to Tony Keife, manager in Campus ID, when a name is changed in PeopleSoft, a new ID can be generated upon request. Currently, when an employee changes his or her name (i.e. as when a woman marries), no charge is required. The same standard would apply here to transitioning employees.

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<sup>25</sup> Walworth, *ibid*, p. 7.

### On-the-Job Transition

Walworth provides a comprehensive plan on how to inform co-workers when an employee plans to transition. HRS, prior to the introduction of the Walworth information, already followed many of her recommendations in the one instance BSU has had a transitioning employee. The key will be forthright communication and the emphasis on respectful treatment. AT NO TIME will co-workers be expected to change their beliefs, rather they will be expected to interact in a respectful way with their colleague who is transitioning. Working with the Employee Assistance Program (EAP) a facilitator can be brought to campus to answer questions by co-workers. If the transgender employee agrees, he or she may be at this training to answer questions as well. It is NOT the expectation of the transgender employee to educate co-workers about his or her situation. The transition timeline would be provided to co-workers and follow-up training of co-workers will occur as needed.

In the one instance Boise State has had an on-the-job transition, the consulting fee was \$175 per hour and the consultant took four hours, for a total of \$700. The cost of any training would be funded by the employee's department.

### Blue Cross

Surgery and related hormone treatments are specifically excluded under group insurance. HRS staff will need to explain this to the employee. When a legal name change occurs, Blue Cross will need to be informed by the employee. When the employee's sex change occurs, then HRS will need to certify to Blue Cross that the change has occurred. Some premium costs are directly related to cost and the impact to the employee will need to be outlined either by Blue Cross or HRS. However, all other benefits are available to the employee.

### PERSI, TIAA-Cref, Valic

When a legal name change occurs, PERSI, TIAA-Cref or Valic will need to be informed by the employee. When sexual reassignment surgery is complete, PERSI, TIAA-Cref or Valic will need to be informed by the employee, with confirmation provided by HRS. All of these groups will not change sex in their records until an operation has occurred. This will need to be explained to the employee either by the groups or HRS. No retirement benefits will be reduced or removed because of the employee's transition.

### Campus Recreation

HRS would contact Campus Recreation indicating a transgender employee needs access to the facility. A meeting with the employee would be scheduled with a Campus Rec staff member and the transgender employee would be shown the facility and the "family change" room. The fewest number of Rec Center staff necessary to accommodate the transgender employee should be informed. If other staff inquire why the employee is accessing the family change room, the standard response would be that he or she has been approved to use it. No further reason need be given.

The facility manager would explain to the transgender employee that there are no lockers in the family change room. Day-use lockers are located throughout the building and baggage and clothes can be stored in one of these, for free.

### University Security/Student Conduct Office/Affirmative Action:

If a transgender employee is harassed, intimidated or assaulted, standard procedures would apply. Staff in University Security and Affirmative Action would be invited to general training sessions addressing transgender issues as part of routine training, stressing the need to maintain confidentiality of an employee's transgender status.

Depending on where the employee is in his or her transition process, there may be a point where their legal name, gender expression and the sex on their driver's license are not congruent, and may not match their insurance certificate. Idaho, by administrative decisions at the DMV, not via law, will only change the sex designation on a driver's license with proof of a sex change and only change the name on a license with a legal name change. Undoubtedly this will be confusing for an officer during a routine traffic stop or other situation (i.e. car wreck). In these circumstances, an employee will need to explain the circumstances to the officer. Training by Training and Development of campus patrol officers for these situations would be important so the employee can receive his or her traffic citation without enduring either unwanted comments or scrutiny above and beyond what an average traffic citation would require. According to Sgt. Stan Niccolls, Boise PD, current city policy requires all police officers to treat individuals in a civil and respectful manner. In the Boise community, officers have already had to deal with this issue in accordance with their policy.

#### Parking Services:

As the university's parking record system is tied to PeopleSoft, changes to names will be reflected at Parking Services.

#### Communication and Marketing (CM):

Walworth indicates in her article that, occasionally, if the media become aware that an employee is in transition, news agencies may be interested in doing a story on it. This did occur with the Ada County Highway District (ACHD) in the fall of 2005, when one of their employees transitioned on the job. The *Boise Weekly* ran a detailed article in their August 24 edition, which was very positive in tone.

No matter if the news agency plans to run a positive or negative story, all media inquiries should be directed to the Office of Communications and Marketing to determine the nature of the request. Each situation will be assessed with the employee, transition team and CM to determine the most appropriate response. Any public response by the employee will be at his or her discretion.

#### **Costs of Accommodation**

All costs associated with this implementation plan have been noted in the above information. In summary, they are:

- Two signs will need to be replaced on currently existing unisex bathrooms (Math Geo-Sciences 228 and Health Services, Riverside, 140), at a cost of up to \$50 each, according to the Boise State Sign Shop. Printing costs related to the maps would also be involved. No plumbing changes needed.
- There would be incidental printing costs related to printing flyers and maps of single-person, "unisex" bathrooms on campus. Cost = \$25.
- For employees, a consultant who would work with the transgender person's co-workers would help answer questions and facilitate discussion would cost \$175 per hour. An average of four hours could be needed for a total of \$700.

Grand total:                 \$125 initially  
                                       \$700 (approximately, per transitioning employee)

#### **Conclusion**

The proposed policy changes to 5005-A and 5010-A are necessary to protect those who are transgender from harassment and discrimination and are necessary to provide consistent standards of accommodation that transcend departments. The proposed changes are in keeping with the University values and goals, as outlined in the *Charting the Course*. The cost of such changes is small, but the impact on the lives of those who are transgender are incalculable. As a metropolitan university of distinction, it behooves Boise State University to expand its

nondiscrimination and anti-harassment policies to be as encompassing as possible to support our entire campus population.

**Addendum 1 Precise Policy Change Language****Boise State University Policy Manual**

Boise State University  
Effective Date: March 1, 1984

BSU  
5005-A  
Revised  
On: July  
1, 1995  
May 5,  
1997

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**POLICY ON NONDISCRIMINATION AND AFFIRMATIVE ACTION**

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**Purpose:** To establish an affirmative action/nondiscrimination policy at Boise State University.

**I. Foreword**

**A.** Boise State University has always been a community-reflective institution, opening its doors to the needs of citizens and responding with academic, vocational, and special programs designed to support the local and state demands for educational opportunities.

**B.** The admissions policy at Boise State University and other general policies in all of its programs, as well as its personnel employment practices in relation to recruiting, hiring, training, and promotion, operate under a philosophy that no person shall be subjected to unlawful discrimination in any manner.

**II. Nondiscrimination**

**A.** Boise State University is committed to maintaining a working and educational environment which supports equal rights for all individuals. Decisions affecting the education, employment or access to services and facilities of faculty, staff, and students will be based only on merit, performance, and legitimate occupational or educational criteria.

**B.** It is the policy of Boise State University not to discriminate against any individual in matters of admission, employment, housing, services or in the educational programs or other activities based on non-meritorious factors including, but not limited to, discrimination on the basis of age, race, color, religion, sex, national origin, ancestry, disability, veteran status, or political affiliation.

**C.** It is the policy of the university not discriminate against any individual on the basis of sexual orientation and gender identity/expression in the following areas: personnel decisions, housing, student admissions and evaluation, facilities, or in educational programs or other activities.

**D.** Boise State University will apply this policy consistently with its obligation to continue to provide Reserve Officer Training Corps programs under federal law. To the extent this policy conflicts with contractual obligations, state or federal laws, or regulations those obligations and laws or regulations will prevail. Nothing in this policy affects Boise State's policies implemented on the basis of legally recognized marriage. This policy does not cover matters which are outside of the control of the university.

**E.** It is the responsibility of each and every member of the university community to ensure that meaningful equal employment and educational opportunity exists. The university will continue to cooperate with agencies of the federal and state governments in fulfilling its obligations.



### III. Nondiscrimination Objectives

The objectives of the Boise State University Nondiscrimination Program are:

- A. To further develop and maintain equal employment and educational opportunities for all personnel and students;
- B. To eliminate all traces of unlawful discrimination in employment practices and education programs and activities. This includes, but is not limited to, discrimination on the basis of age, race, color, religion, sex, national origin, ancestry, disability, veteran status, sexual orientation, gender identity/expression or political affiliation.

### IV. Affirmative Action Objectives

The objectives of the Boise State University Affirmative Action Program are:

- A. To develop a work force which reflects an equitable employment distribution of some previously under- represented group members at all levels of employment and throughout all departments of the university based upon the availability of such groups within the appropriate labor market(s);
- B. To provide resources for affirmative action programs to implement the policy; and
- C. To meet state and federal requirements to engage in affirmative action for women, racial minorities, veterans and the disabled.

### V. Legal Basis of Nondiscrimination AND Affirmative Action Program

The practice of active or passive exclusion of persons on the basis of personal characteristics not related to job competency has brought about legislation at the state and federal levels.

Antidiscrimination laws and policies include specific guidelines for assuring equal employment opportunity. Some laws include specific guidelines for compliance and create boards and commissions to enforce compliance. The following are some of the applicable state and federal laws:

- A. Idaho Human Rights Act
- B. Idaho Civil Rights Act, as amended.
- C. Civil Rights Act of 1964, as amended.
- D. Age Discrimination in Employment Act of 1967, as amended.
- E. Civil Rights Act of 1968.
- F. Pregnancy Discrimination Act.
- G. Title IX of the Education Amendment of 1972.
- H. Age Discrimination Act of 1975, as amended.
- I. Equal Pay Act of 1963.
- J. Immigration Reform & Control Act of 1986.
- K. Section 1981 of the Civil Rights Act of 1866.
- L. Section 1983 of the Civil Rights Act of 1871.
- M. Civil Rights Restoration Act of 1988.
- N. Civil Rights Act of 1991.
- O. Vocational Rehabilitation Act of 1973, as amended.
- P. Vietnam Era Veterans' Readjustment Act of 1974, as amended.
- Q. The Americans with Disabilities Act of 1990.
- R. Executive Orders
  1. 1. Executive Order 11246, as amended by Executive Orders 11375 and 12086.
  2. 2. Executive Order 11141.
  3. 3. Executive Order 12250.

### VI. Nondiscrimination and Affirmative Action Policy

**A. Dissemination of Revised/Updated Policies:** Each time a substantive or procedural change is made to the Policy on Affirmative Action and Nondiscrimination, these actions will occur.

1. Copies of this policy will be disseminated by the Affirmative Action Director with a cover letter from the President to all employees upon official adoption of the policy. Thereafter, each new employee shall be given a copy of the current Nondiscrimination and Affirmative Action brochure.
2. To ensure effective implementation, deans, directors or heads of administrative units will brief their staff on the changes.
3. Policy changes will be distributed to all Boise State student organizations, the campus newspapers, and the faculty/staff newsletter.
4. This policy will be sent to each association representing university employees upon adoption of changes.

**B. Ongoing Implementation of the Policy on Nondiscrimination and Affirmative Action:**

1. To ensure effective implementation, deans, directors, and department chairs will explain the intent of the policy and individual responsibility during at least one staff meeting each year.
2. A statement on Nondiscrimination and Affirmative Action will be annually distributed by the Affirmative Action Director to all Boise State student organizations and published in campus newspapers and the faculty/staff newsletter.
3. Posters stating the university's commitment to nondiscrimination will be displayed throughout the entire campus directing students, staff, and faculty to the appropriate office if they have a complaint of unlawful discrimination.
4. This entire policy will be included in all supervisory and management manuals, procedure manuals, and employee handbooks. A summary of the policy will appear in the Student Handbook and Catalog each year.
5. This policy will be discussed thoroughly in ASBSU training, employee orientation, and employee training programs.
6. Special meetings will be conducted at least once a year by the Affirmative Action Director with deans and directors at all levels to explain the intent of the Nondiscrimination and Affirmative Action Policy and individual responsibility for effective implementation.
7. Community organizations, employment agencies, news media, secondary schools, universities, colleges, and recruiting sources will be informed annually about the university's policy on Nondiscrimination and Affirmative Action by the Affirmative Action Director.
8. At a minimum the Nondiscrimination and Affirmative Action Committee shall thoroughly review the policy on Nondiscrimination and Affirmative Action every third year in order to ensure its completeness and accuracy in light of changing legislation and conditions.

## **VII. Responsibility for Administration and Implementation**

**A.** The President of the university has overall responsibility for the administration and implementation of the Nondiscrimination and Affirmative Action Policy. The Affirmative Action Director will report directly to the President and will have the necessary top management support to execute the assignment.

**B.** In consultation with all university employing officials and the Nondiscrimination and Affirmative Action Committee, the Affirmative Action Director is responsible for overall coordination of programs directed at employing individuals from under represented groups.

**C. Nondiscrimination and Affirmative Action Committee:**

1. **Membership:** The Nondiscrimination and Affirmative Action Committee is appointed by the President of the university and shall consist of individuals representing the various constituencies of the university, including minority groups, women, students and the disabled. One member will be appointed by the Chairperson of the Faculty Senate, and two members each will be appointed by the Chair of the Association of Professional Staff, Association of Classified Employees and the Associated Student Body of Boise State University (ASBSU). The Nondiscrimination and Affirmative Action Committee shall have no less than 9 and no more than 15 voting members. The Affirmative Action Director and the Director of Human Resources are ex-officio, nonvoting members. The Chairperson of the Nondiscrimination and Affirmative Action Committee shall be a voting member. A term on the Nondiscrimination and Affirmative Action Committee shall be two years. Members may be reappointed for consecutive terms.

2. **Meetings:** Meetings will be held at least once monthly during the academic year to ensure continuous attention to the affirmative action purposes detailed in this policy.

3. **Duties of the Nondiscrimination and Affirmative Action Committee:**

a. To annually review the university's Affirmative Action Plan and annual reports and to make recommendations which further the goals of affirmative action and nondiscrimination at Boise State University.

b. To assist the Affirmative Action Director in establishing recommended target dates and goals for each administrative unit and academic department of the university in order to implement the Nondiscrimination and Affirmative Action Policy. These plans shall include unit recruitment plans for hiring of faculty and exempt personnel. The Committee shall review the unit plans for compliance with affirmative action and nondiscrimination every two years.

c. To make recommendations for appropriate university-wide initiatives or programs which will strengthen affirmative action and nondiscrimination at Boise State University.

d. To review the content of publications, handbooks, brochures, posters, letters, training programs, etc., at least every third year, beginning in academic year 1993, to ensure compliance with current policy.

e. To study and investigate all matters related to affirmative action/nondiscrimination practices which relate to equal employment or education at Boise State University. Based on the results of study, the Committee shall recommend appropriate courses of action to the President.

f. To serve as a grievance committee for those cases involving discrimination claims.

- g. To study and investigate all matters related to equal employment and educational opportunities at Boise State University. Based on the results of studies and investigations, the Committee shall recommend appropriate courses of action to the President.
4. Each dean, department head, and supervisor of Boise State University employees is responsible for full implementation of the Nondiscrimination and Affirmative Action Policy within his/her area.
  5. The Director of Affirmative Action, under the direction of the President, has the responsibility for ensuring compliance with federal and state regulations regarding equal employment and educational opportunities. The Director coordinates the Affirmative Action Program and advises the President and other administrators and faculty concerning statements of policy, the identification of problem areas, and methods of arriving at solutions to problems. The Director is an *ex-officio* member of the Nondiscrimination and Affirmative Action Committee. The Director has the overall responsibility of educating the university community regarding affirmative action. Other duties may be assigned from time to time by the President of the university, except the Affirmative Action Director may not serve on any hiring committees as a voting member.
  6. Duties of the Director of Affirmative Action:
    - a. Submit an Affirmative Action Annual Report each January to the University President.
    - b. Identify and research problem areas in relation to discrimination and develop and recommend appropriate solutions and policies to address those problems.
    - c. Implement and conduct audit and reporting procedures and systems in accordance with established Boise State policy.
    - d. Serve as liaison officer for Boise State University with appropriate federal and state agencies and community action groups concerned with problems of discrimination against women, minorities, and persons with a disability.
    - e. Assist complainants in channeling their discrimination complaints through appropriate grievance channels and lend technical assistance to grievance committees.
    - f. Conduct regular meetings with supervisors and employees and, as appropriate, with groups of students for the purpose of explaining the Boise State University policies and procedures related to nondiscrimination and the applicable laws and regulations.
    - g. Ensure compliance with federal and state requirements for reporting and notifications whenever appropriate.
    - h. Coordinate activities aimed at motivating and counseling minorities, women, and disabled employees to seek training that would enhance their promotional opportunities.
    - i. In consultation with the Nondiscrimination and Affirmative Action Committee, monitor and certify institutional practices related to advertising, recruiting, selection, hiring, interviewing, salary analysis, promotion, and dismissal for compliance with the internal affirmative action program and the external requirements of state and federal governments in accordance with Boise State University policies.

j. Monitor and certify institutional practices related to student recruitment, selection, and treatment for compliance with the internal affirmative action program and the external requirements of state and federal governments in accordance with Boise State University policies.

#### **D. Affirmative Action Planning Process:**

1. The Affirmative Action Director will assist each unit in conducting a work force analysis to determine if there are under represented groups in that unit's composition. Each unit will have a work force analysis on file in the Affirmative Action Office. The work force analysis will be updated every year.
2. Based upon the work force analysis units which do not have members of under represented groups employed will create a recruitment plan which specifies how that unit will attempt to get more members of under represented groups into the hiring pool.
3. After a position is filled, the department or unit head will complete a Unit Position Vacancy Folder which reports the success of the recruitment plan for each faculty or professional position filled. The Unit Position Vacancy Folder will be maintained in the Affirmative Action Office.
4. Records and reports will be maintained and prepared in strict compliance with Executive Order 11246 as amended. Employment records, including tenure and promotion records and applications received for open positions, shall be maintained for a period of not less than two years.
5. Annually, the Affirmative Action Director will analyze the number of minority group and women employees by organizational unit and job category and progress toward affirmative action goals will be reported. Appropriate action, if any, to be taken by the university will be recommended.

#### **E. Recruitment for Employment:**

1. Applicants for employment are considered and placed with regard to their job skills, education, performance, and other bona fide occupational qualifications. Non-meritorious factors, such as age, race, color, religion, sex, national origin, ancestry, veteran status, sexual orientation, gender identity/expression, political affiliation, or the presence of any disability may not be considered, except where such is a bona fide occupational qualification or when the university is operating under an Affirmative Action Plan submitted to federal and state reviewing authorities.
2. Recruitment sources will continue to be advised in writing of the university's policy and commitment to equal employment opportunity and must acknowledge their compliance with the program.
3. The Affirmative Action Director will develop contacts with such recruitment sources as Veterans Employment Service, the Idaho State Department of Employment, the Idaho State Department of Vocational Rehabilitation, the University Placement Office, ethnic minority community groups, and women's caucuses of various professional organizations in an effort to increase the number of minority group and women applicants for all job openings. These contacts will be used in the recruitment process.
4. When recruiting for academic and administrative exempt positions, the university will advertise openings in newspapers and in publications of minority and women's groups when appropriate. Advertisements will be approved by the Affirmative Action Director prior to publication.

5. The employing officials of the university will focus on the creation of an atmosphere conducive to attracting and retaining minority group members and women.

6. Employing officials of the university will keep written records of:

a. Efforts to locate minority and women candidates where these individuals are underutilized in the work force.

b. Correspondence and interviews with all candidates considered for each position to be filled.

c. Reasons for selecting the person who is offered a position. These records shall be submitted to the Affirmative Action Director for review and sign off approval before employment offers are extended and shall be maintained for a period of at least three years.

7. Every university employing official must be prepared to justify to the Affirmative Action Director the nonselection of any applicant.

8. The Department of Human Resources will continue to serve as the central recruiting office for all classified staff employment activities. While departments may have candidates whom they wish to consider for appointment, all such candidates must be referred to Human Resources for subsequent referral to the department through the Idaho Personnel Commission. Records for classified staff concerning efforts to locate minority and women candidates and correspondence and interviews of candidates and certification documents shall be made available to the Affirmative Action Director and the Nondiscrimination and Affirmative Action Committee for continuous review.

**F. Employment and Placement:**

1. Applicants for employment are considered and placed with regard to their job skills, education, performance, and other bona fide occupational qualifications. Non-meritorious factors, such as age, race, color, religion, sex, national origin, ancestry, veteran status, sexual orientation, gender identity/expression, political affiliation, or the presence of any disability may not be considered, except where such is a bona fide occupational qualification or when the university is operating under an Affirmative Action Plan submitted to federal and state reviewing authorities.

2. All non-classified proposed position descriptions and qualifications for university employment positions will be submitted for review to the Affirmative Action Director by employing officials of the university prior to the time the employment opportunity is announced.

3. In filling vacant positions, the university will place a priority on internal promotions from among women, minorities, and persons with disabilities holding lower-level jobs.

4. Employing officials will make reasonable efforts to improve employment opportunities for disabled employees and disabled applicants for employment. These efforts may include restructuring jobs, improving access to facilities, and making equipment changes.

**G. Employment Conditions:** Benefits and employment terms such as salaries, accrual of seniority, and reinstatement rights shall be the same for pregnancy as for other temporary disabilities.

**H. Training:** The Affirmative Action Director shall be responsible for the development of appropriate training and educational programs for minorities, women, and persons with disabilities and otherwise facilitate promotional opportunities for minorities and women.

**I. Termination Interview for Minorities and Women:** The university employing officials should notify the Affirmative Action Director when termination of minority or women employees is anticipated. Minority and women employees who are being terminated from employment may, at the employee's discretion, be interviewed by the Affirmative Action Director in an effort to reduce unnecessary turnover, to assist the university in becoming more responsible to the needs of individual employees, and to help attain the overall affirmative action goals of the university.

**J. Facilities and Activities:** The university will not discriminate against any person in the operation or maintenance of the facilities, activities, or services of the university. This includes, but is not limited to, discrimination on the basis of age, race, color, religion, sex, national origin, ancestry, veteran status, sexual orientation, [gender identity/expression](#), political affiliation, or the presence of any disability.

**K. Labor Union and Association Relations:** While Boise State University is not now engaged in collective bargaining, it will include a nondiscrimination statement in any written agreement with unions or associations which in the future may be certified for representation for the purpose of collective bargaining at the university.

**L. Student Placement Services:** The university will not make its placement services available to firms and school systems which request that the university violate equal opportunity laws.

**M. Salary Review:** The university will, as a part of its annual budget preparation activities, undertake a salary review to determine if sex, race, age or other non-legitimate factors impact salary levels. A report indicating the results of this review will be forwarded to the President and Vice Presidents. Results of the Salary Study will be included in the Annual Affirmative Action Report.

**N. Sexual Harassment** In accordance with the EEOC guidelines the university defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
2. 2. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting that person;
3. 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. (See BSU Policy 5010-A)

**O. Grievance Procedure:**

1. Grievance Procedures for Boise State Nondiscrimination and Affirmative Action Committee:

a. Purpose: To state clearly the means through which individual employees and students at Boise State University may forward and resolve grievances or complaints filed under this policy.

b. Rationale: All employees and students of Boise State should have the right to redress possible injustices or wrongs done to them. The accessibility, simplicity, speed, and high standards of fairness of the university's grievance procedures will encourage employees and students to choose internal means of redress and resolution rather than resorting to external means in seeking to overturn perceived injustices.

c. Statement of the Policy: Boise State University herewith affirms that it has procedures to deal with any grievance which may arise in matters of general personnel administration or

student participation in university programs. These may involve rights provided for under the 1964 Civil Rights Act and its amendments, those rights guaranteed under Title IX of the Higher Education Act, Americans with Disabilities Act, pertinent state codes and rights provided for under the Boise State Policy or which directly affect the personal interest and well-being of an individual employee or student. These grievance procedures deal with possible discrimination that is not related to bona fide occupational qualifications such as job skills, education, and performance. This includes, but is not limited to, discrimination based on the basis of age, race, color, religion, sex, national origin, ancestry, disability, veteran status, sexual orientation, [gender identity/expression](#), or political affiliation. These procedures do not apply to complaints of harassment. (See BSU Policy 5010-A)

d. Implementation:

1) Coverage is as stated above.

2) Grievances which are covered under provisions of the Faculty Handbook, Administrative Handbook, Classified Staff Handbook, Idaho State Statutes, or student policies and procedures remain subject to those provisions.

3) Grievances which do not involve the personal interest and well-being of an individual employee or student, and which are not otherwise covered by these procedures shall be referred to the appropriate administrative officer at the university.

4) On eligibility, any employee, job applicant, or student who believes that he or she has been discriminated against, as noted above, through the action of one or a group of employee(s), supervisor(s), faculty member(s), or other person or persons acting for the university, may bring an informal or formal grievance under these procedures.

5) Where a dispute exists as to whether a particular matter is subject to coverage by these grievance procedures, the Nondiscrimination and Affirmative Action Committee shall make an initial judgment on such matters of coverage. In making that judgment, the Nondiscrimination and Affirmative Action Committee will interpret the coverage of these procedures liberally. They will deny application of the procedures only where the matter in question clearly concerns issues of broad policy in which the complaining party has no direct interest, where the Committee has good reason to believe that a grievance has been brought in bad faith for political or similarly inappropriate reasons, where the grievance is covered under provisions of the items listed in item O.1.b. or in other circumstances in which use of these procedures would clearly endanger their effectiveness as an instrument for the redress of grievance.

2. A variety of grievance procedures are available to all members of the campus community: faculty, professional staff, classified staff, and students.

a. Faculty members as defined by the Faculty Constitution may utilize the Faculty Grievance Procedure, BSU Policy 5375-B, outlined in the Faculty Handbook.

b. The professional staff may utilize the grievance and appeals procedure outlined in BSU 5450-C, Professional Staff Employees Grievances and Appeals, of the Administrative Handbook of Policies and Procedures.

c. Classified staff members under the State of Idaho Personnel Commission may utilize the grievance procedure as outlined in the BSU Handbook for Classified Employees and BSU Policy 5550-C



d. Students should contact either the Assistant Director of Student Activities or the Affirmative Action Director to activate the grievance procedure as outlined in the BSU Student Handbook. Should students, for whatever reason, not wish to access the above mentioned offices, they may initiate contact with their Advisor or Department Chair.

e. Employees or students who feel they have been subjected to sexual harassment, any unwelcome sexual advance or verbal or physical abuse which interferes with an individual's ability to work or study on this campus may contact the Affirmative Action Director for assistance in processing a grievance under BSU Policy 5010-A.

3. In any case involving a claim of discrimination any employee, applicant for employment or student may present his/her complaint directly to the Affirmative Action Director or to the chair of the Nondiscrimination and Affirmative Action Committee. The following procedure shall be followed by the Affirmative Action Director when handling a grievance.

a. Informal Grievance:

1) The employee, applicant, or student may first discuss his or her grievance with the individual who is the alleged cause of the grievance.

2) If the employee, applicant or student is unable or unwilling to face the individual who is the alleged cause of the grievance, he/she may request to begin the informal process with the appropriate administrative official or department chairperson or with the Affirmative Action Director.

3) If the grievance involves a question of judgment of opinion not covered by the Nondiscrimination and Affirmative Action Committee, the appropriate administrative official and the Affirmative Action Director shall counsel with the employee or student, the supervisor, and the department head to resolve the grievance, if possible.

4) If the grieving party chooses not to try the informal procedure, if the alleged perpetrator is unwilling to participate in the informal procedures, or if the informal procedure ends with no agreement, the grieving party may proceed to mediation or filing a formal grievance.

b. Mediation:

1) The employee or student may choose to have the grievance mediated by a trained mediator.

2) Procedures for mediation:

(a) Submit to the Director of Affirmative Action a written request for mediation along with a description of the grievance and the name of the alleged perpetrator.

(b) The Director of Affirmative Action will contact the alleged perpetrator to notify them of the complaint and explain mediation.

(c) If both parties agree to try mediation, a mediator will be chosen from a list of trained campus mediators. The mediator must be acceptable to both parties. The mediator selected will be notified by the Affirmative Action.

(d) Within five working days of the agreement on a mediator, the mediator will convene the first mediation session.

(e) If the parties are able to reach agreement through mediation in a reasonable amount of time (to be decided by the mediator), the agreement will be put in writing and signed by the parties. The original copy shall be kept on file in the Affirmative Action Office.

(f) If the parties are not able to reach agreement through mediation in a reasonable amount of time (to be determined by the mediator), the mediation will be closed with a letter to that effect being filed with the Affirmative Action Office.

3) If the grieving party chooses not to try mediation, if the alleged perpetrator is unwilling to participate in mediation, or if mediation ends with no agreement, the grieving party may proceed to filing a formal grievance.

c. Formal Grievance:

1) If the aggrieved employee or student's grievance has not been resolved after informal steps, or mediation, or if he or she does not wish to use informal procedures, he or she may submit a request, in writing, for a formal investigation and/or grievance hearing to the Nondiscrimination and Affirmative Action Committee.

2) Procedures:

a) File a written request for a formal investigation/hearing with the Director of Affirmative Action or the Chair of the Nondiscrimination and Affirmative Action Committee, stating the nature of the grievance, who the alleged perpetrator is and remedy needed to correct the situation.

b) The Nondiscrimination and Affirmative Action Committee will accept or not accept the request. The Committee will determine if the complaint falls within the guidelines of the Committee responsibility as defined by this policy. If the request is not accepted by the Committee, the Nondiscrimination and Affirmative Action Committee chairperson shall state the reasons in writing. If accepted, the chairperson will convene the Nondiscrimination and Affirmative Action Committee within 10 working days. A copy of the grievance will be forwarded to the accused party immediately upon approval of the grievance by the Committee.

c) The Nondiscrimination and Affirmative Action Committee shall conduct a formal investigation/hearing and shall reach a decision on recommendations in a timely manner after the close of the investigation or hearing. The procedures for hearings shall be:

3.1 The Chairperson will advise each party of the date, time, and place of the hearing.

3.2 The Committee may call such witnesses as it deems germane to the grievance.

3.3 The Committee may request additional written statements and documents from each party.

3.4 The Committee will request the names of witnesses to be brought by each party and will request the witnesses to appear at the date, time, and place of the hearing.

3.5 All parties are entitled to be accompanied by a counselor of their choice.

3.6 The Committee reserves the right to close the hearing to the public and other witnesses.

d) At any time during the investigation and/or hearing the complainant may withdraw his/her complaint. In that event, the proceedings will be terminated.

e) The Committee chairperson, at the direction of the Nondiscrimination and Affirmative Action Committee, shall recommend appropriate action to the President based on the findings of the investigation and/or hearing. A copy of the findings and recommendations will be given to the parties of the grievance as well.

### 3. Appeal:

a) The decision of the committee may be appealed in writing to the President within five (5) working days after receiving the decision.

b) The President in turn will be expected to relay his decision on the appeal in writing to the aggrieved employee or student and the alleged perpetrator within 10 working days, with a copy to the Director of Affirmative Action and the Chair of the Nondiscrimination and Affirmative Action Committee.

c) With regard to formal grievance appeals, the decision of the President shall be final unless

1) the grieving employee is a classified employee in which case that individual may utilize the grievance procedure available to them; or

2) the decision of the President is for termination, in which case the employee would have full right to due process as provided under university policy, State Board of Education policy, and Idaho Code.

4. Nothing in this directive supersedes or amends grievance procedures set forth by valid contractual agreement.

5. The grievance procedures spelled out above are in no way intended to limit the rights of employees or students under applicable federal and state laws.

d. Retaliation: Any retaliatory action of any kind taken by an employee of the university against another employee, applicant, or student of the university as a result of that person's seeking redress under these procedures, cooperating in an investigation, or other participation in any proceedings under these procedures is prohibited and shall be regarded as a separate

and distinct grievable matter under these procedures, including the same range of sanctions applicable for the original grievable action(s).

e. Confidentiality: Confidentiality in the investigation is of the utmost importance to protect complainant and the university. Lack of confidentiality may lead to damaged careers/reputations and may undermine confidence and trust in the university.

BOISE STATE UNIVERSITY  
Effective Date: April 18, 1983

BSU 5010-A  
Rev: February 17, 1986  
July 1, 1995  
July 1, 1997

## ANTI-HARASSMENT POLICY

**PURPOSE:** Boise State University exists to educate people to become knowledgeable citizens who are actively involved in the communities where they live. Critical to the development of this educated citizenry is fostering an atmosphere of respect and civility. Harassment is contrary to these values and the mission of BSU and will not be tolerated.

All members of the university community must be able to pursue their goals, educational needs, and working lives without intimidation or injury generated by intolerance and harassment. The development of creative, critical thinking skills demands freedom of thought, expression, and exploration. This requires an environment of mutual respect and tolerance for diverse persons, groups, and ideas. The goal of this policy is to promote the environment needed for creative work and study.

This policy addresses harassment in all forms, covering individuals with legally protected status for reasons of race, gender, religion, color, age, national origin, ancestry, or disability, as well as individuals who are harassed for other reasons, such as sexual orientation or gender identity/expression.

### I. Policy Statement

It is the policy of Boise State University that its campuses be places of work and learning which are free from all forms of harassment. Faculty, staff, and students should be aware that harassment of any kind will not be tolerated. All complaints and information will be taken seriously, will be investigated when appropriate, and appropriate corrective action will be taken when warranted by the facts.

### II. Scope

This policy applies to all faculty, staff, and students during activities on any university property or any university-related activities occurring away from campus. The university will not tolerate harassment of its faculty, staff, or students by persons conducting business with or visiting the university, even though the persons are not directly affiliated with the university.

### III. Definitions

Harassment is conduct towards another person or identifiable group of persons including, but not limited to, unwelcome comments or other conduct that unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile, or offensive environment for that individual's work, education, or participation in a university activity.

A. Racial Harassment: Racial harassment is conduct directed toward another person (or identifiable group of persons) on the basis of race, color, national origin, or ancestry that has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment for that individual's work, education, or participation in a university activity. The conduct may be words, gestures, or actions.

B. Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in a university activity;
2. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting such individual's employment, education, or participation in a university activity; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment for that individual's work, education, or participation in a university activity.

#### IV. Determination of Harassment

To determine whether a particular behavior constitutes harassment, the behavior will be evaluated by considering all available information and data. The university reserves the right to investigate circumstances that may involve harassment in situations where no complaint, formal or informal, has been filed. Sanctions in accordance with this policy may be imposed when it is determined that the policy has been violated.

##### A. Academic Freedom

Academic freedom protects the legitimate academic judgments of a faculty member made in furtherance of the institution's educational mission. Intimidation and harassment are inconsistent with the maintenance of academic freedom, and it is the ethical responsibility of faculty members to avoid exploitation of students for private advantage.

##### B. Retaliation Prohibited

This policy is intended to encourage faculty, staff, and students to report and address incidents of harassment. Retaliation against faculty members, staff members, or students for reporting or complaining of harassment or enforcing this policy is strictly prohibited. Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, or harassment against an individual or group for exercising rights under this policy will be subject to appropriate and prompt disciplinary or remedial action.

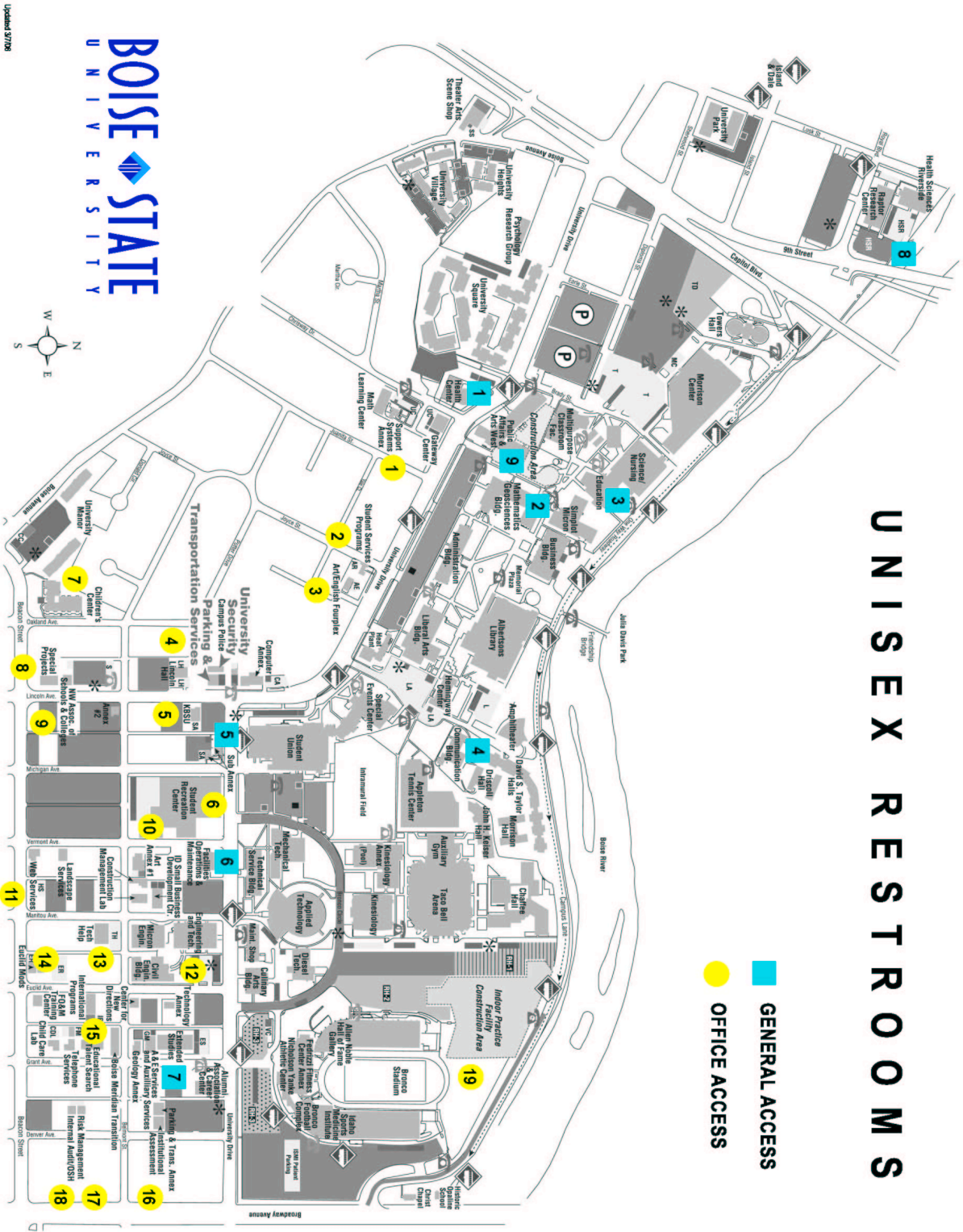
##### C. Sanctions

An individual or group of individuals found to have violated this policy will be subject to disciplinary or remedial action, up to and including termination of employment or expulsion from the university.

The sanctions for conduct that constitutes harassment as defined by this policy are subject to enhancement when such conduct is motivated by bias based on a person's legally protected status as defined by federal and state law: e.g., race, gender, religion, color, age, national origin, ~~sexual orientation~~, ancestry, or disability, or university policy, e.g. sexual orientation or gender identity/expression. This enhancement of sanction is applicable to university faculty, staff, students, and all recognized student organizations.

**\*\*\*Remainder of the Policy Unchanged\*\*\***

# Addendum 2 Unisex Restrooms



**BOISE STATE**  
UNIVERSITY

Updated 3/7/18

**General Access Restrooms** (meaning ones accessed from a corridor):

1. Health Wellness Counseling
2. Math/Geosciences Building, second floor, 228\*
3. Education Building, each floor starting on the second floor (234, 324, 424, 532, 624).
4. Communication Building, 108; 200A
5. Student Union Annex
6. Technical Services Building, 108A; 216
7. Extended Studies, First floor
8. Health Sciences Riverside, 139 (w/shower), 140\*
9. Interactive Learning Center (under construction)

\*No signage or signage inaccurate.

**Office Access** (meaning to gain access to the restroom, one would need to go through an office area)

- |   |  |
|---|--|
| 1. Support System Annex                     | 11. Web Services                       |
| 2. Student Services Programs                | 12. Civil Engineering Building         |
| 3. Art English Four-plex                    | 13. Tech Help Building                 |
| 4. Parking Services and Transportation      | 14. Euclid Modules (Business Services) |
| 5. KBSU                                     | 15. International Programs             |
| 6. Student Recreation Center                | 16. Institutional Assessment           |
| 7. Children's Center                        | 17. Risk Management                    |
| 8. Special Projects                         | 18. Internal Audit/OSH                 |
| 9. NW Association of Schools & Colleges     | 19. Indoor Practice Facility           |
| 10. Idaho Small Business Development Center |  |



# Addendum 3 Uniform Building Code

## OTHER FEATURES AND FACILITIES

### Unisex Toilet and Bathing Rooms

§ 1108.2.1 requires an accessible unisex toilet in assembly and mercantile occupancies when six or more water closets in total are required in the facility. This also applies to all recreational facilities where separate-sex facilities are provided, regardless of the count of water closets. This does not apply in recreational bathing facilities where there is only one bathing fixture in each separated-sex bathing room. These unisex facilities can be counted as part of the total number of fixtures to satisfy fixture-count requirements.

### Sinks

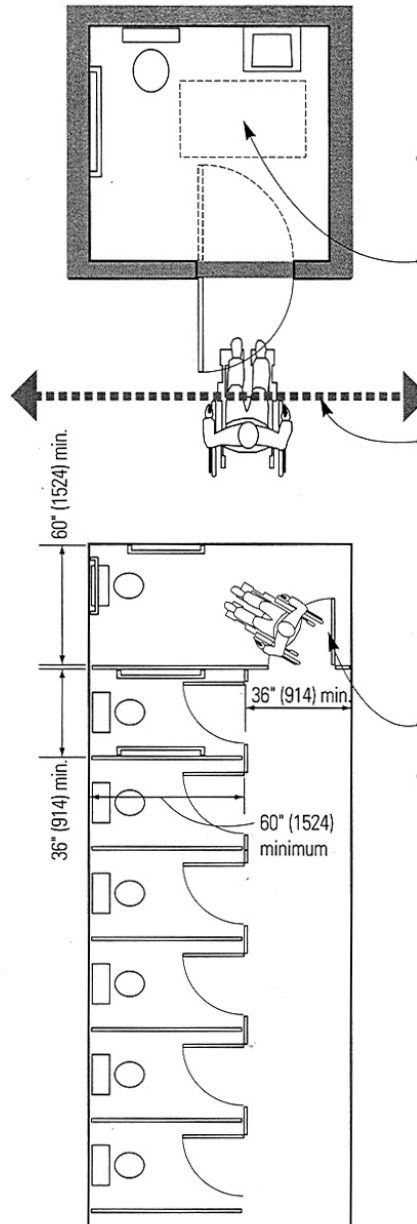
§ 1108.3 requires 5% of sinks to be accessible, except for service sinks and those designated for children in preschool or primary schools. Note that the exception for children's sinks may be in conflict with Exception 4 to § 1108.2 in that this section does not mention whether the sinks are in excess of those required by the plumbing code. This interpretation should be verified with the building official for specific projects.

### Kitchens

§ 1108.4 requires that, when provided in accessible space or rooms, kitchens, kitchenettes and wet bars must be accessible per the space criteria of ICC/ANSI A117.1.

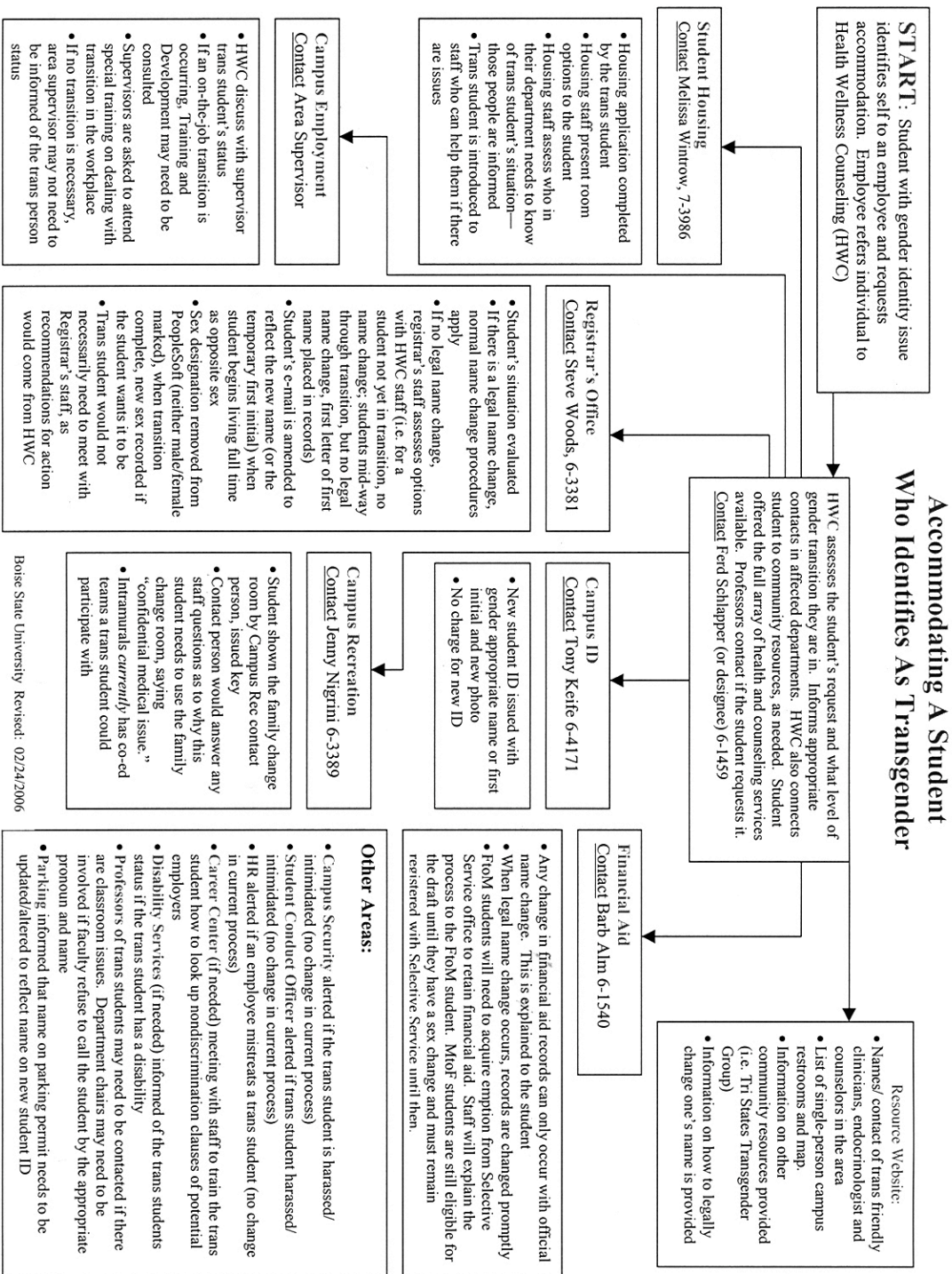
### Drinking Fountains

§ 1108.5 requires that 50% of the drinking fountains be accessible on floors where they are provided. Note that, given the wording of this section, this requirement will also apply for floors not otherwise considered or required to be accessible.

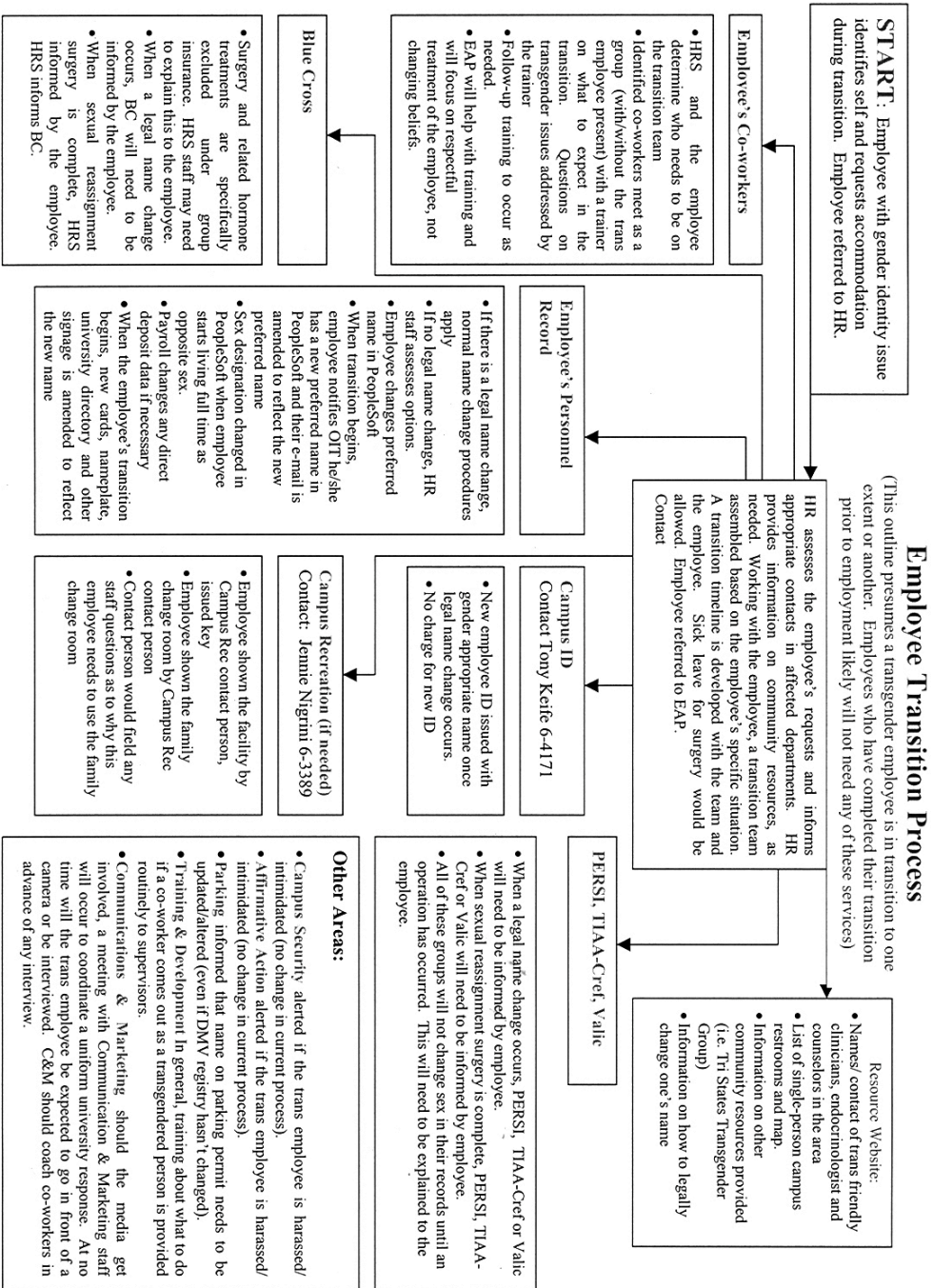


- Unisex facilities are to meet the criteria of ICC/ANSI A117.1 for space layout. Each facility is to contain only one water closet and one lavatory; however, in unisex bathing facilities, a shower or bathtub may be in the same room. Where lockers or similar storage units are provided in separate-sex bathing facilities, then accessible storage facilities are to be provided in the unisex bathing facilities as well.
- Separate-sex toilets with only two sanitary fixtures in each—two water closets or one water closet and a urinal—may be considered as unisex toilet rooms.
- In addition to the provisions of ICC/ANSI A117.1, a clear space of 30" by 48" (762 by 1219) is to be provided if the door swings into the room, clear of the door swing.
- Unisex facilities are to be on an accessible route. They are to be reasonably close to the separate-sex facilities, no more than one floor above or below them, and with the accessible route no more than 500' (152 400) in length. Practically speaking, in most instances, all of these facilities should be located adjacent to one another.
- When water closet compartments are provided, at least one should be accessible.
- When there are six or more toilet compartments in a toilet facility, then at least one compartment is to be an ambulatory-accessible stall per ICC/ANSI A117.1, in addition to the wheelchair-accessible compartment.

## Addendum 4 Student Implementation Plan Flow Chart



# Addendum 5 Employee Implementation Plan Flow Chart



**Addendum 6 Professional Staff Senate Resolution**

A Resolution of the Professional Staff Association Senate  
In a regular meeting, September 8, 2004

WHEREAS: Boise State University is Idaho’s metropolitan university and has committed itself to maintain requisite policies reflective of that status and,

WHEREAS: As ever growing numbers of students attend Boise State University the demographics of our institution are changing and including more diverse populations with unique needs and,

WHEREAS: This institution has consistently maintained a commitment to serve all populations and to guarantee in all areas fair and equitable treatment and,

WHEREAS: The enrollment of students and the hiring of staff who are identified as “transgender” has already occurred—and is occurring—on this campus and,

WHEREAS: Faculty and staff of good conscience have tried to meet the needs of the transgendered people with the same understanding and attitude they provide to all persons without a clear university policy to follow.

BE IT RESOLVED: That this Senate supports the inclusion of a clear and unequivocal university policy regarding the transgendered and hence is in favor of adding the phrase “gender identity/expression” to the university’s nondiscrimination clause.

TO BE DIRECTED TO: Dr. Robert Kustra, President Boise State University  
Dr. Sona Andrews, Provost and Vice President for Academic Affairs  
Dr. Peg Blake, Vice President for Student Affairs  
Stacy Pearson, Vice President for Finance and Administration  
Jane Buser, Executive Director of Human Resource Services  
Holly Borden, Affirmative Action Director

Approved in Senate by a vote of: 6 Aye      0 Nay      1 Abstaining

Signed \_\_\_\_\_  
Mike Esposito, President, Professional Staff Association

Copies: Dr. George Murgel, President Faculty Senate  
Connie Charlton, President Association of Classified Employees  
Joe Holladay, Associated Students of Boise State University Pro Tempore

**Addendum 7 Association of Classified Employees Resolution**

Resolution from the Association of Classified Employees  
September 9, 2004

WHEREAS: The increasing enrollment at Boise State University has created a more diverse population with unique needs, and

WHEREAS: The campus population of students and employees includes individuals who are identified as “transgendered”, and

WHEREAS: Boise State University is committed to serving all populations and to guarantee fair and equal treatment to all individuals, then

BE IT RESOLVED: The Association of Classified Employees supports the inclusion of the phrase “gender identity/expression” to the non-discrimination clause in current policy.

DIRECTED TO:           Dr. Robert Kustra, President; Boise State University  
                              Dr. Sona Andrews, Provost and Vice President for Academic Affairs  
                              Dr. Peg Blake, Vice President for Student Affairs  
                              Stacy Pearson, Vice President for Finance and Administration  
                              Jane Buser, Executive Director of Human Resource Services  
                              Holly Borden, Affirmative Action Director

Approved in Senate by unanimous vote (13 members present, 2 members absent)

Signed \_\_\_\_\_  
Connie Charlton, President; Association of Classified Employees

Copies:                Dr. George Murgel, President; Faculty Senate  
                              Mike Esposito, President; Professional Staff Senate  
                              Joe Holladay, Associated Students of Boise State University Pro Tempore



**Addendum 8 Associated Students of Boise State University Resolution**



**STUDENT GOVERNMENT**  
B O I S E S T A T E U N I V E R S I T Y

ASSOCIATED STUDENTS OF BOISE STATE UNIVERSITY  
SENATE RESOLUTION # 28 2005-2006

DATE OF INTRODUCTION: March 9, 2006

SPONSORED BY: Senator Du

TITLE: Nondiscrimination Policy and Anti-Harassment Policy Resolution

FINANCIAL IMPACT TO ASBSU: \$0

PURPOSE: To support the updating of the Boise State University Nondiscrimination Policy (5005-A) and the Anti-Harassment Policy (5010-A), which have not been updated since 1997.

WHEREAS: Boise State University is Idaho’s metropolitan research university of distinction, and should have policies reflecting such a status.

WHEREAS: This institution has consistently maintained a commitment to serve all populations and to guarantee fair and equitable treatment in all areas.

WHEREAS: The enrollment of students and the hiring of staff who are identified as transgender has already occurred on this campus.

WHEREAS: Faculty and staff trying to meet the needs of the transgendered people have no clear policy to follow on this issue.

WHEREAS: That ASBSU supports updating the Boise State University nondiscrimination clause and Anti-Harassment Policy to include the phrase “gender identity/expression.”

BE IT RESOLVED THE SENATE OF THE ASSOCIATED STUDENTS OF BOISE STATE UNIVERSITY:  
Supports updating the Boise State University nondiscrimination clause and Anti-Harassment Policy to include the phrase “gender identity/expression.”

TO BE DIRECTED TO: President Dr. Robert Kustra, Provost Dr. Sona Andrews, Interim VP Student Affairs Mark Wheeler, VP Finance & Administration Stacy Pearson, Interim VP Research Dr. Jack Pelton, VP University Advancement Rick Frisch, Executive Director Human Resources Jane Buser, Faculty Senate President Dr. David Saunders, Classified Senate President Connie Charlton, Professional Staff President Mike Esposito

Approved by the ASBSU Senate

On March 16, 2006

By a vote of 10 YES / 0 NO / 0 ABSTAIN

## Addendum 9 Faculty Senate Minutes Recording Vote of Approval

Boise State University Faculty Senate  
 Tuesday, April 11, 2006, 3:15 pm  
 Alexander Room in the Student Union Building

President Saunders called the meeting to order at 3:15 pm.

Roll Call. *Present* – Senators Glenn Pfautsch, Dee Hartman, Leslie Durham, David Saunders, Geneva Wynn, Shawn Novak, Barbara Glackin, Steve Tennyson, David Haws, Nader Rafla, Sarah Toevs, Cheryl Jorcyk, Joanne Klein, Bob McCarl, Richard Baker, Gloria Ostrander-Dykstra, Geoffrey Black, K Kirkendahl. *Guests* – Provost Sona Andrews, Kris Collins, Marty Schmpif, Fernando Vieja, Brett Noble, Mike Esposito.

The minutes from the last meeting on March 14<sup>th</sup> were amended, a motion was made to accept and the minutes were approved with the changes.

### Announcements.

- The Senate's last meeting will be the 25<sup>th</sup> of April.
- The new Senators will be seated at our last meeting.
- Committee Reports will be presented at our last meeting.
- Plus/minus grading system has been approved by the President's Cabinet. Publicity and awareness are major issues. If Faculty will be using this system, it must be clearly laid out in their syllabus.

### Old Business.

The Senate revisited the Teaching Materials Authored by Faculty Policy regarding the revisions that the Senate had suggested during the last meeting. Textbooks were changed to materials throughout. A motion to accept this policy was made by Senator Toevs. The motion was seconded and passed the Senate.

The Non-Discrimination Policy was also revisited by the Senate. President Saunders clarified the additions to the policy as such: Gender identity/expression will be implemented throughout the policy. He also briefly discussed what it takes to implement this on campus. Mike Esposito mentioned that ASBSU passed this policy. A motion to pass this amendment was made by Senator Klein. Discussion included additions of missing words to the policy. The motion was seconded and was passed.

The Faculty Workload Policy was again discussed by the Senate. The following questions and comments were brought up during the discussion by Senators, Provost Andrews and Dean Marty Schmpif....

**Addendum 10 Other Universities/Localities with Gender Identity/Expression Clauses**

As of October, 2006

**Arizona**

Arizona State University (2004)  
University of Arizona (2005)

**California**

California College of the Arts  
California Institute of Tech. (2004)  
City College of San Fran. (2005)  
Foothill-DeAnza Community  
College District (2006)  
Golden Gate School of Law (2005)  
Harvey Mudd College (2005)  
Occidental College (2006)  
Uni. of California system (2004)  
Uni. of Southern California (2004)

**Colorado**

Colorado State University (2004)

**Connecticut**

Connecticut College (2005)  
Wesleyan University (2002)  
Yale University (2006)

**Florida**

New College (2006)

**Illinois**

Knox College (2001)  
Parkland College (2006)  
University of Chicago (2004)  
University of Illinois system (2005)

**Indiana**

DePauw University (1999)

**Iowa**

Central College (2005)  
Drake University (2004)  
Iowa State University (2005)  
Southwestern Com. College (2003)  
University of Iowa (1996)

**Maine**

Colby College (2005)

Rockport College (2000)  
University of Maine system (2006)

**Maryland**

Goucher College (2006)  
Johns Hopkins University (2005)  
University of Baltimore (2006)

**Massachusetts**

Brandeis University (2006)  
Harvard University (2006)  
MIT (2003)  
Tufts University (2005)  
W. New England College (2006)  
Williams College (2006)

**Michigan**

Kalamazoo College (2000)  
Kalamazoo Valley Community  
College (2005)  
Western Michigan Uni. (2006)

**New Hampshire**

Dartmouth College (2006)  
Uni. of New Hampshire (2005)

**New Jersey**

Princeton University (2006)

**New Mexico**

College of Santa Fe (2005)

**New York**

City University of New York  
system (2002-03) [the policy of  
Brooklyn College, a CUNY school]  
Columbia University (2006)  
Cornell University (2005)  
New York University (2005)  
Rochester Institute of Tech. (2005)  
Sarah Lawrence College (2006)  
Syracuse University (2005)  
Vassar College (2006)

**North Carolina**

North Carolina State Uni. (2005)

**Ohio**

Case Western Reserve Uni. (2006)  
Ohio State University (2004)

**Oregon**

Oregon State University (2005)  
University of Oregon (2005)

**Pennsylvania**

Carnegie Mellon University (2003)  
Lehigh University (2003)  
Moravian University (2006)  
Muhlenberg College (2005)  
Pennsylvania State Uni. (2006)  
University of Pennsylvania (2003)

**Rhode Island**

Brown University (2001-02)  
Bryant University (2005)  
Community College of Rhode  
Island (2001-02)  
Rhode Island College (2002)  
University of Rhode Island (2004)

**Vermont**

Middlebury College (2003)  
University of Vermont (2005)

**Washington**

Central Washington Uni.(2005)  
Evergreen State College (2006)  
University of Puget Sound (2003)  
University of Washington  
Whitman College (2001)

**Washington, DC**

American University (2002)

**Wisconsin**

University of Wisconsin system  
(2005)

States

1. California
2. Hawaii
3. Illinois
4. Minnesota
5. New Mexico
6. Maine
7. Rhode Island

## 8. Washington

Other

84 Cities and Counties

**Source:** -- <http://transgenderlaw.org/>



### Addendum 11 Employers with Gender Identity/Expression Clauses

- The Aerospace Corp.
- Aetna
- Agere Systems
- AID Atlanta
- American Airlines
- Apple Computers
- Arise Communications Inc.
- Avaya Communication
- Bank One
- City of Bellingham, WA
- Box Office Tickets Inc.
- Capital One Financial Group
- CALLogistix National Call Center
- Dane County, Wisconsin
- City of Decatur, Georgia
- Eastman Kodak
- Hewlett Packard
- Houston
- Human Rights Campaign
- IBM
- Indiana State Government.
- Intel.
- J.P. Morgan.
- Kentucky State Government
- Lansdowne Borough, PA
- Lexmark
- Levi Strauss & Co.
- Lucent Technologies
- Luzerne County, PA
- Metlife
- National Writers Union
- NCR
- New York State Office of the Comptroller
- New York Times
- Nike, Inc.
- OneSource
- Online Partners
- Outlook News
- Peace Learning Center
- Penn. Department of the Auditor General
- Pennsylvania State Government
- PG&E Corp
- Pine Lake, Georgia
- Prudential
- Pride Foundation
- Replacements Ltd.
- City of San Jose
- TAP Pharmaceutical Products Inc.
- State Bar of Texas
- Triangle Foundation
- Trillium Asset Management
- Verizon Wireless
- Vivendi Universal
- Walgreens
- City of Wilton Manors, Florida
- Worldspan L.P.
- Xerox

Source: -- <http://transgenderlaw.org/>