

Memorandum

To: SUNY Cortland Faculty Senate
From: Ross Borden
Date: November 28, 2018
Re: Proposed Resolution on Transgender and GNC Initiatives, draft 2

Whereas the U.S. Department of Health and Human Services has announced it is preparing to deny the identities of transgender and gender non-conforming persons, evidently for the purpose of denying them the protections of existing federal law¹;

Whereas the State University of New York upholds a vision of community where all students, faculty, and staff are recognized and respected, including those who are transgender or gender non-conforming²;

Whereas gender identity, gender expression, and sexual orientation are all protected under the policies of the State University of New York³;

Whereas New York State is itself an inclusive and aspirational community, providing that all students have the right to learn in an environment free of discrimination and harassment and particularly, with respect to the issue before us, free of discrimination and harassment on the basis of sex⁴;

Whereas the State University of New York complies wholeheartedly with the New York State Sexual Orientation Non-Discrimination Act of 2002⁵;

Whereas the New York State Human Rights Law provides that discrimination on the basis of gender identity is sex discrimination and that the term “sex” when used in the Human Rights Law includes gender identity and the status of being transgender, and further explicitly prohibits discrimination on the basis of gender identity or the status of being transgender⁶;

Whereas these robust protections exist in New York State law independently of the ways that one or another department of the federal government may interpret federal law;

Whereas in May 2016, the U.S. Department of Education issued guidelines to the effect that Title IX of the U.S. Education Amendments of 1972 protects transgender and gender non-conforming students from discrimination and harassment in educational settings that receive federal funding⁷;

Whereas in preparing these guidelines, the U.S. Department of Education relied heavily on documents published in July 2015 by the New York State Department of Education and the State University of New York⁸;

Whereas the U.S. Department of Education is now renegeing on those principles and drafting rules based on a definition of sexual identity that would exclude transgender people and gender non-conforming people; and

Whereas under the aforementioned laws of New York State and the policies of the State University of New York, the category of persons protected from discrimination based on sex includes persons as they are described by their assigned sex at birth, persons as they are described by their gender identity, persons as they are described by their gender expression, persons who are described by any combination of these attributes, and persons who do not identify with any previous description;

Let it be Resolved, that the Faculty Senate of the State University of New York at Cortland proudly endorses the statement by President Erik J. Bitterbaum dated October 30, 2018 and distributed across the College, declaring an “unwavering commitment to protect all transgender and gender non-conforming members of our community from discrimination”; and

Let it be further Resolved, that the Faculty Senate will form an ad hoc committee in the first month of Spring Semester 2019 — including parties from such committees, offices, and programs as the Center for Gender and Intercultural Studies (CGIS); the Institutional Equity and Inclusion Office; the Sexual Orientation, Gender Identity and Expression Committee (SOGIE); the Multicultural Life and Diversity Office (MLDO); the Provost’s Office; the Office of Residential Life and Housing; Spectrum; the Student Affairs Division; the Student Government Association (SGA); the Student Health Service; the Title IX Coordinator in the President’s Office; and Women's, Gender, and Sexuality Studies (WGSS) — to recommend to the President and to the President’s Cabinet as soon as possible a set of further actions, measures, and policies to secure the well-being of all transgender and gender non-conforming members of the College: for instance,

- By soliciting and compiling statements by students, faculty, and professional staff to submit to the U.S. Department of Education as soon as it releases its proposed regulations for public comment as to probable and anticipated harms;
- By establishing a procedure whereby students may identify their pronouns as they now do their names, to be recorded in myRedDragon, including course rosters, identification cards, and email addresses;
- By devoting a room, suite, or floor in every residence hall to all gender housing, as is currently done in Casey Tower, DeGroat Hall, and West Campus Apartments⁹;
- By ensuring that each building has at least one gender inclusive restroom and that larger buildings have more¹⁰;
- By hiring an additional full-time staff in the Multicultural Life and Diversity Office for the express purpose of programming and other work on LGBTQ matters; and/or
- By establishing an Office of LGBTQ Resources, as provided in whole or in part at other State University of New York campuses such as the University of Albany, Binghamton University, the State University of New York at Oneonta, and Stony Brook University¹¹.

¹ Erica L. Green, Katie Benner, and Robert Pear. “‘Transgender’ Could Be Defined Out of Existence Under Trump Administration.” *New York Times*, 21 Oct. 2018. <https://www.nytimes.com/2018/10/21/us/politics/transgender-trump-administration-sex-definition.html>

² “Diversity Mission and Vision.” Office of Diversity, Equity and Inclusion. State University of New York. <https://www.suny.edu/diversity/vision--mission/>

³ “Equal Opportunity: Access, Employment and Fair Treatment in the State University of New York.” Doc No: 6502. https://www.suny.edu/sunypp/documents.cfm?doc_id=533

⁴ New York State Education Department and The University of the State of New York. “Guidance to School Districts for Creating a Safe and Supportive School Environment for transgender and Gender Nonconforming Students.” July 2015. <http://www.nysed.gov/Press/Transgender-and-Gender-Nonconforming-Students-Guidance-Document>

⁵ The Sexual Orientation Non-Discrimination Act. <https://ag.ny.gov/civil-rights/sonda-brochure>

⁶ New York Code of Rules and Regulations (NYCRR) §466.13: Discrimination on the Basis of Gender Identity. <https://dhr.ny.gov/general-regulations>

⁷ U.S. Department of Justice Civil Rights Division and U.S. Department of Education Office for Civil Rights. “Dear Colleague Letter on Transgender Students.” 13 May 2016. <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>

⁸ Milo Primeaux and Eoghann Renfroe. *Know Your Rights: A Guide to Help Transgender and Gender-Nonconforming NYers Navigate the NYS Human Rights Law*. Empire Justice Center, 2016. http://empirejustice.org/resources_post/4630/

⁹ As described on the College’s website, “Gender inclusive housing is currently located in Casey Tower, DeGroat Hall (fall 2016) and West Campus Apartments. In some of our other residence halls, we do offer bedrooms with private bathrooms for you to use.” <https://www2.cortland.edu/offices/residence-life/current-students/gender-inclusive-housing.dot>

¹⁰ For a current map of single use restrooms on campus see <https://sunycortland.maps.arcgis.com/apps/View/index.html?appid=ab0a4a47284f4bccacaae8b6ea089da7>.

¹¹ For a representative list with links, see <https://www.suny.edu/diversity/lgbtq/lgbtq-resources/>.