



July 29, 2021

GUIDANCE MEMORANDUM UPDATE

To: College Presidents and Deans

From: Derek Davis *DD/sa*
General Counsel and Sr. Vice Chancellor for Legal Affairs

Re: Student and Employee Requests for Name and/or Gender Changes

From time to time, the Office of the General Counsel receives inquiries from campuses to respond to requests to change a student's name on official college records such as the student's transcript and diploma, as well as on non-official records such as the student's identification card, email address, and course rosters. This memorandum provides guidance on both legal and preferred name changes and updates and supersedes this office's June 19, 2018 memorandum. The principal update is a revision of the sample form for requesting a preferred name that clarifies the process for changing email addresses and student identification ("ID") cards.

With respect to students' names on official records, the law continues to require use of students' legal names. Official records include academic records such as diplomas and transcripts. For non-official records, however, students must be permitted to select a preferred first and middle name. This policy is required by laws protecting against gender identity discrimination, including the New York City Human Rights Law. The New York City Commission on Human Rights has issued detailed guidance that implements this local law confirming that the protection against discrimination on the basis of gender identity includes the right to use a preferred name on all records, except in very limited circumstances where legal name may be legally required on official records. Please see **Exhibit A** for a sample legal name change request form, which is required for name changes on official college records, and **Exhibit B** for a sample preferred name request form, which may be used for first and middle name changes on non-official records. No documentation is required to select a preferred name.

In addition, the law requires that students should be able to change their gender in City University of New York (the "University" of "CUNY") records. There have been requests from students to change their gender in CUNYfirst, often when their gender identity does not match the gender information that they provided on their admissions application, which populates the gender field in CUNYfirst. This memorandum also provides guidance on this topic, and **Exhibit C** is a sample gender request form consistent with this guidance. As with preferred name, no documentation is required to change gender.

This memorandum also addresses employee requests for use of a preferred name and gender changes. As with students, the law affords employees the right to use a preferred name and gender on all records, regardless of the individual's legal name or sex assigned at birth, except in circumstances where legal name may be required on official records by law (such as payroll records or for purposes of employment eligibility verification with the federal government).

I. Student Legal Name Changes

A. Court-ordered legal namechanges

The University's existing policy with respect to student legal name changes provides:

RESOLVED, that where names have been changed by court order, all transcripts of records and official statements by the colleges with respect to students or graduates of the schools shall incorporate only the official name as changed by said court order, unless otherwise specifically requested in writing. (CUNY BOT Feb. 6, 1940 (cal #6)).

Such a court order may arise in a number of different contexts, including a name change proceeding, an adoption proceeding, a divorce decree, gender change, or a witness protection program. For this purpose, a marriage certificate should also be treated like a court order.

In all such cases, a student is entitled to change the student's records to reflect the new or resumed name in accordance with the court order. To obtain the change, a student must show an original or certified copy of the order. Thereafter, only the student's new name should be reflected on all transcripts, diplomas, and other records issued by the College unless the student requests in writing that the student's transcript and/or diploma include a reference to a former name (e.g., John Doe, formerly known as John Roe).

For record keeping purposes, the student's name change request and court order should be kept in the student's file, along with the date of the name change and the student's former name. The College must strictly comply with the terms of the court order. For example, a court-ordered name change made as a result of an adoption proceeding, gender reassignment, or as part of a witness protection program may require that the previous name be sealed from the public. If there is any question about the validity or scope of a court order, please contact this office.

When a student has changed a legal name in this manner and requests a new diploma reflecting the new name, the respective College should issue a new diploma upon surrender of the old diploma. In the event that a diploma has been lost or destroyed, a new diploma identified as a "duplicate diploma" may be issued to the student without evidence of such loss or destruction.¹

¹ A Board policy on the issuance of duplicate diplomas adopted on October 23, 1929 (Minutes, p. 384) is limited to lost or destroyed diplomas. It provides:

In the State of New York, every person has the right to adopt by usage or habit any name by which the person wishes to be known so long as such name change does not perpetrate a fraud, misrepresent, or interfere with the rights of others. The College should recognize such a common-law name change on all of a student's official records upon presentation of at least one document bearing the new name. For example, John Doe may have used his first initial, J., instead of his full name, as a matter of usage or habit. If John Doe has proof of such usage on documents, which identify him as J. Doe, the College should make a legal name change. Such documents must be issued by at least one of the following entities: federal, state or tribal government, insurance company, bank, credit card company, union, employer, landlord, educational institution, or utility company. Examples of acceptable documents for a common-law name change include, among other things, a voter registration card, professional license, school identification card, school diploma, employer or union identification card, paycheck, tax form, insurance card or policy, credit card or utility bill, or bank statement or check.

B. Name changes due to typographical errors

When a student requests a name change due to a typographical or other error in college records, the student's request should be granted after verification that the name change is due to such error. Documents that may assist a college in making this determination include, for example, birth certificates, passports, social security cards, driver's licenses, or other documents issued by federal, state or local government agencies.

II. Student Preferred Names

The University recognizes the importance that a change of name might have to students during their time with the University. A preferred name is not a legal name but is generally used to address how others refers to the student in accordance with the student's wishes. For example, student "Jonathan Doe" may prefer the name "John" or student "Mary Jane Doe" may want to be referred to as "Mary Jane" or "Jane," rather than "Mary." Note that preferred names are not limited to variations of a student's legal name; for example, student "Jennifer" may request the preferred name "David" to be consistent with the student's gender identity if "Jennifer" has not obtained a court-ordered legal name change. Preferred names under this policy are limited to first and middle names; students may not select a preferred last name. In other words, a student's preferred name will reflect the same last name as the student's legal name.

That in cases where diplomas are lost or destroyed the deans of the several faculties having pedagogical supervision over the courses leading to such diplomas shall be empowered to conduct inquiries and take testimony; and, upon reaching the conclusion that such diplomas were unavoidably lost or destroyed and that applications for duplicates are made in good faith, may in their discretion, subject to the approval of the Board, have prepared, signed and issued such duplicate diplomas which shall be clearly marked "duplicate."

Currently, students are able to use CUNYfirst self-service to select a preferred first and middle name. Alternatively, they may submit a form to their College's Registrar's office. If they use CUNYfirst self-service, they will need to follow up with their Colleges' Information Technology office to change their email addresses, and with their Colleges' Department of Public Safety to request a new college ID card. Colleges may not charge a fee to change a student's ID card to reflect that student's preferred name. If students instead submit the form to the Registrar, they may request that the Registrar initiate the process to make changes in their email addresses and ID cards. (See **Exhibit B**).

Colleges may use a preferred name on all documents and records other than official documents, such as diplomas and transcripts. Documents and records that may display a preferred name include, among other things, course rosters, student identification cards, student email addresses, and honors, awards, and prizes issued by the College.² Upon request by the student, Colleges must replace student identification cards to reflect a preferred name without cost to the student.

III. Student Requests for Gender Change

Students should be free to change their gender on all prior, present, and future college records at their discretion. In general, a student's gender is collected for statistical purposes. No documentation is required to change gender in the CUNYfirst system. Students should complete the form attached to this memo and submit it to their College Registrar's office; self-service for updating gender information is not available in CUNYfirst. Due to a recent update in CUNYfirst, there are new gender options available. The updated gender options in CUNYfirst are male, female, transgender, gender nonconforming, and non-binary, a gender not listed, and not specified. Students may select the "a gender not listed" category when they believe that their gender identity is not one of the choices listed; they may select "not specified" should be used when they wish to remove the gender notation altogether.

As a cautionary note, however, gender changes may create data mismatches if students have applied for federal financial aid using a different gender. Therefore, University students who change their gender in CUNYfirst should be advised to contact their College's financial aid office to inform them of the change. Further, students requesting a gender change may wish to contact the Social Security Administration to prevent any problems with data mismatches between that agency's records and the information on file with the United States Department of Education ("DOE"), which administers federal financial aid programs. <https://faq.ssa.gov/link/portal/34011/34019/Article/2856/How-do-1-change-my-gender-on-Social-Security-s-records>.³ While the University does not require

² CUNY applications affected by a preferred name change can be found at <https://www.cuny.edu/preferredname>.

³ The DOE also compares data with the Selective Service Administration ("SSA"); if a student's sex assigned at birth was male, the student is required to register with the SSA in order to apply for federal financial aid. <http://www.finaid.org/students/selectiveservice.phtml>. A student assigned male at birth is required to register with SSA if her gender identity is female; conversely, a student assigned female at birth with a male gender identity is not required to register with SSA.

documentation of gender identity, there may be documentation requirements at these agencies.

IV. Employee Requests for Preferred Name or Gender Change

Employees who wish to select a preferred name for internal CUNY purposes (in situations in which their legal name is not required)⁴ or to change their gender in CUNYfirst should contact their College's Department of Human Resources. Self-service to make these changes is not currently available in CUNYfirst. Computer updates have not yet been made to allow the importing of preferred name in CUNYfirst to flow to unofficial documents. However, employees may request use of a preferred name in college directories, course catalogues, and other internal documents.

In addition, because gender is a shared field for students and employees in CUNYfirst, a change in gender for students who are also employees will automatically change their gender in their employee record. As with students, the options for employee gender include male, female, transgender, gender nonconforming, non-binary, a gender not listed, and not specified.

V. Preferred Pronouns

While there is a process for gender and preferred name changes, these changes will not reflect a student's or staff member's preferred pronouns, because the University does not capture any information in CUNYfirst or elsewhere concerning its students' or employees' preferred pronouns. It is nonetheless important to note that individuals have a right to be addressed by the pronouns of their choice (*e.g.* he, him, his, she, her, hers, they, them, their), regardless of how their sex was assigned at birth.⁵ Additionally, individuals must also be addressed by the titles that conform to their gender identity (*e.g.* Ms., Mr., or Mx.) Unless federal, state, or local law requires otherwise (which it currently does not), an individual's use of a preferred pronoun will not require documentation or a court order. Under the law, good faith efforts to ascertain someone's preferred pronouns are permissible.

Please ensure that this policy, including the new guidelines on preferred names and gender changes, is implemented at your campus. If you have any questions about the topics discussed in this memorandum, please contact Hilary Klein in the Office of General Counsel at Hilary.Klein@cuny.edu or Sean Phippen at Sean.Phippen@cuny.edu.

⁴ Legal name changes for employees are governed by the same rules as changes for students.

⁵ Under the New York City Human Rights Law:

All people, including employees, tenants, customers, and participants in programs, have the right to use and have others use their name and pronouns regardless of whether they have identification in that name or have obtained a court-ordered name change, except in very limited circumstances where certain federal, state, or local laws require otherwise (*e.g.*, for purposes of employment eligibility verification with the federal government). Asking someone in good-faith for their name and gender pronouns is not a violation of the NYCHRL.

NYC Commission on Human Rights Legal Enforcement Guidance on Discrimination on the Basis of Gender Identity or Expression: Local Law No. 3 (2002); N.Y.C. Admin. Code § 8-102(III)(1). Further, according to joint guidance issued on June 23, 2021 by the US Department of Justice Civil Rights Division and the US Department of Education Office of Civil Rights, the failure to address a student by their preferred pronouns can be investigated as an act of sex discrimination and sexual harassment. See <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-tix-202106.pdf>.

- c: Chancellor Matos Rodríguez
- Chancellery
- Registrars
- College Computing & Information Services (CIS) Offices
- Human Resources Directors
- Admissions Directors
- Financial Aid Directors
- Chief Student Affairs Officers
- Public Safety Directors
- Legal Affairs Designees
- Chief Diversity Officers
- Title IX Coordinators
- Women's Center Directors