

**THE RIGHTS OF THE TRANSGENDER
AND GENDER DIVERSE PERSONS POLICY**

**THE WEST BENGAL NATIONAL
UNIVERSITY OF JURIDICAL SCIENCES**

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THE RIGHTS OF THE TRANSGENDER AND GENDER DIVERSITY POLICY

The West Bengal National University of Juridical Sciences ('WBNUJS') fully subscribes to a policy prohibiting discrimination. WBNUJS will not discriminate against any employee, visitors and guests, applicant for employment, student, or student applicant in terms and conditions of employment, personnel practices, or access to or participation in programs, services, and activities with regard to gender identity or expression, and sexual orientation.

While the University adheres to and supports the principles of academic freedom, each member of the University community also shares in a common responsibility to maintain an environment free from discrimination, harassment, sexual misconduct, retaliation and any other form of oppressive conduct.

CHAPTER I

PRELIMINARY

1. SHORT TITLE, EXTENT AND COMMENCEMENT

- (a) This policy may be called the Transgender and Gender Diversity Policy.
- (b) This Policy applies to all WBNUJS students, administrators, faculty, trustees, teaching/research assistants, staff, and student organizations, as well as prospective students, employment applicants, visitors, and guests of the College. Persons who are not WBNUJS employees but perform work at WBNUJS for its benefit (such as contractors and temporary employees) are also protected and required to abide by this Policy. This Policy applies to "off-campus" activities that are College-related, such as College functions hosted in private homes, off-site conferences and meetings, and College-sponsored travel. WBNUJS reserves the right to apply this Policy to incidents of harassment by persons listed above which occur off-campus and are unrelated to College activities, but which may directly impact or have a significant effect upon WBNUJS or the WBNUJS community.
- (c) It shall come into force on _____.

2. DEFINITIONS

- (a) **'Transgender'** is an umbrella term used for people whose gender identity and/or gender expression is not in conformity with the gender assigned to them at birth; for example trans men and trans women (including but not limited to pre-operative, post-operative and non-operative transsexuals), genderqueer and nonbinary persons and other distinct forms of socio-cultural identities. The term transgender does not imply any specific form of sexual orientation. The precise definition for transgender remains in flux.
- (b) **'Gender Diverse'** is used to denote persons with any non-normative gender identities and other distinct forms of socio-cultural identities.
- (c) **Sexual orientation** - A person's physical or emotional attraction to people of the same and/or any other gender. Heterosexual, gay, lesbian, asexual, pansexual and

bisexual are only some ways to describe sexual orientation, but it is not an exhaustive list.

- (d) **Gender identity** - A person's internal, deeply-felt sense of being male, female, something other, or in-between, regardless of the sex they were assigned at birth.
- (e) **Gender expression** -An individual's characteristics and behaviors (such as appearance, dress, mannerisms, speech patterns, and social interactions) that may be perceived as masculine, feminine or androgynous.

3. GUIDING PRINCIPLES

The University shall, subject to the provisions of this Policy and any other law/policy for the time being in force, take the following necessary steps to secure for transgender and other genderdiverse persons:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination and non-stigmatization;
- (c) Full and effective participation and inclusion in every social space;
- (d) Respect for difference and acceptance of transgender and other gender diverse persons as part of human diversity and humanity;
- (e) Equality of opportunity; and
- (f) Accessibility to all curricular and co-curricular activities in the university.

CHAPTER II

RIGHTS AND ENTITLEMENTS

4. EQUALITY, NON-DISCRIMINATION AND NON-STIGMATIZATION

- (a) Equality for the purpose of this policy includes both formal and substantive equality.
- (b) The University shall take all necessary steps to ensure that transgender and other gender-diverse persons do not face any form of discrimination or stigmatization.
- (c) The University shall take all necessary steps to ensure that transgender and other gender-diverse persons enjoy equitable access to equitable opportunities and facilities in connection to the university.

5. RIGHT TO LIFE AND PERSONAL LIBERTY

- (a) The appropriate authorities shall take necessary steps to ensure that transgender and gender diverse persons enjoy the right to life with dignity and to personal liberty and all other associated rights guaranteed by Article 21 of the Constitution of India on an equal basis with others.
- (b) Every transgender and gender-diverse person has a right to respect for their physical and mental integrity on an equal basis with others.
- (c) The University shall take all appropriate administrative and other measures to protect persons from being subjected to degrading treatment or punishment.

CHAPTER III

ADMINISTRATIVE AND INFRASTRUCTURAL REFORMS

6. PROVISION OF ACCOMMODATION FOR TRANSGENDER STUDENTS

- (a) The University shall ensure Hostel allotment as per individuals' preferences at the time of application.
- (b) The University shall also seek to ensure gender neutral clusters/floors/blocks in the existing hostels.

Explanation - after preferences are considered, there would be a gender-neutral floor, and any trans person who has chosen to stay in that floor shall be given preference over the cis gender students.

7. CREATION OF GENDER-INCLUSIVE WASHROOMS IN THE ACADEMIC BLOCK OF THE UNIVERSITY

- (a) The University shall make sincere efforts to ensure that the Academic Block of the University has adequate number of gender neutral washrooms.

Explanation – this means that there will not be any sign outside these washrooms and would consist of separate compartments to ensure privacy.

8. GENDER IDENTITY IN OFFICIAL DOCUMENTS

The admission forms and other institutional documents of the University which have a column regarding the gender of the student must be altered to self-identify their gender.

Explanation: There will be a specific choice for self-identification of gender where the student can specify their gender.

9. TRANSGENDER PERSONS HAVE AN OPTION FOR CHANGE OF GENDER IN INTERNAL DOCUMENTS OF THE UNIVERSITY

(a) In any internal records, documents or forms maintained by the University, the honorific title must be of the person's choice and should be altered as per the person's do. The person must request for change to the concerned authorities. The change of gender on campus records and documents is independent of:

- i. The student's honorific title in legal documents such as birth certificates or driver's license.
- ii. Any proof that the students have modified their body.

Such a written communication should be accompanied by supporting documents issued by the Transgender Development Boards or any other relevant Government body of WB or the State of the person's residence.

Illustration: If A's passport has Ms. A, but A wishes to be referred to as Mx. A and meets all requirements mentioned under this clause, all campus documents pertaining to A will indicate Mx. A and not Ms. A.

(b) The campus/college documents in question will include all internal records such as class rolls, emails, attendance lists, mark sheets, identification card and other institutional records and paperwork.

Explanation: This clause must be read in conjunction with Clause 24 of this policy.

CHAPTER IV

ACADEMIC REFORMS

10. DUTY OF THE UNIVERSITY TO ENSURE THAT INCLUSIVE EDUCATION IS PROVIDED

- (a) The University shall strive to bring in matters relating to the rights of transgender and gender diverse persons as well as those of gender and sexuality in the curriculum and teach the same in a sensitive, nuanced manner.
- (b) The University will also strive to continually offer credit courses and electives in this regard and invite members of the transgender and gender diverse communities to teach the same as and when possible.

CHAPTER V

PARTICIPATION IN EXTRA-CURRICULAR/CO-CURRICULAR REQUIREMENTS

11. INCLUSIVITY IN SPORTING ACTIVITIES

- (a) The person must be allowed to participate in the team whose gender they identify with. As much as possible, teams without specific gender (mixed-gender teams) must be encouraged.

12. MEMBERSHIP IN ANY SOCIETY OR COMMITTEE IN THE UNIVERSITY

- (a) Students shall not be denied membership to any student society whether a part of the Student Juridical Association or otherwise on the ground of their gender identity.

13. PARTICIPATION IN EVENTS REPRESENTING THE UNIVERSITY

- (a) The University will take all efforts to promote the participation of transgender and gender diverse students in events outside the University.
- (b) The University, subject to the right of privacy of the concerned student, shall make all efforts to ensure that the experience of such a student is inclusive and non-discriminatory.
- (c) For any gender-segregated activity already not mentioned in this section, the participant has the right to participate according to the gender they identify with.

Illustration –Such efforts shall include making necessary communications with the organizers of the external event, if deemed necessary and subject to consultation and consent of the student, about the participation of such student to ensure an inclusive experience.

CHAPTER VI

DUTIES AND RESPONSIBILITIES OF THE UNIVERSITY

14. ESTABLISHMENT OF A COMMITTEE RESPONSIBLE FOR THE WELFARE OF THE TRANSGENDER AND GENDER DIVERSE PERSONS IN THE UNIVERSITY

- (a) The University shall form a committee responsible for protection of the rights of transgender and gender diverse persons which shall ensure amix of students, staff and persons who have knowledge and experience in working on sexuality rights and queer issues.
- (b) The committee would at least include 3 students, 3 members of staff and 2 persons having experience in working on sexuality and queer issues.

15. FACULTY MENTORS MUST BE PROVIDED TO ALL TRANSGENDER AND GENDER DIVERSE STUDENTS

- (a) Every transgender and gender diverse student will have a faculty-mentor. This faculty-mentor will be in charge of ensuring that the student's experience in the University both with respect to the provisions of this policy and otherwise is inclusive to the student's needs and that a sense of security is fostered in the student.
- (b) The student may choose not to avail of this.

16. COUNSELING FACILITIES MUST BE PROVIDED TO ALL TRANSGENDER AND GENDER DIVERSE PERSONS

- (a) The University shall provide for counseling facilities for the person if sought for. This counseling facility will be absolutely confidential and the student may approach the concerned authorities to facilitate such counseling.

17. SENSITIZATION PROGRAMS TO BE HELD REGULARLY

- (a) The University shall conduct regular sensitization activities to ensure that the atmosphere in the University is inclusive and encouraging to all persons.
- (b) There should be at least one sensitization per semester.

18. DISCRIMINATION IS PROHIBITED

- (a) Any kind of gender-based Discrimination shall be prohibited.
- (b) For the purpose of this policy Discrimination shall mean any distinction, exclusion or restriction made on the basis of gender identity which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise of fundamental freedoms and limits a faculty, staff or student staff member's ability to perform or participate in a work environment.
- (c) Students shall not make or engage in disparaging remarks and actions with regard to a person's gender identity or sexual orientation. Students will strive to create an environment that fosters mutual learning, dialogue, and respect while avoiding verbal, written or physical contact that could create a hostile or intimidating environment.

19. SEXUAL HARASSMENT IS PROHIBITED

- (a) All provisions of the Sexual Harassment Policy of the National University of Juridical Sciences ('NUJS') shall be applicable *mutatis mutandis* for the purposes of the policy.

20. CONFIDENTIALITY

- (a) Transgender and gender diverse persons may have unsupportive families and may even face violence and/or rejection from their home if their gender identity or gender expression is disclosed to the family. Transgender and gender diverse persons should have the right to privacy concerning their gender identity and gender transition. Any

such information regarding gender transitions, that is recorded in college records must be treated as confidential and not disclosed to others without their consent.

CHAPTER VII

RECRUITMENT PROCESS FOR TRANSGENDER PERSONS

21. RECRUITMENT PROCESSES MUST NOT DISCRIMINATE ON THE BASIS OF GENDER IDENTITY.

- (a) The University will attempt to create an inclusive environment while recruiting transgender persons as well as when students sit for recruitment through the college procedure.
- (b) The university will strive to ensure that all Human Resources (HR) employment selection and decision practices do not discriminate, nor tolerate discrimination in employment or education, against any applicant, employee, or student.

CHAPTER VIII

MISCELLANEOUS

22. ACTION TAKEN IN GOOD FAITH

- (a) No disciplinary or any other proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Policy or any rule made thereunder.

23. POWER OF THE UNIVERSITY TO MAKE RULES OR REGULATIONS IN PURSUANCE OF THIS POLICY

- (a) Subject to other provisions of this Policy, the University may, after following the appropriate procedure as per the NUJS Act, make rules for carrying out the provisions of this Policy.