

March 24, 2021

**Education Law Title 1, Article 9 is amended by adding a new Section 409-m.,
Gender Neutral Single-occupancy Bathroom Facilities
Legislation relative to single-occupancy bathroom facilities became Law December 23, 2020**

The new Education Law Section 409-m, requires all schools (public and non-public) to develop policies and procedures “requiring that all single occupancy (single use) bathroom facilities (toilet rooms) are designated as gender neutral for use by no more than one occupant at a time or for family or assisted use”. Simply stated, existing single-user toilet rooms which do not have signs which indicate gender neutral must be provided with new signs with the words “all gender” (preferred) or “gender neutral”. To comply with Building Code of New York State (BCNYS) and accessibility standards the sign must be located on the wall next to the door.

“This act shall take effect on the ninetieth day after it shall have become law”.

Frequently Asked Questions:

1. Does the law require that we construct a single-occupancy toilet room for the gender neutral population if we don't currently have one?
No, this law does not require a “gender neutral” toilet room to be constructed. It only requires all existing single occupancy toilet rooms be provided with new signage which indicates the room is, ‘All Neutral’ or “Gender Neutral”.
2. The law does not specifically state the correct terminology of labeling. Can the sign say, “Single Occupancy Bathroom” or does it need the label “Gender Neutral”?
To “be clearly designated by the posting of such” per the law and in accordance with BCNYS 2902.4, Exception 1 the words “All Gender” or “Gender Neutral” should be used for the sign.
3. Signs for accessible toilet rooms need to comply with accessibility standards in accordance with BCNYS 2902.4 which would include a written indication, braille and pictogram. Does NYSED recommend a specific/correct pictogram that needs to be used as there are numerous versions available?
SED has consulted with the Empire Justice Center and has designated acceptable signs, language and pictograms shown in images below. Refer to BCNYS Section 2902.4, Section 1111, and reference standard ICC A117.1-2009, Accessible and Usable Buildings and Facilities. We also recommend a design professional be consulted to specify signage that complies with Section 409-m, this guidance and ICC A117.1-2009. Below are images of acceptable signs. It is best to focus on the purpose of the room rather than the gender of the user which is why the toilet pictogram is preferred. The New York State “dynamic” accessibility symbol is required at wheelchair accessible toilet rooms. The pictograms are essential for those with reading impairments. The height of the sign above the floor is dictated by ADA standards and is set at 48” minimum to the bottom of the braille and 60” maximum to the top of the braille.

Preferred Signs:



Acceptable Signs:



4. Do "staff" bathrooms that are NOT labeled with a specific gender need to be re-placarded to say, "All Gender"?

Yes, if they are single-occupancy (single-use) use toilet rooms. "Gender Neutral" is also acceptable.

5. Many schools have both Staff/Faculty Bathroom (typically single user) and Student bathrooms (typically multi-user toilet rooms). Do the Staff/ Faculty Bathrooms now have to allow for all persons to use or can we have one "gender neutral staff" bathroom and a "gender neutral student" student bathroom?

Schools should differentiate staff from students with "Staff" signage in addition to the "gender neutral" or "all gender" words at staff toilet rooms.

6. Do classroom bathrooms, such as in kindergarten rooms that are currently not labeled by any specific title other than "bathroom" need to now be labeled Gender Neutral?
Yes, for exceptions consult legal counsel.

A Copy of the new Section in Education Law:

* § 409-m. Gender neutral single-occupancy bathroom facilities. The board of education or trustees of every school district or, in the case of the city school district of New York, the chancellor, and every board of cooperative educational services, charter school and nonpublic school within the state shall develop policies and procedures requiring that all single-occupancy bathroom facilities are designated as gender neutral for use by no more than one occupant at a time or for family or assisted use. Such gender-neutral bathroom facilities shall be clearly designated by the posting of such on or near the entry door of each facility. For purposes of this section, "single-occupancy bathroom" shall have the same meaning as paragraph (d) of subdivision one of section one hundred forty-five of the public buildings law.

* NB Effective March 23, 2021