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## A Thematic Exploration of Well-Being in Ontario-Based School Board Gender Identity Accommodation Policies

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**A Thematic Exploration of Well-Being in Ontario-Based School Board Gender Identity  
Accommodation Policies**

By: Nicolas Saville

Major Research Project Completed in partial fulfillment of the requirements for the Social  
Justice and Community Engagement Master of Arts program at Wilfrid Laurier University,  
Brantford, Ontario

2023

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## **Abstract**

The purpose of this qualitative study was to better understand how well-being is articulated in the gender identity accommodation policies and procedures of Southern Ontario school boards. I conducted a critical thematic policy analysis of 13 policies and procedures from 10 English-speaking public-school boards in Southern Ontario. Combined lenses of queer theory and Foucauldian analysis were used to understand how school board policies and procedures act as discourse and reproduce cisgenderist power. Results indicate that the well-being of gender diverse students is not equitably articulated within school board accommodation policies and procedures. Specifically, school boards engage in cisgenderist discourse and problematization patterns that adhere to the gender binary and uphold safety risks for gender diverse students in schools. This research problematizes an individualized approach to accommodation and recommends a more critical restructuring of school board policy and school culture in order to be more inclusive and better the well-being of gender diverse students.

## **Acknowledgements**

First and foremost, I would like to thank my advisory committee, Dr. Cameron McKenzie and Dr. Christine Wildman, for their continuous support, endless encouragement, and thoughtful guidance throughout this process. I have gained so much insight from the both of you, and it is greatly appreciated. I could not have asked for a better committee for this project. Endless thanks to you both.

Thank you to Dr. Jenn Root for all of your support very early on in the brainstorming process. Your support both inside and outside of class was integral to me feeling that I could do this, so thank you. Additional thanks to Dr. Marcia Oliver, for your support and for telling me exactly what I needed to hear when I needed to hear it.

Thank you to my fellow 'MRP-ers' and program cohort. It was so wonderful being on this social justice journey with you all. Our conversations were so personally and professionally valuable to me. It has been such a privilege to get to know and work alongside you.

Thank you to my friends and family who asked about or endured listening to me talk about my research. Thank you for the caffeine deliveries. Thank you, John, for never taking my worries seriously for a second.

Finally, thank you to Percy, for keeping me company the whole way through.

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## Introduction

In Southern Ontario, school-aged youth are the focus of sociopolitical discussions related to gender diversity. Debates on gender affirming supports such as curriculum inclusions, washroom access, sports, roles of staff, and safety draw heavily on public narratives related to childhood. Important issues for gender diverse youth are twisted into moral panics based in the age-old rhetoric of 'think of the children'. Despite appearing as a provincial leader in gender identity and expression rights, Ontario's education system remains highly conflicted in the area of supports for the gender diverse community. Primary and secondary educational institutions are positioned to provide intervention in the form of gender-affirming supports, and thereby reduce risk to well-being of gender diverse students at a critical socio-developmental stage.

School board gender identity accommodation policies and procedures are an example of gender affirming supports that are available to gender diverse youth in Southern Ontario. Gender-affirming supports have proven to be successful in achieving greater overall well-being and reducing negative health outcomes for gender diverse youth (Moody & Grant-Smith, 2013; Tordoff et al., 2022; Veale et al., 2017). These supports include respecting lived names and pronouns and providing gender-neutral washrooms. Accommodations are defined as "making an adjustment, providing support, or making exceptions to remove barriers [to] ensure fair and equitable access, treatment, and inclusion" (Ottawa-Carleton District School Board, 2022 p. 1). The existence of such policies and procedures are of critical importance for the well-being of gender diverse students. 'Well-being' in this research is understood as a holistic measure of positive wellness, acknowledging the interrelated nature of physical, mental, and emotional health. I do not focus solely on biomedical or disease prevention as equating to a positive well-

being. Well-being encapsulates far more meaning beyond medicalized categories, such as a person's sense of security, belonging, spiritual connection, and more (Arcidiacono & Di Martino, 2016).

The purpose of this research is to better understand how “well-being” is articulated in gender-identity accommodation policies and procedures affecting school-aged youth within Southern Ontario-based public-school boards. In particular, I use a critical thematic policy analysis and a combined Queer Theory and Foucauldian lens, in order to learn more about how the articulation of well-being in these policies and procedures aligns with or resists dominant power discourses around gender diverse bodies and lives.

The Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Pansexual, Polyamorous, Asexual/Aromantic/Agender, Plus community (2SLGBTQIPPA+) uses a wide range of identifiers to express sexual, gender, and relational diversity. The term 'trans' is widely used as an umbrella term to categorize a wide variety of gender identities that may not correspond with a person's sex assigned at birth. 'Cis' or 'cisgender' is used to categorize gender identities that do correspond with a person's sex assigned at birth. Though trans is meant to be inclusive, often used with an asterisk (i.e.: trans\*) to imply additional flexibility of the category, not all non-cisgender folk identify with the term. Trans or transgender are terms more commonly associated with individuals who 'transition' from one binary gender category to another; a problematic assumption that does not fully encapsulate the diversity in the trans\* experience. While many gender identity terms are situated in a mainstream white, middle class, colonial-based context, gender diversity has a long history and contextual relationship with many Black, Indigenous, and communities of colour (Farvid et al., 2021). Certain terms, such as 'third gender' or 'Two-Spirit', are sometimes used specifically to signify distinct cultural and spiritual



conceptions of gender diversity ("History", n.d.). 'Two-Spirit' is "a pan-Indigenous term [that] honours male/female, and other gendered or non-gendered spirits, as well as spiritual and cultural expressions" (Lezard et al., 2020, p. 5). It is sometimes used to express sexuality, gender identity, and spirituality separately or as being interrelated, representing a wholeness of identity for some Indigenous 2SLGBTQIPPA+ people (Lezard et al., 2020). 'Third gender' is a term in Hindu culture that includes a few different identity groups in South Asia, but is most commonly used to refer to a different gender identity that is neither male, female, nor transitioning ("Hinduism Case Study", 2018). Terminology for diverse identities evolves over time (Farvid et al., 2021), and it is important to recognize that all gender identities remain valid regardless of their relation to social categorizations and labels.

For the purpose of this research project, I chose to use the term 'gender diverse' as a broad category to encapsulate a range of gender identities and expressions outside of the rigid boundaries of cisgenderism, which systemically hierarchizes cisgender identities over other gender identities (Lennon & Mistler, 2014). Cisgenderism utilizes cisnormativity, the assumption that cisgender identities are natural, and gender diverse identities are the exception, in order to preserve the hierarchy through socially enforced discrimination and prejudice (Lennon & Mistler, 2014). Cisgenderism denies and pathologizes gender diverse identities and perpetuates the belief that cisgender identities are more valuable, thus creating "an inherent system of associated power and privilege" (Lennon & Mistler, 2014, p. 63). I refer to both cisgenderism, as a systemic force, and cisnormativity, as a systematic enforcement, within this research.

As the researcher, my positionality as a white queer trans man has influenced every stage of the research process. I have been socioeconomically and educationally privileged throughout my life, and privileged in the opportunity to conduct this research. I share my identity as the

researcher in order to be accountable and analytical about the experiences, knowledge, and choices that come into all aspects of doing research. Whiteness is inherently powerful in Western society. It brings with it the power of perceived normalcy, the privileges of safety, and the benefits of having society entirely built to cater to your well-being. At the same time, I have also felt the marginalization from these systems due to my being queer and trans masculine, though not in the same ways that, for example, Black trans women or Indigenous Two-Spirit individuals experience oppression. I am also situated in the 2SLGBTQIPPA+ community as it is popularly understood using terminology and ideas that are rooted in colonial concepts of sexuality and gender (Spade, 2015). I have a lot of love and passion for the lives of people in the gender non-conforming community, and part of those emotions is recognizing that, as a white trans individual, the systems that bring me safety also bring others greater risk to life and livelihood. Though the scope of this research does not specifically take on an intersectional methodology, I articulate that diverse identities will be impacted differently by expressions of power, as from a social justice lens this cannot be ignored. Throughout this research process, I have engaged reflexively with my positionality and my own experiences to bring relationality and depth to my research.

In addition to consideration of my positionality, it is important to clearly define and differentiate the meanings of the terms 'policy', 'procedure', and 'guideline'. In school board trustee professional development modules provided by a partner of the Ministry of Education, the Ontario Education Services Corporation (OESC), the role of policy-making in school boards is defined:

It is through policy that the board of trustees informs the public, the administration and other staff of its priorities and intent. A policy is a principle or rule that guides decisions

that will achieve the organization's goals. It articulates what must be done and the rationale for it, but does not deal with how it is to be done. A procedure, or a protocol, is usually administrative, and provides the details of how policies are to be implemented.

Procedures are the responsibility of directors and staff, not trustees. (OESC, 2019, p. 2) Policies are further defined as providing direction in accordance with the board's priorities, and as being "institutional commitments to student achievement and well-being" (OESC, 2019, p. 4). Procedures are defined as specific, detailed, and focused mechanisms that enable day-to-day implementation of policies (OESC, 2019). Despite the articulation that procedures are not the responsibility of trustees, they are implicitly formed according to policy produced by trustees, and can therefore be seen as a direct extension of policy itself. What school board trustees deign to include and not include in policy has effects on the outcome of the procedures, and those impacted by the procedures. I therefore chose to include procedures alongside policy for the purpose of this study, as accommodations were sometimes represented as procedural and sometimes represented as an overall policy.

The OESC also states that procedures "can include guidelines for decision-making and protocols that set out a prescribed course of action for specific circumstances" (OESC, 2019, p. 4). The language here insinuates that any 'guideline' could be considered procedural, and therefore a part of board policy. However, guidelines lack the same rigorous regulations and processes that mandate policy and procedures. The term "guidelines" inherently implies that their completion is optional, flexible, and up to the individual whether or not to complete. Thus, a 'prescribed course of action' (that is, a guideline) carries none of the authority that policies and regulations do in the 'specific circumstance' of gender diversity in schools. Guidelines offer far too much flexibility and far too little accountability to have any consistent or long-term impact

on the well-being of gender diverse students: while they may provide important information on gender diversity in schools, guidelines for supporting gender diverse students are optional rather than mandatory. Discursively, because the specific implementation of accommodation guidelines is non-compulsory, the well-being of the guideline subject (gender diverse students) is at risk.

By examining the existing conditions of gender-affirming school board policy and procedures, my research aims to help fill a gap in the literature on trans\* and gender diverse well-being. The social regulation of gender and associated gender-based issues are deeply embedded within our social system and is systematically enforced at all levels of social life (Butler, 1993; Petillo & Hlavka, 2022). The social world is constructed around the gender binary and the assumption of cisnormativity, and often problematizes gender diversity as requiring accommodation rather than challenging the gender binary itself (Omercajic & Martino, 2020). A small but growing body of literature on trans\* politics has pushed for a move towards human rights and equality for trans\* and gender diverse populations. Once protected under the law, gender diverse populations are wrongly deemed to be “equal” to the cisgender majority. This move is easily co-opted into neoliberal norms of state-granted equality and hence results in no meaningful change in the lives of gender diverse populations under a rigidly gendered system (Omercajic and Martino, 2020; Spade, 2015). Schools are highly gendered institutions with a direct impact on youth, and the presence of school board accommodation policies and procedures does not automatically ensure the well-being of gender diverse students. Therefore, it is my aim to investigate how these policies and procedures articulate well-being and connect to a discourse of cisgenderist power. The outcome of this research will contribute to a growing body of work that problematizes systemic norms around the gender binary that pervade social institutions, such

as schools, and calls for a broader dismantling of gendered institutions to bring greater safety and well-being to gender diverse youth.

## **Literature Review**

### **Background Context and Justification**

The current sociopolitical battle for trans\* rights occurring in the United States is integral to understanding the socio-political context of gender diversity in Ontario, Canada. Anti-trans\* legislation across the United States has been steadily increasing for the past several years, with 79 bills proposed in 2020, 147 bills in 2021, 149 bills in 2022, and already 150 bills proposed by February of 2023 (Human Rights Campaign, 2023; Kinney et al., 2022). Reaching historical highs, these legislations are designed to restrict, ban, or even criminalize access to gender-affirming supports such as healthcare, legal identification changes, access to sports and washrooms, and school curriculum representation (Kinney et al., 2022). Legislation is also being used to try and protect the rights of trans\* individuals in the realm of nondiscrimination policies, inclusivity policies, and equal rights campaigns (Kinney et al., 2022). The neoliberal approach to the individualization of law and human rights is evident on both sides of this legal landscape. While not new to the socio-political tapestry of Western societies, gender diversity discrimination has become a key political battleground that reaches beyond the government level. The legislative increase comes on the back of a steady rise in empowered far-right sentiments in social and political areas globally.

While many Canadians may believe that such United States trends ‘don’t happen here’, similar anti-trans\* sentiments are gaining popularity in Canada. Ontario provides a clear illustration of this trend. For example, in the most recent Ontario municipal election (in the

autumn of 2022) there was a distinct rise in the number of School Board Trustee candidates who espoused anti-trans\*, 'parental rights', and 'anti-liberal ideology' commitments for schools (Montpetit & Ward, 2022). While governed at the provincial level, schools and school boards have already become targets for anti-trans\* rhetoric, highlighting how it indeed has 'happened here'. Ontario has already seen its fair share of school-based queer inclusion controversies, including over the formation of Gay-Straight Alliance clubs (now called 'Gender Sexuality Alliance') and the 2015 Sexual Education Curriculum reforms (Martino et al., 2019). Since February 2023, the York Catholic District School Board (YCDSB) has faced protests over decade-old "safe space" progress pride stickers in classrooms that resulted in police being called to three separate board meetings (Cheese, 2023). The YCDSB was in the news again after its trustees voted against flying Pride flags at their Catholic Education Centre (CBC News, 2023). Similarly, in March 2023, the Ottawa-Carleton District School Board (OCDSB) experienced meeting disruptions and protests over the issue of washroom access for gender diverse students (Anand, 2023). Examples such as these are only the ones that make news headlines, as many of the day-to-day struggles faced by gender diverse students in schools go unnoticed and unpublished.

Ironically given recent events, Ontario has long been considered a leader in trans\*-affirming policy, with Bill 33: "Toby's Act" (2012) amending the Ontario Human Rights Code to include protections from harassment and discrimination for gender identity and gender expression, five years prior to the same protections becoming federal law (Martino et al., 2019). In response, Ontario's Bill 13: Accepting Schools Act (2012), "amended the Education Act to provide explicit protection to students from bullying because of gender identity and gender expression" (Ontario Human Rights Commission, 2014, p. 46). As part of this legislation,

Ontario's school boards were required by the Ministry of Education to develop and implement 'Equity and Inclusive Education' policies (Ontario Ministry of Education, 2013; Ontario Human Rights Commission, 2014). These policies specifically address all the protected grounds included in Ontario Human Rights Code and their right to be free from discrimination and harassment. These policies express these protections in list-form alongside other protected identities from the Human Rights Code, but do not go into any detail on the specifics of such protections and rights for gender diverse students. While every Ontario school board holds the overgeneralized 'Equity and Inclusive Education' policies, some school boards have opted to implement additional policies and procedures directly relating to some of the protected grounds of the Ontario Human Rights Code. Among these are policies and procedures on how schools and school boards can accommodate gender diverse students. Accommodations are a legal duty based on protected grounds in the Ontario Human Rights Code in order for individuals to equally participate in school environments and perform to the best of their ability. School boards have a duty to accommodate gender diversity up until the point of undue hardship, whereby an objective assessment of costs, outside sources of funding, and health and safety considerations can determine whether or not the board must provide the proposed accommodation (Ottawa-Carleton District School Board, 2022).

Considering that leadership status, Ontario has important potential in setting the standard for effective gender diversity school board policy. The first official accommodation guidelines for gender diverse students were produced in 2011 by the Toronto District School Board (TDSB), one year before the Ontario Human Rights Code amendment mentioned above. Over the next 12 years, more and more school boards adopted gender-diversity related policies, and many have built accommodations guidelines based on those of the TDSB from 2011. However,

these guidelines appear to be just that: guidelines. Despite being referred to as policy in several news articles by both journalists and a TDSB spokesperson when first revealed (CTV News, 2012; Donkin, 2012; Kolley, 2012), the TDSB guidelines are listed on their website as a “resource” under ‘Gender Based Violence Prevention’ and not within the board’s policies and procedures (TDSB, "Guidelines"). In fact, within the TDSB’s *Policy P037: Equity Policy* as of April 2018, the board pledged to “develop and communicate detailed operational procedures to ensure a clear process for Human Rights Accommodations associated with areas of Creed and Gender Identity and expression and any other areas requiring Accommodations under the OHRC” (p. 14). Such a declaration implies that the TDSB is fully aware that guidelines are not the same as operational procedure or policy, considering that their guidelines had been in place for seven years prior to this pledge. Currently, in 2023, no detailed operational accommodation procedures for gender-diverse students exists (beyond the aforementioned guidelines). The discrepancy between policy, procedure, guidelines, and recommendations is consistent across the Southern Ontario English-speaking public-school boards, making it more difficult to assess the effectiveness of these practices on creating safety and support for gender diverse youth.

### **Policy and Accommodation**

Policy cannot be understood in a social or institutional vacuum (Ball, 1993). It is one part of a greater system of administrative authority, power, and control. On this system, Dorothy Smith (1987) wrote:

The work of administration, of management, of government is a communicative work. Organizational and political processes are forms of action coordinated textually and getting done in words. It is an ideologically structured mode of action - images,



vocabularies, concepts, abstract terms of knowledge are integral to the practice of power, to getting things done. (p. 17)

Policies communicate practices of power from those in authority to the actors intended to perform them. Every stage of this process has “an interpretational and representational history” that results in policy being constantly in a state of ‘becoming’ (Ball, 1993, p. 11). This is true regardless of a policy’s institutionalized location: policy is as complexly-encoded in government as it is in the field of education. What the policy attends to, and fails to attend to, exercises “power through a production of ‘truth’ and ‘knowledge’,” - the Foucauldian definition of discourse (Ball, 1993, p. 14). School board policy therefore produces ‘truth and knowledge’ through the discourse of the roles that gender diverse bodies are and are not allowed to play in educational spaces. In Smith’s (1987) words: policy intrinsically practices power.

The realm of administration, including legislation and policy-making, is critiqued by trans\* law scholar and activist Dean Spade, whose 2015 novel *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law* argues that law and administration, though often regarded as the site of equality for queer and trans\* people, is actually a system designed to reproduce functions of power that oppress and make queer populations vulnerable. The neoliberal framework of law centralizes individual rights and equality which, rather than improving lives, only expands the reach of already oppressive systems to continue their productions of violence on queer and trans\* lives (Spade, 2015). In this way, the very structural system of legislation and policy works to subjugate gender diverse people under a framework that privileges those who fit into normative conceptions of gender and marginalizes those who do not. It is not enough to use the administrative realm to aid or protect gender diverse populations: the United States has proven in recent history, as evidenced by the increase in gender-affirming

care bans, that legal protections can always be reversed. The system of policy and administration itself must be problematized as foundationally harmful to gender diverse populations in the way that it socially constructs and maintains their structural oppression.

In many cases, those who create gender diversity-related policy, as well as those who are responsible for enacting it, “lack understanding about gender diverse people and how policy impacts their health and wellbeing” (Kinney et al., 2022, p. 490). While purposefully anti-trans\* policies are more visible in the ways that they create harm, others require “a critical lens and awareness of intersectional identities to understand their impacts” (Kinney et al., 2022, p. 490). A critical lens is required when looking at accommodation policies for gender diverse students that appear to offer safety and protection but ultimately fail to make improvements to those students’ daily lives. Gender equity work in policy must focus on preventing and undoing both harmful policies as well as gender-affirming policies that do not recognize the unique needs and assets of gender diverse youth (Kinney et al., 2022). In doing so, the systems of policy-making itself and their impacts within institutionalized environments like schools can be challenged.

Omercajic and Martino (2020) speak to accommodation policies in schools as upholding a cisgenderist system that does not provide the necessary supports and resources for gender diverse youth to thrive in schools. The authors argue that the accommodation policy leads to gender diverse youth being responsible for their own safety and well-being, for governing themselves in accordance with the policy, and for outing themselves in order to request accommodation (Omercajic & Martino, 2020). In this way, the responsibility for accommodation is placed on gender diverse youth, while their cisgender peers are not required to have the same responsibilities in order to freely express their gender identity. There are many problematic assumptions in this practice, including that gender diverse students know that they have a right to

access accommodations, that they know how to request it, and have the capabilities to navigate or should have to navigate potential conflict or harm (Omercajic & Martino, 2020). Having to first be ‘out’ or needing to out oneself to school administration positions gender diverse students as needing to “receive permission to exist within a cisnormative system while refusing to restructure it” and increases their risk of surveillance (Omercajic & Martino, 2020, p. 8). This accommodation approach is also very privatized and individualized, making it hard to positively impact change across school culture (Mangin, 2020). Accommodation procedures are designed to be implemented only by request from individual gender diverse students. This process does nothing to problematize the education system itself as being highly gendered or to enact long-lasting positive change.

### **Gender Diversity and Well-Being**

In order to conceptualize the term well-being, I will use a social determinants of health framework. The World Health Organization (WHO) defines the social determinants of health (SDH) as non-medical factors that have an important influence on health inequalities and health outcomes (2010). These factors, such as wealth distribution or quality of available health services, have been commonly understood as the living conditions that certain populations have imposed upon them by structural powers such as government policy and institutions (Mikkonen & Raphael, 2010; Raphael et al., 2020). In this way, the SDH framework is beneficial to use for focusing on structural health rather than purely medical health, (such as disease prevalence), or individualized behavioural health, (such as dieting or exercise). This structural awareness helps contextualize health and well-being as being closely connected to systems of power. According to the WHO’s Social Determinants of Health Conceptual Framework (2010), health equity is

defined “by the absence of unfair and avoidable or remediable differences in health among social groups” (p. 4-5) when health-determining factors are persistently maldistributed by social position. Social determinants of health are thus highly related to social position, and constructed through social mobility, social causation, and life course perspectives (WHO, 2010). All of these mechanisms are connected to power as it is systematically enforced over certain identities at all levels of societal life, from individual to governmental.

For the purposes of my research, the SDH framework is useful for structurally situating the idea of well-being. Physical, mental, and emotional health are all directly constitutive of a person’s well-being (WHO, 2010), and thus I will utilize this framework to encapsulate all of these health factors into my definition of individual and collective well-being for gender diverse youth. The well-being of gender diverse populations is highly affected by structural discrimination and transphobia that exclude gender diverse people from many areas of life. The theory of minority stress, which suggests that marginalized people experience certain stressors related to their identity, "has been proposed as an explanation for the high rates of mental health difficulties" among gender diverse youth (Veale et al., 2017, p. 207). Discrimination and social stigma are examples of minority stressors experienced by gender diverse youth that negatively impact their well-being (Veale et al., 2017). Minority stress can be understood as being directly related to social exclusion as a social determinant of health. Social exclusion from civil, social, and economic life has been shown to create living conditions and personal experiences that negatively impact health (Galabuzi, 2016; Mikkonen & Raphael, 2010; Raphael, 2019). Institutions and power relations in society are organized around marginalizing certain groups, thus creating social exclusion as a form of oppression (Galabuzi, 2016). This is both a structural and historical process that generates social and health inequalities (Galabuzi, 2016). Social

exclusion can create "a sense of powerlessness, hopelessness, and depression that further diminish the possibilities of inclusion in society" for certain groups (Mikkonen & Raphael, 2010, p. 33). These groups "tend to sustain higher health risks and lower health status" (Galabuzi, 2016, p. 388). In terms of gender diverse communities, social exclusion greatly impacts overall well-being. These impacts are also largely invisible and under-addressed in policy. Structural cisnormativity in schools systematically upholds the social exclusion of gender diverse students, which denies them the opportunity to fully participate and be included in educational spaces. Social exclusion of gender diverse youth is also a critical indicator of negative well-being during a key socio-developmental stage in their lives. Therefore, the overlap between social exclusion and gender identity and expression as social determinants of health are integral to understanding the structural impact of cisgenderist power on the well-being of gender diverse youth.

There are limitations to the SDH framework, particularly in the context of gender diverse populations (Mulé et al., 2009). The framework frequently overlooks gender identity and expression, even in WHO reports, and only addresses the health disparities between cisgender men and cisgender women (Mikkonen & Raphael, 2010; Pederson & Machado, 2019; Pega & Veale, 2015; Raphael et al., 2020; WHO, 2010). SDH frameworks that do include gender identity and expression often do not do so critically enough. Merely adding gender identity and gender expression to a list of health determinants, thereby constituting a neoliberal human rights-based approach, would not be enough to address the limitations of this framework. In cases where gender diversity is included in an SDH framework, it is often through the lens of behavioural health, in order to connect gender diversity to a higher risk for minority stress and HIV/AIDS (Raphael et al., 2020). Doing so further reduces the visibility and needs of the gender diverse community, particularly for those with multiply-marginalized identities that already face

health inequities such as racialized communities and people with disabilities. The SDH framework heavily focuses on the ‘deficits’ of impacted populations rather than recognizing the preventability of health inequalities (Frank et al., 2020). The social, political, and economic powers that reproduce health inequities for certain populations are traditionally avoided within SDH work (Frank et al., 2020). Rather than proposing that gender diverse identities themselves determine a higher risk for negative health outcomes, a critical SDH framework would look to the systemic nature of transphobia and discrimination that disadvantages the health prospects for gender diverse populations (Pega & Veale, 2015). Policy implementation should be completed through a process that addresses structural factors and dictates how to make fundamental changes to fix those structures.

Gender diverse populations have a long and complicated history of being harmed by medical professionals and medicalized academia, particularly in mental health fields that have pathologized diverse gender identities and expressions (Farvid et al., 2021). It is important as a trans\* researcher that I reject medicalization in my analysis of gender diverse well-being. My choice to use an SDH framework is rooted firmly in critically discussing how well-being is affected by practices of power, rather than merely taking on the medicalized and binary diagnoses of ‘well’ and ‘unwell’ in regards to health. Therefore, I have not utilized the SDH framework to be categorical and medicalized in my analysis, but to be critical about the systemic impact of gender identity policy and procedure on overall well-being for gender diverse students.

### **Gender Diversity in Schools**

As discussed, much of the current anti-trans\* sentiment expressed in Ontario focuses on school environments and youth, in keeping with historical discourses in the United States and

Canada around 'protecting' minors from queer associations. Discursively, normative depictions of heterosexuality and cisgenderism in schools are 'appropriate' at any age, but any non-conforming depictions of sexuality and gender are seen as implicitly hyper-sexual, threatening, and inappropriate. Particularly in elementary schools, children are dominantly perceived by adults as being asexual, innocent, and naive to experiences of sexuality and gender (Payne & Smith, 2014). Furthermore, even from young ages through gendered play such as dress-up or pretend weddings, elementary-aged students engage with pervasive celebrations of heterosexuality and cisgenderism (Payne & Smith, 2014). These normalizing performances establish the function of sexuality, gender identity, and gender expression from the start of schooling, implicitly marking "who students are allowed to 'be' in educational spaces" (Payne & Smith, 2014, p. 402).

In terms of school support for gender diverse students, much of the existing gender-affirming policy falls under an overgeneralized discourse around anti-bullying and inclusion at both governmental and school board levels (Atkinson & DePalma, 2009; Martino et al., 2022). This overgeneralization, much like the listed identities in the Equity and Inclusive Education policies, fosters an invisibility of the specific needs of gender diverse students in having a strong well-being at school. This invisibility leads to a gap between policy and practice. In a survey of 1,194 educators in Ontario K-12 schools, many respondents considered that accommodation policies represented a high measure of support for gender diverse students, but understood them as being enacted only on a case-by-case basis (Martino et al., 2022). Respondents also found that a lack of administrative support led to policies being inconsistently interpreted and enacted by individual educators (Martino et al., 2022). About a quarter of respondents stated that the existence of a policy does not guarantee that it will be followed (Martino et al., 2022). The gap

between policy and practice allows for institutionalized cisgenderism to continue to manifest in schools.

Gender diverse individuals are exploring and discovering their identities at increasingly younger ages, making public schools a crucial environment for supporting a healthy well-being for gender diverse students during formative years of growth and development. Major socialization happens for youth within schools, which operate as institutional micro-social environments where identities are developed and negotiated around normative conceptions of gender (Martino & Cumming-Potvin, 2017). There is a fair amount of literature that seeks to empirically document the experiences of trans\* and gender diverse youth within schools. The findings directly connect to the SDH framework whereby structural social exclusion and oppression of certain identities is shown to impact well-being. The literature reveals that gender diverse students are at a higher risk for bullying, discrimination, micro aggressions, and violence than their cisgender peers (Greytak et al., 2009; Griffin & Ouellet 2003; Tordoff et al., 2022). Gender diverse students with multiple-marginalized identities, such as being racialized or having a disability, face an increased risk of harm in conjunction with other social oppressions they may face (Greytak et al., 2009). A United States based national climate survey found that the majority of gender diverse students feel unsafe at school (Greytak et al., 2009). Gender diverse students reported high rates of verbal harassment, physical harassment, and physical assault, specifically being targeted for their gender identity and expression (Greytak et al., 2009). The Trans PULSE Project (Scanlon et al., 2010), using community-based research approaches, investigated the impacts of social exclusion and discrimination on the health of trans\* people in Ontario. In their survey of 433 trans\* Ontarians, age 16 or older, 50% had considered suicide in relation to their experience of being trans\*, gender diverse youth were close to twice as likely to seriously



consider suicide and nearly three times as likely to attempt suicide (Scanlon et al., 2010). The project called for school officials to recognize the vulnerability of gender diverse youth and the need to advocate for gender identity as part of the school curriculum (Scanlon et al., 2010). Additionally, LGBT Youthline (2020) conducted a needs assessment of 2SLGBTQIPPA+ youth in Ontario and found that 40% of trans\* participants felt that their mental health needs were not being met within their communities. Participants expressed the need for greater awareness of community issues and to be consulted on policies and practices that impact them (LGBT Youthline, 2020).

The Second National Climate Survey on Homophobia, Transphobia, and Biphobia in Canadian Schools project was conducted to assess school climate through self-reported student experiences (Peter et al., 2021). This Canada-wide study verified that queer and gender diverse youth disproportionately face harms that negatively impact their sense of well-being, such as harassment, exclusion, and experiencing gender policing. In terms of feeling safe, the study found that gender diverse students were less likely to indicate feeling safe at school than they were a decade prior (Peter et al., 2021). The report found that 90% of gender diverse students heard transphobic remarks every day in school, 23% of which heard transphobic remarks from teachers. Gender diverse students reportedly felt uncomfortable discussing their gender identity and expression with coaches, teachers, and peers. Additionally, it was determined that gender diverse students experience heightened senses of feeling unsafe, as 78% reported feeling unsafe at school in some way (Peter et al., 2021). The climate survey also showcased the personal experiences of queer and gender diverse youth, including hearing derogatory language being used by peers daily, being told their identity is not valid, and feeling physically and emotionally unsafe (Peter et al., 2021). Attitudes and beliefs shared from cisgender and heterosexual youth

included linking gender diversity to mental illness, that homo and trans-negative language are jokes, and that schools are very safe for everyone (Peter et al., 2021). The dichotomy between these experiences paints a worrying picture of school culture.

The first wave of literature on Queer students in schools (1980's-1990's) largely omitted trans\* and gender diverse identities, instead taking a clinical approach to the perceived risk around the psychological and physical health of gay and lesbian students (Griffin & Ouellet, 2003). After the 1990's, much of the literature shifted to perceiving schools themselves to be sources of risk, isolation, and harassment for queer youth (Griffin & Ouellet, 2003). This period called for policy changes, interventions, and the legal responsibility to provide safety for queer and gender diverse students (Griffin & Ouellet, 2003). The second and third waves of literature on trans\* and gender diverse youth have held a heavy focus on the risks to well-being and effects of transphobia, such as through measuring the occurrences of poor physical and mental health, drug-use, HIV/AIDS, and suicide (Griffin & Ouellet, 2003; Martino & Cumming-Potvin, 2017; Martino et al., 2019; Omercajic & Martino, 2020; Peter et al., 2021; Scanlon et al., 2010; Tordoff et al., 2022). The earlier part of this phase of research attributed these as 'at-risk' factors produced by high rates of bullying and harassment in schools, as well as a lack of support in the family environment. Bullying, harassment, discrimination, and a lack of familial support are indeed strong factors contributing to the disproportionate amount of negative mental health outcomes for gender diverse youth, "including depression, anxiety, and suicidal ideation and attempts" (Tordoff et al, 2022, p. 2). Yet, the language of gender diverse youth being 'at-risk' for negative health outcomes is rooted in a behavioural health lens that wrongfully contributes to dominant discourses that gender diverse individuals are 'unwell'. Payne and Smith (2014) describe how queer and gender diverse identities are frequently mentioned in school textbooks in

sections on suicide, mental-health, and sexually transmitted diseases. These identities are then narrowly defined by their presented connection to being at-risk, in need of protection, and requiring therapeutic intervention (Payne & Smith, 2014). Riskiness is embedded in a behavioural health lens that problematizes individuals for being gender diverse, rather than the structural forces creating the conditions of vulnerability.

In contrast, more recent studies have taken a broader focus, more aligned with a critical SDH framework, that analyzes the institutionalized and systemic transphobia that exists within the school system. Today, the social justice perspective dominates a new wave of research focused on systemic change to address the larger institutionalization of injustice and oppression of Queer and gender diverse youth. According to Griffin and Ouellet (2003), this framework incorporates the need for safety and protection for Queer youth, but problematizes “the effects of systems of injustice embedded in school organizational policy and practice” (p. 111), which work to assimilate and ‘normalize’ Queer youth into the school system as it is. This more critical framework asks what is presented as the problem within school board policy and how it relates to the real life meaning-making of how that problem should be addressed. While this is a promising change, the studies do still over-emphasize a behavioural health lens through identifying the prevalence of physical and mental health issues among gender diverse youth. This emphasis is reductive and maintains dominant narratives of gender diversity being correlated with a negative well-being.

There are limited studies that address the intersectional considerations of gender diverse youth in schools. Intersectionality was coined by Kimberlé Crenshaw (1989) to represent how gender and race, as important socially constructed identity categories, intersect and co-produce social exclusion and marginalization. Intersectional approaches in research have since evolved to

examine the nuances and complexities of the effects of categorizations on both marginalized and privileged social positions (McCall, 2005). Intersectionality is not about listing as many different identity categories as possible, but about breaking down the structures that view marginalization in silos. A United States based national climate survey found that while 82% of gender diverse students felt unsafe at schools, they "often felt unsafe because of multiple characteristics, illustrating the ways in which multiple dimensions of identity may intersect to shape students' experiences" (Greytak, et al., 2009, p. 14). The study found that gender diverse students faced high levels of victimization due to gender identity and expression, but also were high in victimization based on race, disability, and religion (Greytak et al., 2009). How gender diverse youth experience their well-being is also shaped by factors pertaining to their race, sexual orientation, socioeconomic status, (dis)ability, age, and more (Garofalo, 2011).

This literature review has showcased the socio-political context of gender identity accommodation policies in Ontario, the role of schools in impacting well-being, and the need for critical analysis of accommodation policies. My research helps to fill a gap in work on gender diverse youth well-being and contribute to the larger body of literature working to problematize and critique the larger systems of power that marginalize gender diversity.

## **Research Design**

### **Methodology**

Under a critical research phenomenology, the methodology I chose for this project is a critical policy analysis, which has been an important tool developed in the field of education policy (Apple, 2018; Rata, 2014). Critical policy analysis is grounded in the belief that policy must be understood in terms of its complex connections to its use in education and the broader

structures of power in society (Apple, 2018). Denoting a policy analysis as being critical is not solely to be deconstructive of its parts, but to critically view the role of policy in the context of social dominant norms and values (Apple, 2018). I specifically analyzed my policy and procedure data in the context of dominant norms of gender and how they emerge through representations of power, making a critical policy analysis an appropriate choice for my project.

Using Ball's (1993) framework of *policy as discourse*, whereby the context in which policy is made and enacted is key to its analysis, I examined both what is, and is what is not, included in each policy text. I approached the policies and procedures as active documents and discuss the importance of who writes them, who enacts them, who is enforced by them, and what the experiences are of those they affect. Ball (1993) notes that *policy as discourse* is critical of the ways that "policy ensembles, collections of related policies, exercise power through a production of 'truth' and 'knowledge', as discourses" (p. 14). I am interested in which lowercase 't' 'truths' may be discerned as reproducing power relations within school board policy. Rata (2014) outlines critical policy analysis as "using empirical research to see how policy shapes practice" while retaining a focus on the complex patterns of relationships within the policy's political context (p. 348). Bacchi (2000) builds on Ball's *policy as discourse* framework to address the issue of problematization in policy analysis and emphasizing the non-innocence in the ways issues in policies are represented through both language and discourse. She emphasizes the lived experience of the real people under the discursive effects of policy, and maintains that *policy as discourse* analyses must attend to the harms experienced in order to be an effective analytical tool (Bacchi, 2000). Finally, a critical policy analysis, using the *policy as discourse* framework, is an appropriate choice given my personal passion for the well-being of trans\* and gender diverse communities. Ball (1993) speaks to the reflexivity involved in discourse: "We are

the subjectivities, the voices, the knowledge, the power relations that a discourse constructs and allows” (p. 14). Driven by my positionality and supported by my chosen theoretical lenses, I examine the discourses surrounding gender accommodation policies and procedures as social justice research, which invokes the essential quality of pushing for change.

### **Theoretical Lenses**

The theoretical lenses underlining my research project are Queer Theory and Michel Foucault’s work on discourse and power. Specifically, Foucault’s view of power as exercised to produce and discipline certain types of bodies, and discourse as a reading of historical and social conditions implicated in productions of power, is applied (Foucault, 1978; Mchoul & Grace, 1997). Discourse governs the way a subject is spoken about, put into practice, and regulated, constructing knowledge and therefore meaning on that subject. Foucault is well cited in works on and utilizing critical policy analysis (Bacchi, 2000; Ball, 1993; Martino et al., 2019; Omercajic & Martino, 2020), showcasing the appropriateness of his epistemological and ontological arguments for critical policy research. Since Foucault argues that nothing is outside of the discourse that is producing its social meaning, policy and procedures cannot be considered outside of the discourse on gender diversity in Western society. Furthermore, the ways that discourse shapes how power is exercised through the creation of knowledge is a key lens by which the broader social ideas about gender diversity in youth may operate through school board policy (Powell, 2015). While there are many diverse ways of knowing and theorizing about gender and power, Foucault’s philosophical theorization provides a solid framework that I have chosen for its ability to meld well with principles of Queer Theory (of which he is also considered a core theorist). As is the case with many philosophers, Foucault’s work is

conceptual, and the use of it to make meaning of phenomena impacting real lived experiences may be critiqued. In order to ground my Foucauldian framework, I utilize my own lived experiences as a trans\* researcher and the existing literature detailing research of trans youth in schools.

Queer Theory explores the fluidity, multidimensionality, and incongruences of sexuality and gender to challenge the dominant frameworks in sexual discourses and normalize diverse expressions and identities of sexuality and gender identity (Iasenza, 2010). The discursive impact of gender on Queer Theory was catapulted into canon by Judith Butler's (1990) *Gender Trouble: Feminism and the Subversion of Identity*. Butler's concept of gender as a form of performativity melds with a Foucauldian lens that asserts that the meanings of gender are negotiated within a dominant discourse that produces knowledge of what gender is and looks like. The gendering of bodies is defined by Butler (1993) as the embodying of norms, a compulsory practice, and a forcible production. Queer Theory emphasizes the power relations created by cisgenderism and cisnormativity in order to socially construct certain gender identities as normal and certain gender identities as 'other'. Queer Theory deconstructs and denaturalizes dominant discourses around gender and sexuality, but, akin to Foucault, can often lack more nuanced articulations of the agency and negotiation underneath dominant power matrixes that Queer individuals contend with (Watson, 2005). Queer Theory has also been critiqued as being overly centered in issues that impact the most privileged Queer populations and less attuned to the impacts of racism, classism, and other social oppressions on Queer lives (Fraser, 1999; Krell, 2017; Samuels, 1999; Watson, 2005). I have chosen to use Queer Theory's notions of compulsory cisnormativity alongside Foucault's normalization of power with a focus on complex identities and how they are further made invisible by systemic representations within the data. By addressing how the

data represents or does not represent wholeness of identity for gender diverse students, I hope to mitigate this theoretical limitation.

Finally, I have taken some inspiration from Critical Trans Studies, a newer field exploring its possibilities around developing its own phenomenology, epistemology, and methodology. Due to the challenges of employing a theoretical framework that is newer, contradictory, and in development, I have not chosen Critical Trans Studies as a theoretical lens, but rather, will utilize some of its theorization paralleled with Queer Theory to aid my analysis. Critical Trans Studies (CTS) is reimagining experiences of gender diversity not through oppressive norms of defining, categorizing, diagnosing, and treating, “but through a universalizing logic which asks what lessons trans\* experience may hold more widely” for the systems of gender entrenched in Western society (Evans, 2019, p. 259). CTS “embraces critical, nuanced thinking and innovative approaches” in order to reposition gender diverse people from the role of ‘research objects’ to ‘research subjects’ regarded with agency and importance (Evans, 2019, p. 266). Spade (2015) uses ‘subjection’ to indicate how power relations function through systems of meaning and control over non-normative bodies, such as racism, ableism, sexism, homophobia, transphobia, and xenophobia, in order to impact how we know and understand ourselves as subjects. CTS has theoretically repositioned itself to have a wide impact and analysis of state power, capitalism, neoliberalism, biopolitics, and rights discourses.

The use of these theoretical lenses informs my research and understanding of how both gender and school board policy can be understood underneath matrixes of power. Both the Foucauldian lens and Queer Theory help to make meaning of dominant discourses in order to better understand the impact of these discourses at individual and structural levels within the



education system. CTS informs my application of Queer Theory and Foucault to a gender diverse context.

## **Method**

The data for this research project is publicly available and comprehensive policy and procedure documents that are available on school board websites. The method used to conduct data analysis for this study was a deductive thematic analysis. There is no one approach to doing thematic analysis; rather, thematic analysis is a family of methods with theoretical flexibility that differs in the enactment of coding, theme development, data orientation, and capturing meaning (Braun & Clarke, 2018). Due to this flexibility, I employed Braun and Clarke's (2006, 2019) method of reflexive thematic analysis, which is all about engaging thoughtfully with the data, coding, and analytic processes of research. For Braun and Clarke (2019), the heart of the research approach is the researcher's role in knowledge production, making transparency in the reflexivity process imperative. The researcher must be fully aware of the theoretical assumptions informing their analysis, consistently and coherently enacting these throughout the process of analyzing and reporting their research (Braun & Clarke, 2019). As stated, my position as a Queer trans\* researcher is at the heart of my research process. Thus, an intentionally reflexive method is a natural choice for my research as it means I can purposefully weave myself as a researcher into the depth of the project.

The coding of themes reflects "considerable analytic 'work,' and are actively created by the researcher at the intersection of data, analytic process and subjectivity" (Braun & Clarke, 2019, p. 594). I have chosen to utilize the themes-as-meaning conceptualization of coding rather than the alternative themes-as-topic-summaries method. Given that the objective of the study is

to investigate how dominant social power structures may be reproduced in accommodation policies through well-being articulations, organizing the data into themes based on meaning is an appropriate method. Meaning will be an important aspect of translating *policy as discourse* into its complex patterns.

As an insider researcher with experience of accommodation in schools, I have preconceived ideas of what kinds of themes may emerge from the policy data. Braun and Clarke (2022) caution against the “positivist creep” in thematic analysis, in which researchers imply that the data holds a singular truth that is waiting to be discovered by a ‘knowing’ researcher (p. 2). An inductive approach may lend itself to risking the positivist creep more so than a deductive approach. Nonetheless, I generated ‘initial’ themes and documented any subsequent changes accordingly, to emphasize that the themes are not within the data awaiting discovery (Braun & Clarke, 2019). Braun and Clarke (2022) additionally state that the themes-as-meaning approach cannot be conceived of before data analysis has begun, as the interpretation built around united meaning is generated from thoughtful engagement of the data analysis process. By using a deductive approach, I reflexively had an idea of where the data may lead me, but did not actively develop themes prior to analyzing the data. Because the meaning in the data is so closely related to lived experiences, it is unlikely that the data’s relationship to social power would be deeply understood without an insider researcher using a deductive perspective. I intentionally use reflexivity to showcase the choices made throughout the research process, and in data analysis and thematic coding in particular, in order to clearly show how my positionality as a trans\* individual leads to a deeper understanding of power, well-being, and meaning within this project.

## **Ethical Considerations**

This study is text-based, with no human participants, and therefore did not require research ethics board approval. The ethical considerations of this research pertain to the social justice goals of the project and myself as an inside researcher. The goal of this research project is not rooted in the problematic commonality of ‘giving voice’ to gender diverse youth, nor is it centered in a deficit framework arguing that gender diverse youth are inherently lacking something that only school board policy can provide. This research is not meant to ‘fix’ the community itself, which is a common pitfall of research with marginalized communities that employs a deficit framework. Rather, this research problematizes and investigates how the structures (school board policy) purporting to protect gender diverse youth are articulating their attention to well-being. This way, the area of 'change' is structural and not individual. My research responds to the experiences of gender diverse youth, as emphasized through the existing literature on their well-being in schools. Pittaway and Bartolomei (2013) consider research conducted with or on the subject of vulnerable populations in an ethical manner to respond to the ‘needs’ of said population. The research should aim to influence change at legal, policy, and service provision levels with respect for the population's dignity, knowledge, skills, and rights (Pittaway & Bartolomei, 2013). As this research aims to influence change at a policy level, with a broader critique of the system itself, it fits within this assertion.

Although the data gathered is policy text and not individual lived experiences, the story of this research is centered in the lived experiences of gender diverse youth. As a trans\* researcher who was a student of one of these schoolboards when there was no gender identity accommodation policy, I am an inside researcher with an outside memory. Dwyer and Buckle (2009) state that the personhood of the researcher is a relevant and essential component in all

approaches of qualitative methodology, not only the ones with human participants. The emphasis on ‘unbiased’ and ‘objective’ data has been met with a resistance that sees the advantages of an inside researcher to the subjective aspects of the project (Dwyer & Buckle, 2009). While it is not a total solution to ethical consideration of research ‘on’ versus research ‘with’, my insider status for this project is a strength in both understanding the discursive effects of gender diversity policy and in calling for social justice-oriented change.

### **Data Collection**

There are 44 English-speaking school boards in Southern Ontario, of which 23 are Public and 21 are Catholic. To keep the project feasible to a four-month time constraint, I chose to look at the 23 English-speaking Southern Ontario Public (i.e. non-Catholic) School Boards for their accommodation policies and procedures for gender diverse students. As I reside in Southern Ontario and attended English-speaking schools as a trans\* student, my personal experience has contributed to my area of interest and passion for this research project. I additionally chose not to include the Catholic school boards as I am non-religious and would not have an appropriate insight into the nuances of religion and gender diversity. For the same reasoning, I excluded the French-speaking school boards from my sample as well. Each school board is responsible for multiple schools, with a grade range from kindergarten to grade 12, and are classified by region. I chose to limit my selection to Southern Ontario school boards for several reasons: feasibility, that I have lived in Southern Ontario for 15 years, and the fact that the majority of Ontario's population lives within 200 kilometers of the border with the United States. As a more highly dense population with a wide range of diversity, the Southern Ontario school boards presented a fair opportunity for a variety of outcomes in what policies and procedures I could find.

Data was collected between February 2023 and July 2023. I began directly with the publicly accessible websites of each English-speaking Southern Ontario public school board. Each website, though designed differently, has a page dedicated to the board's respective policies, regulations, and procedures. Within each collection, I used any available search bars with the following selected keywords: gender, transgender, equity, inclusion/inclusive/inclusivity, diversity/diverse, safe/safety, accommodation, and human rights. In the initial stages of the research process, I used a mind-mapping technique and consulted with a research librarian to develop these keywords as being important components in relation to my research question. Some of the keywords, including human rights and safe/safety, were used during a second search based on recurring policy titles that I noticed during the process. If there were no search options available, I scanned all of the policies, regulations, and procedures by title in order to look for the chosen keywords. Secondly, I utilized any available search tabs for the entire school board website using the same keywords. This allowed me to access non-policy information such as guidelines and meeting notes that provided information about the board's discussion of or plans for policy development. Third, I completed a general search engine check using Google, by searching the name of each individual school board with "gender identity policy" or "transgender policy". I cross referenced these results with GEGI, an online knowledge mobilization resource that consolidates school board policy information in Ontario specifically in regard to gender identity and expression accommodations and supports ("Find Policies", 2023). At this stage I found a discrepancy with GEGI in that it lists its own findings as 'policy' even when its information is listed as a 'guideline' or 'resource' on the respective school board website. A supportive resource for gender diverse students conflating this terminology is noteworthy considering my previous explanation of the meaning behind policy/procedure versus guidelines

(p. 5). Finally, I repeated step number one to double check my work. At this time, I pulled 13 policy and procedure documents from 10 total school boards that specifically addressed how to provide accommodations to gender diverse students. I made the choice to include procedures and regulations, as they are an extension of policy documents themselves and even more linked to the actions and conditions that policies are intended to create within schools. For the reasons previously stated, I did not select any document that the school boards provided as a 'guideline' or a 'resource' unless it was directly embedded within a policy, procedure, or regulation. Without being embedded, these documents are not policy and therefore do not require follow-through or regulation. Separate accommodation guidelines that could be found under school boards' 'Resources' or 'Community' or 'Equity, Diversity, and Inclusion' webpages, for example, were omitted.

The final policy and procedure selection included the following (in alphabetical order by district):

- Avon Maitland District School Board (AMDSB) Administrative Procedure: *Gender Identity: Accommodation of Persons Who Identify as Transgender (Staff & Students)*
- Bluewater District School Board (BWDSB) Administrative Procedure: *Equity and Inclusive Education*
- Bluewater District School Board Administrative Procedure: *Prevention and Resolution of Harassment, Discrimination, Objectionable Behaviour and Human Rights Violations*
- Durham District School Board (DDSB) Procedure: *Human Rights Inclusive Design and Accommodation Procedure*
- Greater Essex County District School Board (GECDSB) Regulation: *Gender Identity and Expression - Student Records*

- Halton District School Board (HDSB) Administrative Procedure: *Gender Identity & Gender Expression in Schools*
- Hamilton-Wentworth District School Board (HWDSB) Procedure: *Gender Equity Procedure*
- Hamilton-Wentworth District School Board Procedure: *Gender Identity and Gender Expression Procedure*
- Ottawa-Carleton District School Board (OCDSB) Procedure: *Fostering Gender Identity, Gender Expression, and Sexual Orientation Inclusive Schools*
- Upper Canada District School Board (UCDSB) Procedure: *Best Practices for the Support and Accommodation of Transgender and Gender Non-Conforming Students at School*
- Upper Canada District School Board Procedure: *Equity and Inclusive Education: Support and Accommodation of Transgender and Gender Non-Conforming Students*
- Upper Grand District School Board (UGDSB) Policy: *Equity and Inclusive Education Appendix A: Guidelines for Accommodating Gender Expansive and Transgender Students*
- Waterloo Region District School Board (WRDSB) Administrative Procedure: *Accommodation of Person's Who Identify as Transgender*

## **Limitations**

As previously noted, I included 23 school boards in the geographical scope of my research. I omitted all French and Catholic school boards due to not having the positionality or lived experience to effectively attend to the respective nuances of those institutions. I also omitted school boards from Northern Ontario to help make my research more feasible given the

time constraints imposed by my Master's program. Therefore, this research is limited in that it does not cover every school board in Ontario. From a social justice research perspective, the main limitation of this project is that it is text-based and does not gather direct information on the lived experiences of gender diverse students. The best way to investigate and understand how gender diverse students experience their well-being within schools is to hear it from the students themselves. Each gender diverse individual is unique and holds value in their personal story and experiences. This limitation was produced through timeline and scope constraints of the particular degree program in which this research project takes place. I had a firm timeline of only four months to conduct this research, and did not have the capacity to effectively interview gender diverse students and complete the project within that time frame. In order to mitigate the impact of this limitation on this research, I have opted to include my own reflective experiences as a trans\* student within my *Discussion* section (p. 50) to highlight how policy that does not tend to well-being can create negative outcomes for gender diverse students. Interviewing gender diverse students about their experiences in schools that have accommodation policies, as well as those with experience in schools without accommodation policies, is a necessary area for further study in order to more deeply understand the impacts on the well-being of gender diverse youth.

## **Findings**

Within the 13 selected accommodation policies and procedures overall, I found very little explicit language related to the importance of accommodations to protect the well-being of gender diverse students. Rather, this goal was, at most, implied through the chosen language within the documents. The policies and procedures addressed student well-being by speaking to the board's role in fostering inclusivity, having safe spaces in schools, and 'permitting' students to express



their gender identity, all of which were options for accommodation. My process of coding and forming themes was specifically guided by my theoretical grounding in cisgenderist discourse and the function of power. After categorizing the contents of the policies and procedures as well as deductively deciding what was not present, as is consistent with the approach for a critical policy analysis, I formed five main themes and four subthemes. The themes of *Legal Duty*, with the subtheme *Human Rights Framework*, and *Student Responsibility* dominated the findings with the largest presence within the language of the documents. The next theme, *Feelings of Safety* with the subthemes *Experiences of Environment* and *Mental Health*, held the most direct connection to the well-being of students. How students experience their environment and experience their mental health are both interrelated to them feeling safe at school. *Upholding Gendered Systems* was a theme both directly mentioned within the policies and procedures but also implied as underlying all accommodation-based approaches. Finally, *Lack of Scope* with the subtheme *Intersectionality* addresses key gaps in the policies and procedures that are crucial to the foundation of enacting positive and long-lasting change for gender diverse students in schools.

## **Legal Duty**

The *Legal Duty* theme is prevalent across all of the selected policies and procedures. All 13 policies and procedures explicitly state that the reason for their existence is to allow the school board to uphold its legal duties under Ontario and federal law. Many directly name school board obligations under the Ontario Human Rights Code, Canadian Charter of Rights and Freedoms, and Ontario's Education Act:

This practice is in accordance with Ontario’s Equity and Inclusive Education strategy, the Ontario curriculum, and provincial legislation. (UCDSB, 2019, p.1)

Under the Ontario Human Rights Code (the Code) people are protected from discrimination and harassment because of gender identity and gender expression. (UGDSB, 2022, p. 1)

Accommodations are frequently presented as being legally necessary rather than necessary to promote a positive well-being for gender diverse students. This gap in reasoning is particularly evident in policies that outline the board’s legal duty to accommodate up until the point of ‘undue hardship’. The limitations to the extent of legal obligation to accommodate are more extensive in some policies and procedures than others: Not every policy includes or expands upon the concept of ‘undue hardship’ or communicates specifically why certain accommodations might not be possible. For example, the Durham District School Board’s (DDSB) *Human Rights Inclusive Design and Accommodation Procedure* states that:

The District will meet its procedural and substantive duty to accommodate under the Code and the Human Rights Policy to the point of undue hardship. (p. 2)

The DDSB policy frequently addresses limitations to accommodation:

...the duty to accommodate applies to needs, restrictions or limitation based on a Prohibited Ground(s) and not to preferences, expectations or any one type of accommodation. (p. 5)

...the duty to accommodate is not absolute and not unlimited. (p. 7)

Other examples spoke to accommodations as being mandated up until the point that it affects the ability of the school board to fulfill its legal duties under the Education Act (GECDSB, 2021; UCDSB 2019). These examples did not elaborate as to what such effects might be, or what

duties might be impacted.

## **Human Rights Framework**

Under the *Legal Duty* theme, the *Human Rights Framework* subtheme was observed through frequent connections being made to the human rights of gender diverse students. Most of the policies and procedures state that gender diverse students have the right to accommodation in their schools, an extension of the board's duty to provide them under the law. Accommodations are made in order to uphold certain rights, such as the right to dignity, authenticity, and participation in the educational institution. The policies and procedures imply that if gender diverse students' human rights are met, then their well-being would be protected. That is to say that, for example, if an accommodation upholds a student's right to dignity, then the student is assumed to have a positive well-being as a result. There is a pattern in the policies and procedures of naming specific options for accommodation of gender diverse students as being human rights. In particular, they name the protection of confidentiality and privacy, the respect of lived names and pronouns, and the use of school spaces as key human rights for students. Confidentiality and privacy were expressed as being more generalized, such as through stating that "all students have a right to privacy" (GECD SB, 2021, p. 2). Generalized statements on privacy are frequently connected to the specific privacy needs of gender diverse students, such as:

...all students have a right to confidentiality; schools must keep a student's transgender/gender diverse status confidential. (UCDSB, 2019, p. 3)

The privacy and confidentiality rights included are always expressed as pertaining to a student's 'status' as gender diverse. The role of protecting student privacy is also communicated as a legal

duty, with implications for student safety and preventing 'outing'. These instances of protecting a student's right to privacy also communicate a strong sense of secrecy for school staff around the presence of gender diverse students in schools:

Restrict any discussion about a student's gender identity and/or gender expression with other students, staff, parent(s)/guardians/caregiver(s), or other school community members. (HDSB, 2021, p. 1)

All individuals have a right to privacy regarding their personal information. A person's gender identity is private and confidential information and must be safeguarded appropriately. (UGDSB, 2022, p. 2)

Keeping a student's gender identity confidential can be crucial to individual safety. However, many of the policies and procedures do not provide direction on how to maintain confidentiality without resorting to deadnaming (using a name the individual does not identify with) or misgendering (using pronouns that the individual does not identify with) gender diverse students. By only stressing that gender diverse identities must be kept secret, the boards engage in cisnormativity by assuming that students will be 'safer' or 'more well' if they are being perceived as cisgender.

In contrast, the human right of a student to express their lived gender identity is also dominant in the language. This right includes the following examples:

...being addressed by a name and pronoun corresponding to their gender identity.

(WRDSB, 2021, p. 7)

...to be known by a gender other than that which appears on the student's birth certificate.

(AMDSB, 2019, p. 7)

There is no articulation in any policy or procedure of the relationship between the right to be known as a certain gender identity and the right to have one's gender identity be kept strictly confidential. Both rights are frequently named, though never explained in relation to one another. In this way, the human rights of gender diverse students are explicitly listed, but it is left up to interpretation by the actors enacting the policy or procedure, such as teachers or school administrative staff, on how to fulfill these rights. Without clear direction, there is no guarantee that these interpretations would not contradict one another or that the actors would not reproduce cisnormativity in their interpretation of the policy or procedure.

Another explicitly stated human right is that of accessing gendered spaces within the school, primarily washroom and change room facilities. The Blue Water District School Board's (2019) *Equity and Inclusive Education* policy states that:

...all students have the right to enter a washroom that best corresponds to the student's gender identity, regardless of the student's assigned sex at birth or gender expression. (p. 9)

The right to access these gendered spaces includes being able to request access to single-occupant options, such as all-gender single-stall washrooms. Many of the policies and procedures include a provision that the right to access these spaces includes the right to accessing them 'safely'. This example also falls within the theme of *Feelings of Safety*. However, only one procedure explains how these spaces may be unsafe for gender diverse students:

Sometimes a student may not feel safe or welcome in using the washroom or change room that corresponds to their lived gender, and/or may identify outside of the gender binary [...] regardless of the underlying reason, all gender options should be available to them to help them to feel safe and included. (HWDSB, 2023, p. 12)

The policies and procedures refer to these human rights but do not unpack the structures that force these rights to become 'provided accommodations' rather than being the default for gender diverse students.

## **Student Responsibility**

Every policy and procedure notes the need to use an individualized approach to accommodations for gender diverse students, sometimes expressed as an effort to respect the uniqueness of each individual:

...each transgender and/or gender non-conforming student is unique and has different needs. Supporting individuals in the process is best; what works for one may not work for another and may change overtime. (BWDSB, 2019, "Equity", p. 7)

Each transgender, intersex, two-spirit and gender diverse student is unique and has different needs. An accommodation that works for one student cannot simply be assumed to work for another. (UCDSB, 2020, p. 2)

This lens of individualization appears to afford students a high level of agency in choices that affect their school accommodations, social transitions, and well-being. However, the policies and procedures that articulate this individualized lens assign the responsibility to each gender diverse student to obtain individual accommodations. Accommodation is frequently presented as requiring a 'request' to be made first:

...make clear that accommodation options will be provided on an individualized-basis, if a trans person requests. (BWDSB, 2023, "Prevention", p. 14)

While several policies and procedures instruct educators and school staff to assist, the student is still expressed as being the main decision maker:

Decision making must be done in consultation with and in the best interest of the student, with employees helping the student to make informed decisions [...] but the plan that is developed is to be student driven. (HWDSB, 2023, p. 18)

Gender diverse students are expected to be their own advocates, know the policy, what to ask for, how to ask for it, and how to stand up for themselves. These requests sometimes involve more than simply asking for accommodation to be provided. Some boards' policies and procedures state that the student making the request additionally has to explain why the accommodation is necessary:

The GECDSB will take reasonable steps to provide accommodation to students who state that the school climate, structures, and/or procedures interfere with their rights related to gender expression and/or gender identity. (GECDSB, 2021, p. 1)

Inform the Board or school, through written or verbal request, when they have Human Rights Code-related needs that require accommodation. Cooperate in the accommodation process to the best of their ability. (HWDSB, 2023, p. 6)

This expectation places additional responsibility on the student to know what their human rights are and/or know what their accommodation needs are, and why. Considering that these policies and procedures apply to students in Grades K-12, it is very possible that a student may not know either.

Furthermore, some school boards require that any requests for accommodation have to be made through a formalized process, such as having the student submit the request in writing. A total of five school boards reference administrative forms that needed to be completed prior to accommodation, including the following:

... upon completion by the student of IS-21-01 form (Student Request for Accommodation - Name and Gender. (WRDSB, 2021, p. 9)

Students (or their parent(s)/guardian(s)) should submit any requests for accommodation to their school principal using the attached Student Accommodation Request Form [template]. (DDSB, 2022, p. 3)

The use of a single stall washroom should always be a matter of choice requested through the accommodation process (Form 398A: Student Request for Accommodation Form). (AMDSB, 2019, p. 8)

A student's lived gender can be disclosed verbally to staff, on the registration form or verification form and ultimately on the Gender Identification Form (supplied by administration). (UGDSB, 2022, p. 4)

...or has completed the NAME CHANGE Form (Appendix A, see vi) below. (HWDSB, 2023, p. 8)

Requiring written documentation in order to allow individuals to use a washroom or have their lived name and pronouns be respected is another layer of intimidating responsibility for gender diverse students.

### **Feelings of Safety**

While the term 'well-being' is used sparingly in the policies and procedures, 'safe' and 'safety' are used frequently in reference to gender diverse students. One procedure directly states how safety connects to well-being:



Well-being is optimal when children feel safe and supported to express their lived identities. (AMDSB, 2019, p. 2)

The remaining policies and procedures once again only imply a positive well-being through descriptions of gender diverse students feeling safe in their schools. This theme is overgeneralized, similarly to the *Human Rights* subtheme, in using phrasing such as ‘all students’. The Halton District School Board's (2021) administrative procedure entitled *Gender Identity and Gender Expression in Schools* states that:

...the emotional, psychological, and physical safety of any student is the number one priority. (p. 4)

Safety for gender diverse students is thus expressed as being equal in importance to that of their cisgender peers, rather than being spoken of equitably, that is, with reference to their specific safety needs.

Accommodations are presented as providing safety or as needing to be developed around what makes individual students feel the safest in their learning environments. Many instances of this theme revolve around safety in washrooms and change rooms, such as by stating that gender diverse students should be ‘allowed’ to access washroom and change room options where they feel the safest:

As part of the UGDSB’s actions to disrupt oppression, opportunities to access safe and inclusive washrooms and change rooms exist in all schools. (UGDSB, 2022, p. 6)

Allow students to use the washroom that is most gender affirming and/or best meets their needs with regards to access to a space where they feel the safest. (HDSB, 2021, p. 3)

Alternative arrangements requested for change rooms/spaces will be facilitated in a way that best meets the student's or employee's specific needs and safety concerns, respects privacy and confidentiality and is acceptable to the student. (DDSB, 2022, p. 13)

No policy or procedure detailed how washrooms and change rooms would be kept safe, or whose responsibility it was to implement safety.

## **Experiences of Environment**

A subtheme of *Feelings of Safety, Experiences of Environment* presents a mix of how educational environments can be harmful for gender diverse students and how they can be made more inclusive for them. Several policies acknowledge that creating more inclusive environments for gender diverse students can have an impact on the student's success:

The WRDSB understands that staff and students who are trans identified need a safe, respectful, and inclusive environment in order to succeed. (WRDSB, 2021, p. 2)

The HDSB understands that all students, including those who identify as Trans\* need a safe, respectful, and inclusive environment in order to succeed. (HDSB, 2023, p. 1)

Though success is not defined, and may be referring to academics (i.e. grades), it is implied that success in educational environments would have a positive impact on the student's well-being.

Supporting gender diverse students' experiences of their learning environment is frequently recognized as the responsibility of the board. Several of the documents mention the need to create educational environments that are supportive of gender diverse students:

To foster a school environment where people of all Gender Identities, Gender Expressions, and Sexual Orientations feel belonging. (OCDSB, 2022, p. 1)

Gender identity is a large part of how people engage and relate to the world around them, and BWDSB and its schools wish for all gender identities to be recognized and celebrated in their spaces. (BWDSB, 2023, "Equity", p. 7)

The use of 'recognition', 'celebration', and 'belonging' all imply a positive well-being for students in these environments.

Environment is not only about spaces; it is also about what is going on within those spaces. There are very few boards that spoke about creating inclusive environments through education itself, such as through curriculum or class-specific learning:

...professional development and training opportunities are provided for staff to develop the awareness, knowledge, skills, and attitudes necessary to deliver an inclusive curriculum which includes anti-homophobia and anti-transphobia education, identify and address homophobic and transphobic discriminatory attitudes and behaviour, and support and advocate for students whose identity or perceived identity is LGBTQ+. (WRDSB, 2021, p. 5)

In all subject areas, discussions about gender identity and gender roles and stereotypes can help students think more openly and critically about the world around them and their place within it. (UCDSB, 2019, p. 2)

Curriculum must be inclusive of diverse gender identities and gender expressions so that all students see themselves represented [...] All curriculum areas need to be inclusive of gender identities and expressions. (HWDSB, 2023, p. 18)

Two procedures provide discussion opportunities for educators related to gender diversity in different subject areas, such as by including gender diversity in history lessons or using gender neutral subjects for math problems (HWDSB, 2023; UCDSB, 2019). Considering that Ontario

has been a site of intense controversy over including gender identity in the health curriculum for grade eight (Martino et al., 2019), the importance of using curriculum as a tool to create change in school environments cannot be understated.

Fewer school boards acknowledge the specific experiences of gender diverse students in regards to the way school environments foster experiences of discrimination and social exclusion. Those that do recognize schools as risk-filled environments, and often do so from a lens of awareness rather than a structural analysis:

They should support actions, activities and campaigns that are trans-positive and create awareness about trans-phobia, gender stereotypes, and gender-based violence. (WRDSB, 2021, p. 10)

Are often negatively affected by cisgenderism/cisnormativity and cissexism in their learning and working environments. (DDSB, 2022, p. 10)

The presence of transphobia, gender stereotypes, gender-based violence, and cisgenderism/cisnormativity in school environments were not further unpacked in these policies and procedures.

## **Mental Health**

I chose to categorize the *Mental Health* subtheme after finding only one instance where a procedure actually named it as an outcome of accommodation:

...in order to ensure the student's mental health and well-being. (WRDSB, 2021, p. 8)

Beyond this example, no policy or procedure addressed the mental health of gender diverse students in any capacity. Given the rise in mental health awareness in recent years, it is very noteworthy that these policies and procedures are not addressing the mental health of gender

diverse students as a part of their overall well-being. As the health needs for gender diverse people are already misunderstood and highly invisible, the gap in addressing the mental health of gender diverse students presents a significant risk to their well-being.

## **Upholding Gendered Systems**

This theme refers to how accommodations or board systems are designed to uphold gendered systems within educational spaces. There are several instances where providing accommodation, along with the implication that doing so would positively affect well-being, is articulated in a way that directly involves gender diverse students having to make binary choices on where to belong:

All students can exercise their right to participate in gender-segregated physical education (P.E.) class activities in accordance with each student's gender identity. (BWDSB, 2023, "Equity", p. 9)

In any other circumstances where students are separated by gender in school activities (e.g., class discussions), students shall be permitted to participate in accordance with their gender identity. (BWDSB, 2023, "Equity", p. 10)

NOTE: The board's current student information systems only allows for "M" [male] or "F" [female] options for gender. (AMDSB, 2019, p. 7)

Non-binary and genderqueer students may participate on either male or female teams, although they must choose one team, per sport. For example, a non-binary or genderqueer student may play for the boys' basketball team and the girls' soccer team, but may not play for both the boy's and girls' basketball teams. (UGDSB, 2022, p. 6-7)

These instances are particularly notable for how the accommodations contribute to the invisibility of gender diverse identities that do not fit into categories of male or female. Only the UGDSB's *Equity and Inclusive Education* policy and the HWDSB's *Gender Identity and Gender Expression* procedure mention options for non-binary and genderqueer students, but do so in a way that limits their accommodations to still being within the gender binary.

Gendered systems are also present in the explanations of the accommodations themselves. Many of the policies and procedures outline steps to take in order to provide the accommodation, many of which include surveillance of the accommodations and therefore the student:

Implement the accommodation solution and, where needed, monitor its ongoing effectiveness; and document accommodation requests and actions taken. (DDSB, 2022, p. 5)

Once the accommodation plan has been implemented, responsible staff will monitor to assess if it continues to be appropriate. (DDSB, 2022, p. 7)

Gender is a highly socially-regulated phenomenon, both by individuals and institutions, in order to maintain gender norms. Having school staff partake in monitoring of gender diverse students suggests an adherence to the surveillance and regulation of gender within schools.

### **Lack of Scope**

Of the 13 chosen policies and procedures, nine include definition sections as part of their content for key words relating to gender diversity. The BWDSB's (2023) '*Prevention and Resolution of Harassment*' administrative procedure, DDSB's (2022) *Human Rights and Inclusive Design Accommodation Procedure*, GECSB's *Gender Identity and Expression*

regulation, and UCDSB's *Equity and Inclusive Education* procedure do not provide definitions. The UCDSB provide a separate addendum to the *Equity and Inclusive Education* procedure in 2019 that provided definitions as taken from the Ontario Human Rights Commission's *Policy on Gender Identity and Gender Expression*. Including definitions is a helpful way to provide readers and policy enactors with the language and base knowledge required to perform the duties of the policy and procedures. It can also clarify the scope of the policy or procedure. However, of the documents that provide definitions, many are inconsistent, outdated, and incorrect. Many of the definitions provided are based in or explicitly presented as the gender binary (i.e. or only having two options):

Sex and gender: whereas ‘sex’ is a person’s physical characteristics, ‘gender’ is about what it is to be a man or woman in society. (UCDSB, 2019, p. 5)

Gender: the social classification of people as masculine and/or feminine. (UGDSB, 2022, p. 1)

Someone who is ‘gender expansive’ can therefore be cisgender or transgender. (UGDSB, 2022, p. 2)

Other definitions incorrectly used terminology or used outdated terms:

Transphobia: Is the unrealistic or irrational fear and hatred of cross-dressers, transsexuals and transgenderists. Like all prejudices, it is based on negative stereotypes and misconceptions that are then used to justify and support hatred, discrimination, harassment, and violence towards people who are transgendered. (HWDSB, n.d., p. 1)

Additionally, there is an excerpt where gender identity is conflated with sexual orientation:

Harassment based on sexual orientation is defined as written or verbal or physical conduct which expresses negative attitudes, derogation and/or hate for a person or

persons based on their sexual orientation, gender expression, or gender identity.

(BWDSB, 2023, "Prevention", p. 12)

Furthermore, there is very little distinction between the experiences of gender diverse identities and how they may affect accommodation. Nearly every policy with definitions included 'transgender' and 'Two-Spirit' but does not expand into defining the many other gender identities. Seven of the documents include non-binary and/or genderqueer and/or gender-fluid, while only two included bigender and agender. Two procedures do not define cisgender or cisnormativity.

### **Intersectionality**

In all 13 policies and procedures, there is no acknowledgement of the diverse needs of gender diverse students as whole beings with identities that leaves them vulnerable to systematically marginalization. Without explaining that gender diverse students may also experience marginalization based on their race, (dis)ability, socioeconomic status, sexual orientation, appearance, culture, religion, or age as it intersects with their gender identity, the policy and procedure language defaults to the dominant norm by considering marginality only in individual identity silos. As a result, gender diverse students that are the subjects of the policies and procedures are further made to be invisible when their accommodation are assumed to be intended for gender diverse individuals that are the most privileged.

### **Discussion**

The purpose of this research was to examine how school board accommodation policies and procedures articulate well-being for gender diverse students. The findings show how little



attention is paid to gender diverse students' well-being overall, and how well-being is predominantly implied through the overuse of other lenses. Applying a Queer Foucauldian lens, the themes represent a pattern of problematization and meaning-making whereby the policies and procedures adhere to dominant discourses that produce power through regulating gender norms. While reproducing cisgenderist power, there is a distinct lack of awareness or acknowledgement for how gender identity and expression is systematically regulated and oppressed. Without this acknowledgement, the policies and procedures lack specific well-being considerations for gender diverse youth. By ignoring this fundamental flaw in the system as a whole, the policies and procedures default to treating gender diverse students as a problem for not 'fitting' the norms of the educational institution (Payne & Smith, 2014). The school boards present accommodations as a support, but the procedures required to access them only serves to 'other' gender diverse students for not fitting the mold. Thus, school board accommodation policies and procedures are not well-designed to protect gender diverse youths' well-being. Furthermore, this absence of support is occurring at a time when they are becoming increasingly vulnerable to the anti-trans\* sociopolitical contexts within Southern Ontario and beyond.

According to the Foucauldian approach, nothing is separate from discourse, which produces and legitimizes social meaning and dictates how power is exercised through all levels of relations from individual to governmental (Foucault, 1978; Mchoul & Grace, 1997). School board accommodation policies and procedures are both informed by and produce discourse, reinforcing certain social meanings around gender identity. My analysis of these policies and procedures takes into account the historical and social conditions that govern how school boards treat gender diverse students. I directly apply Queer Theory to my understanding in order to assess historical and social conditions from the lens of cisgenderism and 'othering'. The themes

explore the social meaning embedded within the policies and procedures that systematically reproduce cisnormativity and uphold vulnerabilities to well-being on the part of gender diverse youth, including discrimination, harassment, and violence.

In volume one of *The History of Sexuality*, Foucault (1978) links the way that sexuality is constructed in discourse to productions of knowledge and therefore truth on what sexuality is and is not. Discourse on gender is fraught with expectations, normalizations, and naturalizations all based in the centralized notions that gender is equal to sex, and that gender is a binary. The ways that gender is spoken about, practiced, and regulated, therefore all construct knowledge that becomes socially accepted as truth (Butler, 1993; Foucault, 1978). All discourse relating to gender therefore holds social meaning and disseminates power. There is no single institution or group of people in society that hold centralized power. Rather, power is decentralized and distributed in multiple directions and multiple ways that reflects certain normalized knowledge (Foucault, 1978; Spade, 2015). Normalized conceptualizations of gender, such as through a binary lens, enforce power over those that resist binary ideas of gender. Historically, being outside gender norms has created the portrayal of the 'other' who is perceived as a constant threat to the norm (Spade, 2015). Systems of power create meaning and control by subjecting certain identities to 'otherness' and upholding the "normal-other" dyad. Power also operates through the institution of education in order to maintain normative ideas of gender. It is therefore important to consider the question of how gender diverse students are becoming classified by school boards as needing accommodation? Under which discourses are they being defined? From a Queer Foucauldian lens, it is clear that gender diverse students are being classified as needing accommodation because they have already been and continue to be 'othered' by dominant discourses of gender within the education system and beyond. The findings of this research

demonstrate the ways that this discourse is present within policies and procedures and serves to draw focus away from systems of power and onto individual gender diverse students.

### **Lack of Policy**

The absence of something is also connected to discourse through the ways that meaning and understanding are produced over its very absence. In the course of my research, I found that 10 school boards have specific gender identity accommodation policies or procedures, 10 school boards have guidelines for accommodation of gender diverse students, and three school boards had neither policies nor guidelines that outlined gender identity accommodations. Policies, and by extension procedures, demonstrate the priorities of the school boards' in respect to student well-being (OESC, 2019). Gender identity accommodation policies and procedures demonstrate a commitment on the part of the school board to recognizing and taking action on the needs of gender diverse students. Of the 23 English-speaking public-school boards in Southern Ontario, less than half have demonstrated this commitment. Guidelines are not mandatory and do not hold school staff accountable in the same way that policies and procedures do. School boards with only gender identity accommodation guidelines have not committed to addressing the well-being of gender diverse students any more than the school boards without any specific gender identity accommodation resource. Both examples have ignored the role of board policy in protecting the well-being of gender diverse students. The absence of gender identity accommodation policies or procedures means that more than half of the English-speaking public-school boards in Southern Ontario have not made supporting the well-being of their gender diverse students one of their priorities.

As Ontario is considered to be a leader in gender-affirming legislation, the lack of progress for gender diversity inclusion in schools is concerning. Studies have already shown how

gender diverse youth are experiencing negative impacts to their well-being from systematic social exclusion and cisgenderism in their schools (Martino & Cumming-Potvin, 2017; Martino et al., 2019; Peter et al., 2021; Scanlon et al., 2010; Tordoff et al., 2022; Veale et al., 2017). Gender diverse youth in Ontario are three times more likely to attempt suicide than their cisgender peers, proving that the health impacts of social exclusion in schools is severe (Scanlon et al., 2010). The belief that school boards in Ontario have done enough to promote inclusive environments and address the needs of gender diverse students would indicate the acceptance of the current negative well-being trends. Guidelines are not enough to support students when gender regulations are so systematically enforced in their social and educational spaces. School boards must take action in prioritizing gender-affirming policies and procedures as one way to commit to addressing the systematic enforcement of cisgenderism.

### **Legal Duty**

Power is not distributed from one individual, group or institution, it is decentralized and manifests through the circulation and practice of knowledge (Foucault, 1978; Spade, 2015). It is not simply the school board that perpetuates cisgenderist power over gender diversity, it is also the staff, among students, and the curriculum (Martino et al., 2022; Peter et al., 2021). Hence, it is not only the law that has power over how gender diverse students are perceived and treated within schools. The frequency with which school boards refer to their legal obligation to accommodate and deter discrimination for gender diverse youth (and ignore other motivations) is concerning. Spade (2015) argues that anti-discrimination law, such as the gender identity and expression protections in the Ontario Human Rights Code, "misunderstands how power works and what role law has in the functions of power" (p. 9). By relying solely on the legal obligation,

the school boards ignore and consequentially adopt the pitfalls of the law and its limitations on well-being for gender diverse youth.

A very different social meaning that underlies the idea of being obligated to provide accommodation versus believing in providing accommodation. One expresses tolerance while the other expresses acceptance. The choice to fixate on legal obligations in order to 'prove' that providing gender identity and expression accommodations is just, consequentially sends the message that without a legal obligation, accommodation would not be deemed necessary or provided to achieve justice. This is particularly evident in the instances of explaining undue hardship and limits to accommodation, which expresses accommodations as only being provided up until an indiscernible point. This sends the message that although schools are mandated to provide accommodation based on gender identity, this provision is not without restrictions and the board will not go beyond its legal duty to support the student. This trend links back to the gap between policy and practice: that simply having an accommodation policy does not guarantee schools staff will uphold it or have the knowledge to enact it (Martino et al., 2022). The discourse present in a legal focus dehumanizes gender diverse youth to an obligation, rather than celebrating their authenticity and accepting their existence. The obligation rhetoric falls under social exclusion as a social determinant of health, and is likely to affect the emotional well-being of gender diverse students, who possess a strong desire for acceptance and belonging (LGBT Youthline, 2020).

As discussed by Spade (2015), the realm of law is wrongly considered the best practice for providing equality for the gender diverse community. Legally requiring accommodations is misinterpreted as being proof of progressive views or attempts at equality. A legal focus in supporting gender diversity has been historically limited. According to Spade (2015),

movements that center legal recognition and goals of equality fall short in achieving positive results for the gender diverse community. This is due to the fact that the legal system benefits the most privileged while those that do not meet certain expectations are left behind. Being equal in the eyes of the law does not change the ways of knowing or norms around gender that enact oppressive power. Queer theorists understand knowledge and norms around gender to be compulsory (Butler, 1993), which is to say that they are coercively obligatory. I argue that there is a distinct connection between the boards' expressed legal obligation and the obligatory nature of compulsory cisnormativity. School boards are legally obligated to provide gender identity accommodations, and in doing so legitimize the discourse that gender diversity is not considered to be normal and consequentially does not fit in schools without accommodations being made. It is in the instinctive 'othering' of accommodation that compulsory cisnormativity is evident. Once again, this othering falls under social exclusion, which has established negative health impacts on gender diverse student well-being. While legal protections purport progress for gender affirmation, the everyday experiences of gender diverse youth show that power is still being enacted at all levels. A top-down legal approach is not sufficient in addressing this gap, as the law is limited in changing the biases and stigma that reproduces the 'othering' of gender diverse youth from their peers, educators, and school staff.

### **Human Rights Framework**

Underneath the discourse of legal obligation, there is meaning produced by a neoliberal human rights approach to gender identity and expression accommodation. Under a neoliberal framework, 'human rights' are provided to individuals through deeply embedded power structures and are rarely functionally universal (Sears, 2005; Spade, 2015). The language of

human rights has been used to disseminate neoliberalism and maintain structural inequalities. 'Rights' have been created and touted by an inherently exploitative system as being inalienable to the very people that the system marginalizes and exploits. School boards are required to uphold human rights as set out by the government of Ontario, which are thus an extension of the board's legal duty. School board gender identity accommodation policies and procedures have clearly been adopted under a neoliberal human rights discourse. A human rights focus emphasizes intervention to issues at an individual level, but only serves to expand the reach of harmful systems (Spade, 2015). Progress in human rights situates the gender diverse community more deeply into a system that is designed to marginalize them (Sears, 2005). When school boards refer to the ability of students to openly identify as gender diverse as their legal human right, it therefore expands the boards jurisdiction to manage and regulate those identities (Sears, 2005). This is evident throughout the accommodation process, provided by school boards through a commitment to human rights, whereby gender diverse students are subject to monitoring and formal regulation in order to receive support. Focusing solely on the rights that students are legally entitled to and not the conditions of the environment in which they exist every day is a major oversight by the school boards.

For a variety of reasons, youth may be 'out' as gender diverse at school among peers before being 'out' at home or around their parent(s) or guardian(s). I personally felt safer building up my confidence to come out to my family by first coming out to several friends at school. School boards are rightfully required to protect the safety of their students by strictly upholding confidentiality, so that students are not accidentally outed to people that they did not consent to know about their gender identity. The legal right to privacy for all students is a very serious

obligation for schools and school boards, with major safety concerns for students if it is not upheld, so it makes sense that it dominates the accommodation policies and procedures.

However, there are issues with the way that the policies and procedures present the legal right to privacy in relation to gender diversity. The documents frequently refer to having a non-cisgender identity as a 'status'. The choice of the word 'status' is questionable, recalling that language is a key part of practicing power through discourse (Foucault, 1978; Smith, 1987). It is highly unlikely that any cisgender student would have their gender identity referred to as a 'status'. In addition, a status typically refers to one's particular social standing at a certain point in time. This implies a temporality, as though one's status may change. While this temporality could be in relation to acknowledging gender identity as being fluid, it seems more likely that the use of the word 'status' falls under cisnormative stereotypes. Gender diverse people are often harmfully stereotyped as being confused, having a phase, trying to deceive people, or as being dangerous to the social norm. The way that school boards express the need to keep the 'status', (that is the existence), of a gender diverse student confidential harms efforts to respect privacy by reflecting these negative stereotypes. Confidentiality could be better explained by the boards in a way that affirms and values students' lived identities rather than treat them as an othered 'status'.

Gender is an 'invisible' identity, which is to say that we cannot truly know a person's gender identity without confirming with the individual themselves. However, the social construction and regulation of gender is highly visible (Butler, 1993). People assume the gender identity of those around them through visual cues based on gender expression, body type, clothing, etc. We make these assumptions instantly: from the moment we look at someone. Hence, it is unlikely, or even impossible to always 'hide' or 'keep secret' the presence of a gender diverse student in schools. If a student visually transgresses gender norms, regardless of whether



they identify as gender diverse, they are likely to be noticed and even targeted for doing so. The school boards do not provide any explanation of how to manage students' confidentiality rights and protect their safety while also respecting their right to live openly and authentically. This is a crucial gap in terms of the translation of policy into action. School boards should not presume that gender identity is easily 'hidden' nor that that option is the best way to promote student well-being. Rather, addressing the cisgenderism and transphobia within schools and changing school culture would greatly increase student safety (Mangin, 2020; Martino et al., 2022). School norms are products of societal norms: discourses brought into the educational space by the people within it. School boards have a role to play in resisting the perpetuation of cisgenderist societal norms and fostering long-lasting change in school culture. Though they cannot simply change the way society thinks about gender, school boards do have a responsibility to make schools an inclusive environment to reduce the impact of these societal norms on gender diverse youths' well-being. Changing school norms around gender would also benefit all students by allowing greater freedom of gender expression without the pressure to come out or have to keep their gender identity a secret.

Continuing with a systematic analysis, it is clear that the right to access gendered spaces within the school is also ignoring the bigger picture. Gender diverse students do have the right to use washroom and change room facilities that they feel comfortable, safe, and affirmed in. However, the way that the policies and procedures address this right is once again individualized to the point of putting all responsibility for safety onto the student. The boards do not address how washrooms and change rooms have historically been very unsafe for gender diverse people, nor do they acknowledge the current fight against anti-trans\* washroom and sport-related legislation. It is dangerous to assume that school staff enacting these policies and procedures

have the knowledge or education on the ways that gender diverse students face discrimination, harassment, and violence in these particular school spaces. Those that do have the knowledge may not understand how to make these spaces safer, and many have not received professional training on doing so (Martino et al., 2022). The choice of what space to use, and the idea of achieving safety, are both made to be dependent on the individual student without consideration for how safety may manifest. This is interrelated with the theme *Feelings of Safety*, as both show how the school boards expect students to make choices about their individual safety without regard to the systemic and systematic ways that schools are unsafe for gender diverse students.

### **Student Responsibility**

It is a positive sign that school boards recognize that gender diverse students have unique needs and individuality. By not assuming that all gender diverse students will want or require the same accommodations, the board rightfully establishes a large amount of personal agency for the students. Educators and school staff who enact these policies are well informed that the students themselves are the experts of their own needs and experiences, and that each 'case' will be unique (Martino et al., 2022). Flexibility in support is a crucial attribute to being inclusive of students with a variety of gender identities that may be seeking accommodation. However, these unique needs are not necessarily fully understood by school boards, despite being acknowledged within their policies and procedures.

What happens when a student does not know their needs or cannot articulate their experiences? What happens when they do not know who to talk to? Or when the school staff they speak to does not have the necessary knowledge to support them? Gender diverse students are more likely than sexually diverse students to be uncomfortable speaking to coaches, teachers,

and peers about their diverse identities (Peter et al., 2021). Additionally, one study found that nearly a quarter of gender diverse students had heard transphobic remarks from teachers at school (Peter et al., 2021). In my high school years, I had no concept of what support I needed from the school as a trans\* student. I was not aware that I could even make accommodations requests, and even if I had been, I lacked the self-advocacy skills in order to do so. My fear of what any of my teachers might say also kept me from seeking supports, especially because the requirements to first 'come out' to them was intimidating. I had no way of knowing which staff members I could trust or feel comfortable with to make requests pertaining to my gender identity. It is unlikely that all staff members had the same level of knowledge about gender diversity, and choosing the wrong person to confide in could have led to harm.

Hence, school boards have placed too much emphasis on self-advocacy within their accommodation policies and procedures and ventured too far into making gender diverse students, of all ages, responsible for their own accommodations. Students may not even know what their needs are or what types of accommodation are possible. The very essence of the accommodation process requires students to 'out' themselves to school staff before they can receive support and accommodation (Omercajic & Martino, 2020). This process also relies on the assumption that school staff are knowledgeable and accepting of gender diversity, and that they do not hold bias or transphobic views. Through such policies, school boards force gender diverse students to essentially ask permission to exist within the cisnormative school environment (Omercajic & Martino, 2020). This discourse normalizes and legitimizes the idea that gender diverse students are 'other' within the school system. Beyond the fact that no cisgender student would ever be expected to make such a request in order to exist in their lived gender identity, this process also assumes that all gender diverse students want to join into a

highly gendered and exclusionary system. As already established, gender diverse students are at a high risk for bullying, discrimination, and violence from their cisgender peers and school staff (Griffin & Ouellet 2003; Tordoff et al., 2022). These products of social exclusion can carry disastrous affects for their well-being and make gender diverse students feel powerless (Mikkonen & Raphael, 2010; Pega & Veale, 2015; Peter et al., 2021; Scanlon et al., 2010). It is unreasonable to expect students who are more likely to feel targeted and powerless to have the confidence and self-advocacy skills to manage the complexity that comes with navigating accommodations and the school system. The accommodation policies and procedures do not do enough to help empower and affirm gender diverse students, nor do they help them to build skills in self-advocacy.

The response of school staff who receive a disclosure is imperative to the student's well-being in terms of their sense of confidence, vulnerability, and affirmation. Yet, the policies and procedures do not provide sufficient information to the educators and staff on how to navigate accommodation requests from students. By not doing so, the policies and procedures leave too much room for interpretation and error on behalf of the staff who is meant to be supporting the student (Martino et al., 2022). If school boards mandate that employees must help gender diverse students to make informed decisions, then the employees must first be well informed on the diverse needs and experiences of gender diverse youth. School employees require education on how best to support, inform, and explore available options with gender diverse students in ways that are affirming to their identity (Martino et al., 2022). When all of the burden of obtaining appropriate accommodations is placed on the student, the issues being faced are misunderstood as being individualized and specific to each gender diverse student. Issues pertaining to gender

diversity are not individual, they are systemic issues that produce and systematically reinforce inequality (Petillo & Hlavka, 2022).

In addition, the decision by some boards to formalize the accommodation request process to include a written requirement and, in some cases, specific forms that must be filled out, further illustrates how gender identity accommodations are formalized within the realm of law and administration. The formalization of the process may be a tool to protect school boards and their representatives from claims that they have not met their legal obligations. Submitting a written request serves no apparent benefit to the student and places an undue amount of responsibility on their shoulders. It is not to say that wanting student information to be documented is a problem, as it may help if various staff are working together on an accommodation plan and have accurate information. The problem is that school boards expect the student to write the document or fill out the form. While a couple of policies and procedures identified that school staff assist students in the earlier grades with writing their request, this is an exception. It can be intimidating to have to fill out a form in order to feel permitted to live as one's authentic self. In general, school boards misrepresent all gender diverse students as being confident enough about their knowledge of their own identity (which could be fluid), their rights, board policy, and available accommodations to create written documentation. The expectations around knowledge-level and formalized processes are also very ableist approaches, and create further barriers to support for gender diverse students in general, and particularly for students who are neurodivergent. Students who are unconfident or uncomfortable with this process do not appear to have an alternative way to receive accommodation. Whether completed through a written or verbal declaration, the formalized process is a clear barrier to support for gender diverse students and their well-being.

## **Feelings of Safety**

Student safety, like privacy, is another legal responsibility of school boards that pertains to all students. Safety was also the most direct connection to conceptualizing well-being that was used in all policies and procedures. Although safety can be considered a key indicator of a positive well-being, there are many ways that it could be experienced by students. Feeling safe can mean feeling free from possible harm, feeling comfortable in expressing one's lived identity, or feeling welcome in a particular environment. The policies and procedures do very little to address the specific ways that safety does or does not manifest for gender diverse students (Martino et al., 2022; Omercajic & Martino, 2020). The boards often use safety in a narrow and individualized way, such as by stating that accommodations should be made according to how safe the individual gender diverse student feels. Once again, this discursive lens misrepresents the safety issues faced by those in the gender diverse community as being an individual problem.

The safety of gender diverse students is impacted by systemic cisgenderism that is systematically enforced within schools at both individual and policy levels. It is clear that gender diverse students disproportionately feel unsafe in their school environments due to greater amounts of victimization (Greytak et al., 2009). There is a significant number of gender diverse students reporting experiencing verbal harassment and bullying at school in relation to their gender identity (Greytak et al, 2009; Veale et al., 2017). The frequency with which gender diverse students experience verbal and physical harassment, social exclusion, and bullying due to their gender identity reflects a systematic execution of cisgenderism. The theory of minority stress would suggest that specific stressors for gender diverse youth, including feeling unsafe in public, negatively impact their well-being (Veale et al., 2017). The well-being of gender diverse

students therefore relies heavily on opportunities to feel safe and free from harm. The current landscape in Ontario schools suggests that gender diverse students are not sufficiently receiving these opportunities. The Second National Climate Survey on Homophobia, Transphobia, and Biphobia in Canadian Schools project found that gender diverse students were more likely to report feeling unsafe in school than they had been a decade prior (Peter et al., 2021). Gender diverse students can be highly visible targets, and the high levels of harassment that they face can lead to a heightened sense of feeling unsafe at school (Peter et al., 2021). The issue of safety for gender diverse students in schools therefore has less to do with individually feeling safe and more to do with how schools operate as sites for systematic barriers to safety. School boards are not paying enough attention in their accommodation policies and procedures to how safety is a structural issue, and therefore are putting gender diverse students' well-being at risk.

Student safety was most articulated in the policies and procedures in regards to washroom, change room, and sport-related accommodations. Over half of gender diverse students reported in a study that they feel unsafe in washrooms and change rooms at school because of their gender expression (Peter et al., 2021). Simply stating that a student should 'be allowed' to use a washroom that they feel the safest in does not acknowledge the ways that power is reproduced in making such spaces unsafe to begin with for those who are gender diverse. It may feel safer for some students to use a gendered washroom that correlates to their sex assigned at birth, for fear of harassment or other harm involved with using a gendered washroom that correlates to their gender identity. In high school, I never stepped foot in a male washroom because I feared I was going to be physically or verbally harmed. Despite being 'out', I had to use the female washroom which not only affected me not only emotionally, but also fed into stigma from other students that I was not 'truly' male. Gendered washrooms can be stressful,

intimidating, isolating, and dangerous spaces for gender diverse students. Being ‘allowed’ by school officials to enter into these spaces does not address or change the root of why they are unsafe. This type of accommodation draws from a lens of equality rather than equity. When school boards say that they will ‘allow’ gender diverse students to choose what washroom or change room they feel safe using, they are assuming that these students then have the same levels of safety and freedom as their cisgender peers. An equitable approach would address the issue of gendered washrooms and change rooms and how these spaces could be made safer for all gender identities.

### **Experiences of Environment**

How someone experiences their physical and social environment can have an important impact on their sense of safety, and thus their overall well-being (Mulé et al., 2009). Many of the instances of this theme overlapped with expressions of making environments 'safe' for gender diverse students, hence I chose to include it as a subtheme of *Feelings of Safety*. The few instances I found of policy or procedures that recognizes that school environments are unsafe and can perpetuate social exclusion also lack depth. The boards’ focus on awareness, but do not address the structures that deliberately make school environments unsafe and socially exclusive. The school environment is a critical responsibility of school boards, many of which have taken on the rhetoric of promising 'inclusive environments' to better student well-being. The inclusivity rhetoric has emerged as a popular way to impress stakeholders in the absence of any fundamental change. Truly inclusive school environments would emerge when the current gendered institution is deconstructed, and then remade into a space that welcomes gender diversity from the start (Martino et al., 2022). Despite many school boards explicitly stating their dedication to



having inclusive schools, in a recent Canadian study, 90% of gender diverse students reported hearing transphobic remarks every day in school and 78% of gender diverse students reported feeling unsafe at school (Peter et al., 2021). Gender diverse students are also more unlikely to report instances of victimization to school authorities due to concerns of mishandling the situation or a lack of action (Greytak, 2009). Educators are similarly reporting that curriculums are not truly gender inclusive and school staff do not have the professional development training in order to address making school environments more gender inclusive (Martino et al., 2022; Omercajic & Martino, 2020). Dominant norms around gender persist as they are produced and reproduced through individuals within the school system, such as educators, staff, and students. At the individual and community level, school culture remains deeply embedded in dominant discourses and reproduces the 'othering' of gender diverse students in their day-to-day lives. School board inclusivity rhetoric is clearly not changing school culture and how gender diverse students are experiencing their learning environments, and therefore is having little impact on improving their well-being.

Several of the boards recognized in their policies and procedures that learning environments are integral to gender diverse students' well-being through their ability to feel recognized, celebrated, welcome, and able to succeed in their schooling. As previously stated, the boards do not define 'success' at school, though this broadly could be referring to academic achievement, positive socialization, and enrichment in the learning environment. All of these have the capacity to help build a positive well-being, but may also fall into discourses around a limited expectation of how students are supposed to 'be' in schools and what they are supposed to take away from their time there. Additionally, there are only a few boards that mentioned the need for inclusive curriculum across subject areas. Educators in Ontario have called for more

information direction on how to address gender diversity within curriculum (Martino et al., 2022). Gender-inclusive curriculum is one strategy for combatting cisgenderist discourse within schools. Despite the high-profile curriculum debates around gender-identity and expression in Ontario, the accommodation policies and procedures do very little to address the position of the boards in supporting gender-inclusive curriculum. Once again, this allows for interpretation on behalf of school staff, who can choose whether or not to teach a gender-inclusive curriculum, lead discussions around gender diversity, and decide how to respond to questions about gender diversity from students. Positive representation in curriculum can lead to more a gender inclusive school culture and better well-being for students, but this requires that the staff who teach the curriculum are educated and confident in gender-affirming learning (Martino et al., 2022). The school board accommodation policies and procedures do not sufficiently address this gap, as they focus on individualized approaches to gender affirming supports rather than making structural changes to the school system.

## **Mental Health**

With the growing rise of anti-trans\* sentiments socially and politically, the absence of consideration for gender diverse students' mental health within accommodation policies and procedures is incredibly important to examine. Social exclusion, as a social determinant of health, is produced by cisgenderist discourse and has a direct impact on mental health and overall well-being. The mental health of gender diverse youth has been historically overlooked in the name of pathologizing, medicalizing, and diagnosing their identity (Farvid et al., 2021). Too much of the literature on the mental health of gender diverse youth has taken on an individualized behavioural lens that portrays youth as 'at risk' for health impacts from drug use,

HIV/AIDS, mental illness, and suicidality (Griffin & Ouellet, 2003). These trends are evident in the discourse of accommodation policies and procedures, which center individualism and examine well-being from a behavioural health lens. Through omission, the school boards assert that mental health is an individualized responsibility rather than a systemic one. In addition to the increased stigma around mental health for those in the gender diverse community, any negative impacts are seen as the product of individual behaviours and choices rather than from a social determinants of health lens. Being gender diverse is framed as correlated to poor mental health through cisgenderist discourse that works to invalidate diverse gender identities. It has been shown that cisgender youth perform this discourse by linking gender diversity to mental illness (Peter et al., 2021). This process of invalidation produces power over gender diverse students and limits their ability to self-advocate and maintain a positive well-being. By reproducing this stigma through a behavioural health lens, school boards ignore the role of systemic social exclusion in producing greater health risks and sustaining health inequalities for gender diverse youth (Galabuzi, 2016).

Despite an increased awareness of gender diversity as a whole, gender diverse students' mental health needs are not being met (LGBT Youthline, 2020). As explored in the *Gender Diversity in Schools* section (p. 16), gender diverse youth are experiencing negative mental health and suicidality in direct relation to social exclusion in their school environments (Greytak et al., 2009; Griffin & Ouellet, 2003; Martino & Cumming-Potvin, 2017; Martino et al., 2019; Omercajic & Martino, 2020; Peter et al., 2021; Scanlon et al., 2010; Tordoff et al., 2022; Veale et al., 2017). Gender diverse students are subjected to derogatory language, feeling physically and emotionally unsafe, and having their identity be targeted and invalidated (Greytak et al., 2009; Peter et al., 2021). All of the ways that social exclusion is overtly and covertly performed

in school environments has been proven to have major consequences for gender diverse student's mental health and, by extension, their overall well-being. By ignoring this reality, school boards are engaging in cisgenderist power relations that devalue and make invisible the well-being of gender diverse students. As shown by statistics on suicidality and negative mental health outcomes for gender diverse youth (Peter et al., 2021; Scanlon et al., 2010; Tordoff, et al., 2022; Veale et al., 2017), the life-threatening impacts of neglect of this area are very real.

### **Upholding Gendered Systems**

The basic principle of accommodations is that the individual does not 'fit' into the original way that the system is constructed, and therefore requires an accommodation to allow the individual better access to the system (Omercajic & Martino, 2020). Education is an institution, it has been systematically designed by those with power to conform to dominant ideas of childhood, learning, and even gender. Educational spaces have not historically been designed or intended to be welcoming and accepting of gender diversity. Schools have been separated by sex, had curriculum designed around ideas of gender norms, and been sites of extreme socialization around what it means to be a part of the gender binary. Today, schools continue to maintain gender segregation through washrooms, change rooms, athletics, health curriculum, dress codes, and social stigma. Accommodations within this cisgenderist system only serve to scapegoat school boards for their refusal to restructure the educational system as a whole (Omercajic & Martino, 2020). Accommodations that provide only gendered options to students are not effective accommodations. These still require gender diverse students to fit into the mold of male or female, while completely leaving behind various gender identities that do not fit. Binary

accommodations do not change the way that schools are highly gendered institutions that enforce social exclusion for gender diverse students (Omercajic & Martino, 2020; Martino et al., 2022).

It is alarming to see how frequently the boards expressed the need to monitor and assess ongoing accommodations. The inclusion of monitoring and surveillance of gender diverse students to determine whether or not an accommodation should continue puts students at risk for their gender identity being 'policed'. The school staff responsible for surveilling the accommodation may be highly influenced by gender norms in their determination of whether the accommodation remains 'appropriate' or 'effective'. By policing the gender identity and accommodation of gender diverse students, the school boards uphold a gendered system that treats cisgender identities as normal and regards gender diverse identities with suspicion. Power relations are intrinsically reproduced in the process of surveillance, and in determining what “effective” and “appropriate” mean in regards to accommodations. Once again, school staff are given far too much room for interpretation to decide what an effective, ‘appropriate’ accommodation looks like. As school culture remains very cisnormative, it is likely that their interpretation will be affected by stereotypes and stigmatization around gender-inclusive supports will affect how accommodations and the students themselves are perceived. For example, there is great social stigma around trans\* women using 'female' washrooms due to a perception that cisgender men will take advantage of this gender-inclusivity in order to do harm within 'female' washrooms. This stigma deflects the blame of a form of gender-based violence done by men onto trans\* women, resulting in misguided argumentation against gender-affirming washroom accommodations. Only one procedure was found that noted staff perceptions of possible wrong-doing based on stereotypes are not sufficient grounds to deny an accommodation to a gender diverse student (HWDSB, 2023). Even this does not guarantee that perceptions of

gender diverse students will not impact their accommodations. Social regulation of gender within accommodations reinforces the 'othering' of students and places them at great risk for gender policing and additional harm. Gender diverse students already feel unsafe due to the rigid policing of gender within schools, that also increases their visibility and likelihood of being targeted for discrimination and harassment (Peter et al., 2021). Seeking support through accommodations should not increase a gender diverse student's vulnerability to being targeted for gender policing.

### **Lack of Scope**

Policies and procedures are not produced in a vacuum, they reflect dominant discourses around their subject matter and enactment (Ball, 1993). They go through rigorous processes to be written, approved, and implemented, all by people who exist within the larger sociopolitical context of society. Someone writing school board policy chooses specific words to use while disregarding other words. Language is yet another way that power is practiced in everyday life (Smith, 1987). The accommodation policies and procedures are read, interpreted, and enacted under discourses of gender. Therefore, the language within them will impact how that accommodation process plays out.

Policies and procedures should be written in a way that any reader, regardless of prior knowledge, can readily understand what is required of them as an enactor (OESC, 2019). The OESC's (2019) school board trustee training module describes good policy as able to be enacted by foreseeing challenges of implementation, but this is not evident in the school board accommodation policies and procedures. By not including definitions, certain boards default to an assumed level of knowledge held by the reader. Yet educators in Ontario do not feel that they have received enough professional education on supporting gender diverse students or fulfilling

accommodation policies and procedures (Martino et al., 2022). It is clear that many school staff, curriculum writers, and school board trustees would benefit from gender-inclusive professional education, which would also help change school culture to be less cisnormative. Additionally, if gender diverse students are expected to hold such responsibility over their own accommodation, then the school boards are expecting the students to know about and have read the policies and procedures that affect them. In that case, the boards are also expecting students, of all ages, to have that same level of knowledge that is expected of school staff. While gender diverse students are certainly the experts of their own lived experience, it is not warranted that the boards should expect them to be experts of policy, procedure, or school responsibilities. Boards should also not expect students to know exactly what their needs are at a complicated time when they are navigating their own gender identity. Discovering one's gender identity is a deeply personal and complex experience, let alone doing so underneath a cisgenderist system. Students would also benefit from clear definitions to support their understanding, especially since they are expected to be responsible for accessing their own accommodation.

In addition to providing definitions, school boards should also be ensuring that those definitions are current, accurate, and updated annually. Government definitions should not be taken as the gold standard, as many fall into the same issue of being outdated or based in binary ideas of gender (OHRC, 2014). It is not inclusive to define gender as being limited to what it socially means to be a man, woman, both, or neither. This definition still centralizes the gender binary of men and women, as gender diverse identities are expressed as deviating from or combining those two categories rather than being their own identity. The gender binary is so normalized and naturalized within society that many definitions of gender identity struggle to avoid it. Using binary definitions or conflating gender identity as being the same as sexual

orientation misrepresent gender diversity and limit the effectiveness of the support offered. If policies and procedures cannot correctly name those that they are addressing, they cannot demonstrate a true understanding of the issues being faced.

Using outdated terms or terms considered problematic by the 2SLGBTQIPPA+ community is also a red flag that the board does not have a developed understanding of gender diversity. For example, the term 'transgender' is an adjective used to describe a gender identity, such as when I describe myself as a transgender man. Policies that use transgender as a verb, such as by stating that a person is 'transgendered', are doing so incorrectly and contributing to a pathologizing of gender diversity by expressing that it is something that 'happens to' an otherwise cisgender individual. Other outdated terms, such as 'cross-dresser' (a person considered to be wearing clothing not typical of their assigned sex) and 'transsexual' (an identity sometimes used by individuals who have undergone a medical gender affirming transition), are not considered positive or accepting terminology (unless explicitly stated to be the preferred term by an individual). Outdated terms should not be used to address the gender diverse community as a whole and should not be present in school board policy without a proper explanation of their use.

Furthermore, the policies and procedures that do provide definitions are very limited in what identities they choose to include. Identities that are further along the 2SLGBTQIPPA+ acronym or encompassed in the plus sign tend to be less well known. While the more well-known gender identities may be incorrectly defined, those that are not included at all are rendered invisible. Power is disseminated through the naming of identities as it can have a socially legitimizing effect. Not including certain gender identities in the policies and procedures could prevent certain students from receiving accommodations and increase their risk of harm.



Gender diverse students should be able to see themselves represented within board policies and procedures that are intended to help them.

### **Intersectionality**

During data collection for this research, I noted how the policies and procedures relating to gender identity and expression accommodations are often separate from other identity-based accommodation policies and procedures, such as religious accommodations or accommodations relating to (dis)ability. It became clear during the coding process that, through their policies and procedures, school boards are examining marginalization in silos. Different identities are either included in policy on their own or stated in list form; the boards do not acknowledge or explore the ways that policies and procedures will affect students as whole beings with multiple identities. Because of this, there is a very limited number of students who will actually 'fit' into the assumed model that the policies and procedures address. The majority of gender diverse students will have different and more complex accommodation needs than what is presented by the school boards. For example, the way that school boards uphold gender policing and surveillance during accommodation could incite greater harms against racialized gender diverse students, who often face higher rates of surveillance and violence from policing both within and outside of school environments (Monahan & Torres, 2009). The policies and procedures do not provide enough representation of the needs of gender diverse students, and in doing so are more likely to benefit only the most privileged students who best fit into the dominant norms of society. Any type of support that leaves the most marginalized community members behind is ineffective in achieving greater change and justice for that community.

## **Discussion Closing**

In summary, the nine themes, in addition to the lack of policy found among Southern Ontario school boards, demonstrate a lack of attention to the nuanced ways gender diverse youths' well-being is impacted by systematic forces within their school environments. By adhering to a legal focus, individualization, and 'othering' of gender diverse students, school boards reproduce dominant discourses around gender and subsequent power relations that structurally impact the well-being of gender diverse students. School board gender identity policy should dictate how to make fundamental, long-lasting changes to structural factors in order to make educational institutions more equitable to gender diversity and student well-being.

## **Recommendations**

As previously stated, the growing anti-trans\* sociopolitical agendas in Ontario are creating an urgent need to protect the well-being of gender diverse communities, and gender diverse youth especially. School boards are not doing enough through their policies of accommodation to fulfill this need. Gender diverse students remain vulnerable, even while accommodated, because the system continues to privilege and protect cisgender identities while excluding and marginalizing gender diversity. School boards need to recognize in their policy that this vulnerability is purposefully constructed and targeted, as otherwise it is gender diverse youth themselves who are presented as 'the problem'. This only furthers the social exclusion and negative stereotyping that is already established by cisgenderist power systems. As informed by this research, the following includes recommendations for how school boards can begin to make significant changes to their policies and procedures in order to move away from reproducing cisgenderist power and negatively impacting the well-being of gender diverse students.

The first recommendation is that all school boards enshrine protections for gender diverse students into their policies and procedures. It is not enough to provide guidelines or include gender identity and expression in human rights list: gender diverse students need concrete supports and school staff need clear mandates on how to uphold them. School boards must be clear and direct with their commitment to upholding protections and providing supports so that gender diverse students can thrive in schools as their fully authentic selves. The specific and complex issues faced by gender diverse students must be named by school boards before there can be any expectation that they will be addressed and then changed. Without naming them, the experiences of gender diverse students in schools will continue to be highly invisible and susceptible to influence by anti-trans\* sociopolitical movements. In order to be naming these issues accurately, school boards should consult with gender diverse students, community consultants, and 2SLGBTQIPPA+ organizations.

Secondly, school board policies and procedures should be reviewed yearly to keep up with changes in terminology and language, current sociopolitical contexts, and the evolving and complex needs of the community. Changes and updates should be addressed with school staff to ensure clear understanding, avoid issues of inconsistent interpretation, and provide more administrative support. Several of the policies and procedures listed their next regular review as being as far away as five years, while some did not state there was a scheduled review at all. All policies and procedures should provide relevant and correct definitions for identity terms and policy terminology, and continue to review and update these terms. The review process, along with the creation of policies and procedures for the 13 school boards that does not possess any such gender diversity supportive policy, should be completed with paid consultation and collaboration from members of the gender diverse community. Consultation should also include

community members with a wide range of identities that are intertwined to their gender diversity. The policies and procedures should reflect the lived knowledge of community members who experience marginalization at the intersections of their race, (dis)ability, class, sexual orientation, appearance, culture, religion, and/or age. Gender identity and expression in schools should not be addressed within a silo in policies and procedures. Doing so limits the ways that such policies and procedures can benefit gender diverse students, whose gender identity is just one part of who they are. The gender diverse students with the most privilege apart from their being gender diverse are likely to be supported the most by this approach, while the students with multiply marginalized identities are likely to be left behind. In improving accommodation policies and procedures from a more systemic lens, school boards should be addressing the ways in which gender diversity and other identities are interrelated to the well-being of students.

Third, school boards should rethink the accommodation process and be critical about the impact on gender-diverse students. School boards should avoid 'othering' gender diverse students by establishing that accommodations should be conducted at a structural level rather than an individual level. Accommodations should not include assigning students to gendered options, but rather deconstructing gendered spaces in schools and establishing gender inclusive facilities, such as all-gender washrooms with floor-to-ceiling stalls and providing all-gender sports teams, that can assist in helping all students feel safer. When changes such as these are made at structural levels, gender diverse students will not have to take on such responsibility over seeking their own support. It is possible for school spaces to be made gender inclusive in the first place, reducing the perceived need for gender identity accommodations. School boards should shift their focus from individualized accommodations to long-lasting structural changes to school environments.

Fourth, better and on-going education and training on gender diversity should be provided by school boards both internally and for all school staff. Combatting negative stereotypes and stigma around gender diversity must be an active measure taken by school boards and not passively expected of school staff to complete on their own with no accountability. Training should include accurate and affirming information on diverse gender identities and terminology, pronouns, and research-backed best practices in the field of education. This training should be a part of school boards' gender diversity accommodation policies to better reflect that accommodation should start at an institutional level. Additionally, gender-inclusive changes to curriculum, which should be further developed to help normalize gender diversity for students, can be better taught by staff who have the knowledge and confidence to speak equitably about gender. Staff can also model equitable behaviour for students to help change school culture around gender diversity.

Accommodation policies and procedures are an important step in the fight for gender equity in schools. I do not completely disregard the ways in which accommodation has and will support gender diverse students. That being said, as a social principle, gender diverse students would not need to be accommodated if the institution of education was designed to be welcoming and inclusive to all gender identities and expressions. Without addressing and making significant changes to the ways that schools are designed to reproduce cisgenderist power, accommodations will not go far in helping gender diverse students achieve a greater well-being.

## **Next Steps**

The findings of this research have demonstrated a critical gap between how school board policies and procedures conceptualize accommodations and how gender diverse students are experiencing the impact of accommodation on their well-being. There is an urgent need for further study into understanding the first-hand experiences of gender diverse youth under cisgenderist education structures. As I was unable to do so, due to time and program constraints, any follow-up study should include interviews with gender diverse students to delve deeper into how they are experiencing their own well-being and accommodations. The lived experiences of gender diverse youth are incredibly valuable to understanding how to build better gender-affirming supports and inclusive schools. More studies that engage in documenting and making meaning of the personal experiences of gender diverse youth in schools, rather than solely focusing on mental health and suicide statistics, would greatly benefit this growing body of work. Additionally, based on the lack of intersectional research, more studies into the ways that gender diverse youth experience marginalization and social exclusion at multiple intersections of their identities is necessary. Further studies could be conducted to compare well-being between gender diverse students whose school board has accommodation policies and procedures and those whose school board does not.

## **Conclusion**

Overall, this research has provided a greater understanding of how school boards articulate well-being in gender identity accommodation policies and procedures. Through thematically analyzing the discourses of gender and cisnormative school culture present in the policies and procedures with a Queer Foucauldian lens, it is clear that well-being is not

sufficiently addressed within policies and procedures related to gender identity accommodation. It is also evident that school boards view issues faced by gender diverse students through an individualized lens and do not use a systemic lens. The findings demonstrate that well-being for gender diverse students remains at risk as long as school boards are not taking an active role in fostering systemic and systematic change.

Cisgenderism ensures that the systems regulating environments of gender diverse students are constantly working to marginalize and control them. Under such conditions, social exclusion and discrimination produce negative effects on the well-being of gender diverse youth, as well as their opportunities to resist such effects. Gender diverse students are at a structural disadvantage that continues to result in negative well-being outcomes produced by social exclusion (Griffin & Ouellet 2003; Tordoff et al., 2022, Peter et al., 2021; Scanlon et al., 2010). Additionally, cisnormativity permeates supposed gender affirming supports in order to continue the production of power and process of 'othering'. The lowercase 't' 'truths' about gender diverse youth communicated through policy are relative to those who read and enact it, and are biased through dominant lenses of what it means to be gender diverse. In this way, cisgenderist power relations are maintained at both the policy level, and on-the-ground within schools.

It is clear that experiences in school play a vital role in the well-being of gender diverse youth. Their ability to feel safe, affirmed, and respected in school spaces is integral to combatting the negative health impacts produced by social exclusion (Moody & Grant-Smith, 2013; Veale et al., 2017). Gender diverse students need to feel that they belong in school spaces and can be a part of their school community. This research makes clear that accommodations achieve very little in this regard. Accommodations do not change issues of gender diverse representation in schools, inclusion in curriculum, or discriminatory school culture. A shift to

making structural changes within education is necessary for school boards to commit to inclusive and gender-equitable school environments.

In closing, this research has shown that school board accommodation policies and procedures are limited in their articulation and understanding of well-being for gender diverse students. This limitation directly plays a role in reproducing structures of discrimination, othering, and social exclusion that ensure vulnerability to negative health impacts. School boards are not the only factors of power that are upholding cisgenderism, yet they do play a vital role in the process of more liberational change for gender diversity within education. Long lasting change will not come from individualized legal frameworks, but from creating momentum and support for a ground-up, truly inclusive school environment for all students.



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