



## **MEMORANDUM**

**February 25, 2021**

**TO: Members of the Board of Trustees**

**FROM: Dr. Jim Malatras, Chancellor**

**SUBJECT: Creation of 8 NYCRR Part 317: Gender Neutral Bathrooms**

### **Action Requested**

This resolution authorizes the filing of a Notice of Emergency Adoption and Proposed Rule Making to add a new 8 NYCRR Part 317 in order to conform with recently enacted New York State legislation requiring SUNY state-operated campuses to designate all single occupancy bathrooms as gender neutral bathrooms.

### **Resolution**

I recommend that the Board of Trustees adopt the following resolution:

Whereas New York State and the State University of New York are committed to protecting the safety and well-being of its students and staff and maintaining educational and working environments that are free from discrimination and harassment; and

Whereas SUNY recognizes the need to take all possible precautionary steps to prevent harassment from occurring, and believes that college officials can play a crucial role in creating a space of inclusivity to protect transgender, gender nonconforming, and non-binary (TGNCNB) individuals from discrimination and harassment on its campuses; and

Whereas on December 23, 2020, Governor Cuomo signed into law Chapter 353 of the Laws of 2020, relating to the single-occupancy bathroom requirement; now therefore, be it

Resolved that the Chancellor, or designee, be, and hereby is, authorized and directed to prepare, in accordance with the

provisions of the State Administrative Procedure Act, a Notice of Emergency Adoption and Proposed Rule Making, with respect to a new Part 317 of Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to read as follows (underlining denotes new material to be added) to comply with Chapter 353 of the Laws of 2020:

### Part 317 Single Occupancy Bathrooms

#### 317.1 Single Occupancy Bathrooms on State-operated Campuses

- (a) All public single-occupancy bathroom facilities at each state-operated institution shall be designated as gender neutral for use by no more than one occupant at a time or for family or assisted use.
- (b) Such gender neutral bathroom facilities shall be clearly designated by the posting of such on or near the entry door of each facility.
- (c) For purposes of this section, single-occupancy bathroom shall have the same meaning as paragraph (d) of subdivision one of section one hundred forty-five of the public buildings law.
- (d) This section shall constitute written adoption by each of the state-operated institutions of the requirements of subdivision twenty of section three hundred fifty-five of the education law.

### **Background**

On December 23, 2020, a landmark civil rights measure became law in New York State by making all single stall bathrooms in the state gender neutral in order to protect transgender, gender nonconforming, and non-binary (TGNCNB) individuals from discrimination and harassment. The law goes into effect March 23, 2021, which means the campuses should take immediate steps to update all applicable "Male" and "Female" signage to "Gender Neutral." This resolution would authorize emergency rulemaking to make these regulations effective upon filing. Chapter 353 of the Laws of 2020 requires the Board of Trustees to promulgate regulations stating that each campus must designate all public single-occupancy bathroom facilities as gender neutral.

As this new law also mandates that all local Community College Boards of Trustees adopt conforming written policies, the new Part 317 of 8 NYCRR created

as part of this resolution is a model for use by the community colleges in compliance with the law.

This law and accompanying regulations will make a difference in the lives of many students, faculty, and staff and remove some of the hurdles that TGNCNB members in our communities have experienced in daily life.