

# LGBTIQ Student Support

## Policy last updated

15 June 2020

## Scope

- Schools
- School councils

## Contact

Safe Schools

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**Date:** March 2020

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# **Policy**

## **Policy**

The purpose of this policy is to ensure schools support Lesbian, Gay, Bisexual, Trans and gender diverse, Intersex, and Queer and questioning (LGBTIQ) students.

## **Summary**

- It is unlawful under state and federal laws to discriminate against a person on the grounds of their sexual orientation, gender identity or intersex status.
- Schools must take reasonable steps to eliminate discrimination on the basis of sex, gender and sexuality.
- Schools should ensure that their policies, practices and activities are inclusive and take positive action to eliminate discrimination or harassment of students on the basis of their sex, gender or sexuality.
- Schools must work with students affirming their gender identity to prepare and implement a student support plan.

## **Details**

Schools must take reasonable steps to eliminate discrimination on the basis of sex, gender and sexuality. The Department requires schools to support LGBTIQ students by:

- providing a positive, supportive and respectful environment
- respecting privacy and confidentiality in relation to all students
- supporting students who want to affirm or transition gender identity at school
- challenging all forms of homophobia and transphobia to prevent discrimination and bullying
- giving proper consideration to the impact of any requirement to participate in school activities according to gender identity or an assumption of heterosexuality (for example, school formals, sports activities, camps)

- inviting the young person and a family representative/carer to be part of the formulation of a school management plan (in cases where the student is a mature minor, refer to [Mature Minors and Decision Making](http://www2.education.vic.gov.au/pal/mature-minors-and-decision-making/policy) <<http://www2.education.vic.gov.au/pal/mature-minors-and-decision-making/policy>> )

## **Promoting an inclusive school environment**

Schools should:

- ensure that their policies, practices and activities are inclusive and do not have the effect of treating any student adversely because of their sex, gender or sexuality
- take positive action to eliminate discrimination or harassment of students on the basis of their sex, gender or sexuality

For free staff professional development, resources, tailored support, planning, and further guidance on how to actively and positively support LGBTIQ students — refer to the [Safe Schools](https://www.education.vic.gov.au/about/programs/Pages/safeschools.aspx?&Redirect=2) 

<<https://www.education.vic.gov.au/about/programs/Pages/safeschools.aspx?&Redirect=2>> site for contact details.

## **Gender affirmation student support plans**

Schools must work with students affirming their gender identity to prepare and implement a student support plan.

The plan should be developed in consultation with the student and their parents or carers, where possible, and should be reviewed periodically to ensure that it reflects the needs of the student at the different stages of their transition, and at the different stages of their education.

It is important that the student is at the centre of creating their own support plan, and consulted in all decision making. In preparing the plan, the school should consider the following:

- catering to the students' affirmed gender identity
- that the support plan reflects this policy
- adopting a common sense approach
- developing the support plan over staggered sessions to allow time for trialling and opportunities for adjustments to occur
- the best timing to undertake a gender affirmation process, such as term break

- maintaining appropriate privacy and confidentiality — consider the privacy of the student, and only share information to those who have an appropriate reason to know. In consultation with the student and family, determine whether key staff members, such as a student welfare coordinator or the physical education teacher, need to be advised in order to effectively support or teach the student. Make a list of the names of staff members who know of the gender identity change.
- the referencing of and recording of student's affirmed name, gender identity, and pronouns (he, she, they etc.)
- the use of toilets, showers and change rooms that meet the needs of the student. This should be based on the student's gender identity and whichever facilities they will feel most comfortable using. Students without a disability should not be required to use disabled toilets or facilities.
- the appropriate uniform that reflects the gender identity of the student and meets the school's dress or uniform code
- developing a communications plan that includes what information staff members and other students need to know to best support the student
- make plans to address potential community concerns, ensuring students' right to privacy is maintained
- providing support to staff through professional learning and briefings on the arrangements for the student where appropriate
- updating school policies to include support for transgender and gender diverse students and responses to transphobic bullying
- consider scheduling regular Student Support Groups to support, guide and monitor the student's progress
- Note: a letter from a gender identity specialist may be requested by the school to support them in developing the plan. This letter is not a conditional requirement for the school in providing support to the student, but it may help to ensure that schools can adequately discharge their duty of care to a student by planning appropriately. Gender identity specialists are available through Royal Children's Hospital and Monash Medical Centre.

## **Parental consent**

There may be circumstances in which students wish or need to undertake gender transition without the consent of their parent/s (or carer/s), and/or without consulting medical practitioners.

If no agreement can be reached between the student and the parent/s regarding the student's gender identity, or if the parent/s will not consent to the contents of a student support plan, it will be necessary for the school to consider whether the student is a mature minor.

If a student is considered a mature minor they can make decisions for themselves without parental consent and should be affirmed in their gender identity at school without a family representative/carer participating in formulating the school management plan.

Department policy addresses situations in which students, though under the age of 18 years, may be sufficiently mature to make their own decisions, (refer to Mature Minors and Decision-Making).

## Legal considerations

It is unlawful under state and federal laws to discriminate against a person on the grounds of their sexual orientation, gender identity or intersex status.

Anti-discrimination laws:

- require schools to take reasonable and proportionate measures to eliminate discrimination on the basis of sexual orientation, gender identity or intersex status, including by taking positive steps to promote an inclusive school environment
- prohibit direct and indirect discrimination on the basis of sexual orientation, gender identity or intersex status

**Direct discrimination** occurs when a person treats a person with a protected attribute (such as a gender identity, intersex status or sexual orientation) unfavourably because of that attribute. Direct discrimination may occur if the school denies or limits any access to any benefit provided by the school or subjects the student to any other detriment. For example, excluding a transgender student from using the toilet that matches their gender because of the sex they were assigned at birth, may limit or deny that student's access to the benefit.

**Indirect discrimination** occurs where a requirement, condition or practice is applied to all students equally but its application is likely to have the effect of disadvantaging students with a protected attribute (such as gender identity, intersex status or sexual orientation), and it is not reasonable. For example, it might be indirect discrimination for a school to apply a uniform policy with only 'male' and 'female' options to all students equally without regard to a student's gender identity. The result of that policy might be a student with a non-binary identity would be required to wear the uniform of their sex assigned at birth rather than their gender identity, and the requirement to do so is unreasonable.

## Definitions

**Lesbian**

A woman who is romantically and/or sexually attracted to other women.

**Gay**

A person who is romantically and/or sexually attracted to people of the same sex and/or gender as themselves. This term is often used to describe men who are attracted to other men, but some women and gender diverse people may describe themselves as gay.

**Bisexual**

A person who is romantically and/or sexually attracted to people of their own gender and other genders.

**Transgender**

A person whose gender does not exclusively align with their sex assignment at birth.

**Gender diversity**

Gender diversity refers to a range of gender expressions and identities. This term includes those who may identify as transgender, gender diverse, gender-fluid, or who otherwise feel that their gender identity does not align with the sex assigned to them at birth and/or society's expectations of gender.

**Intersex**

Intersex means the status of having physical, hormonal or genetic features that are:

- neither wholly female nor wholly male, or
- a combination of female and male, or
- neither female nor male

Being intersex is about biological variations, not about a person's gender identity.

People with intersex variations share the same range of sexual orientation and gender identities as people with no intersex variations.

**Queer**

An umbrella term for diverse genders and sexualities.

**Questioning**

A person who is still exploring or questioning their gender identity or sexual orientation, or doesn't want to be locked into a label.

**Gender identity**

Gender identity is defined in legislation as meaning the gender-related identity, appearance, mannerisms or other gender-related characteristics of a person (whether

by way of medical intervention or not) with or without regard to the person's assigned sex at birth.

### **Gender transition/affirmation**

Gender transition/affirmation refers to the process whereby a transgender or gender diverse person socially and/or medically affirms their gender identity. There is no single moment of gender affirmation; it is an ongoing and individual process which may or may not involve medical support.

### **Sexual diversity**

Sexual diversity refers to a diverse range of different sexualities, identities, and romantic or sexual attractions. This term includes those who may identify as same sex attracted, lesbian, gay, bisexual, queer and questioning or who may use other terms.

### **Sexual orientation**

Sexual orientation is defined in legislation as meaning a person's sexual orientation towards:

- persons of the same sex or
- persons of a different sex or
- persons of the same sex and persons of a different sex

## **Related policies**

- [Enrolment](http://www2.education.vic.gov.au/pal/enrolment/policy) <http://www2.education.vic.gov.au/pal/enrolment/policy>
- [Mature Minors and Decision Making](http://www2.education.vic.gov.au/pal/mature-minors-and-decision-making/policy) <http://www2.education.vic.gov.au/pal/mature-minors-and-decision-making/policy>
- [Privacy and Information Sharing](http://www2.education.vic.gov.au/pal/privacy-information-sharing/policy) <http://www2.education.vic.gov.au/pal/privacy-information-sharing/policy>
- [Student Engagement](http://www2.education.vic.gov.au/pal/student-engagement/policy) <http://www2.education.vic.gov.au/pal/student-engagement/policy>

## **Related legislation**

- [Charter of Human Rights and Responsibilities Act 2006 \(Vic\)](https://www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006)  <https://www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006>
- [Equal Opportunity Act 2010 \(Vic\)](https://www.legislation.vic.gov.au/in-force/acts/equal-opportunity-act-2010)  <https://www.legislation.vic.gov.au/in-force/acts/equal-opportunity-act-2010>
- [Sex Discrimination Act 1984 \(Cth\)](https://www.legislation.gov.au/Details/C2018C00499)  <https://www.legislation.gov.au/Details/C2018C00499>

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# Guidance

## Guidance

There is no further guidance for this topic. For more information, refer to Resources tab.

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# Resources

## Resources

### Department resources

- [Bully Stoppers](https://www.education.vic.gov.au/about/programs/bullystoppers/Pages/default.aspx)   [<https://www.education.vic.gov.au/about/programs/bullystoppers/Pages/default.aspx>](https://www.education.vic.gov.au/about/programs/bullystoppers/Pages/default.aspx) — supports students, parents, teachers and principals in working together to make sure schools are safe and supportive places, where everyone is empowered to help reduce the incidence of bullying in all Victorian schools
- [Sexuality Education](https://www.education.vic.gov.au/school/teachers/teachingresources/discipline/p_hysed/Pages/sexualityed.aspx)   [<https://www.education.vic.gov.au/school/teachers/teachingresources/discipline/p\\_hysed/Pages/sexualityed.aspx>](https://www.education.vic.gov.au/school/teachers/teachingresources/discipline/p_hysed/Pages/sexualityed.aspx) — provides more information on the delivery of sexuality education in Victorian schools

### Other resources

- [Minus18](https://minus18.org.au/)   [<https://minus18.org.au/>](https://minus18.org.au/) — provided mental health and peer mentoring support to same sex attracted and gender diverse young people from all over Australia
- [National Safe Schools Framework](https://www.education.gov.au/national-safe-schools-framework-0)   [<https://www.education.gov.au/national-safe-schools-framework-0>](https://www.education.gov.au/national-safe-schools-framework-0) — provides Australian schools with a vision and a set of guiding principles that assist school communities to develop positive and practical student safety and wellbeing policies
- [Rainbow Network](http://www.rainbownetwork.com.au/)   [<http://www.rainbownetwork.com.au/>](http://www.rainbownetwork.com.au/) — a network of Same Sex Attracted, Intersex, Trans and Gender Diverse (SSAITGD) youth groups with activities including; the exchanging of ideas, information and resources; the discussion of issues that may emerge when working with young people, their families, schools and community agencies; and developing of partnerships between agencies and schools aimed at empowering young people to participate in decision making and community development
- [Royal Children's Hospital Melbourne Gender Service](https://www.rch.org.au/adolescent-medicine/gender-service)   [<https://www.rch.org.au/adolescent-medicine/gender-service>](https://www.rch.org.au/adolescent-medicine/gender-service) — provides children and adolescents up to 17 years with a multidisciplinary approach to the assessment, care and treatment of gender dysphoria
- [Transcend](http://www.transcendsupport.com.au/)   [<http://www.transcendsupport.com.au/>](http://www.transcendsupport.com.au/) — a parent led support network and information hub for transgender children and their families in Australia

- [Transgender Victoria](http://www.transgendervictoria.com/)  <http://www.transgendervictoria.com/> — works with and for, the trans community as well as its allies, to create positive change in areas that impact the human rights of trans people. Transgender Victoria (TGV) supports direct assistance to transgender people through establishing and implementing appropriate and high quality direct services, as well as other activities that are consistent with this.
  - [Victorian Equal Opportunity & Human Rights Commission](https://www.humanrightscommission.vic.gov.au/)  <https://www.humanrightscommission.vic.gov.au/> — educates people about the rights and responsibilities contained in the Charter and reports annually to the government about the operation of the Charter
  - [Ygender](https://www.ygender.org.au/)  <https://www.ygender.org.au/> — a peer led social support and advocacy group based in Melbourne
  - [Zoe Belle Gender Collective](http://www.zbgc.com.au/)  <http://www.zbgc.com.au/> — provides online support, referrals, recommendations and resources for the greater trans and gender diverse community in Victoria
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Reviewed 14 May 2020