



College council will review this policy every three years or as directed by DET

Date approved: June 2018

Date of next review: 2021

PURPOSE

To ensure the college support students' gender identity, including those with intersex status, in line with both the *Victorian Equal Opportunity Act 2010 (Vic)* and the *Sex Discrimination Act 1984 (Cth)*.

POLICY

- The college must support and respect a student's choice to identify as their desired gender when this does not align with their designated sex at birth
- The Principal must respect privacy and confidentiality in relation to gender identity and intersex status
- The young person and a family representative / carer must be invited to be part of the formulation of a college management plan
- 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 college in providing support to the student, but it may help to ensure the College can adequately discharge its duty of care to a student by planning appropriately. Gender identity specialists are currently available through Royal Children's Hospital and Monash Medical Centre.

Gender identity and Intersex Status: definitions

Gender identity has the potential for discriminatory and unfair treatment. Below are the definitions Gender Identity and Intersex status outlined in the Sex Discrimination Act 1984 (Cth) (SD Act).

Gender Identity

Gender identity is broadly defined as meaning 'the gender-related identity, appearance or 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 designated sex at birth

By this definition, the SD Act therefore affords protection from discrimination for persons who identify as men, women or also as neither male nor female. It does not matter what sex the person was assigned at birth, or whether the person has undergone any medical intervention. Some terms used to describe a person's gender identity include trans, transgender and gender diverse. The SD Act does not use these labels; however it is intended to cover these identities and more.

Intersex Status

Intersex Status is defined by the SD Act as meaning 'the status of having physical, hormonal or genetic features that are:

1. neither wholly female nor wholly male; or
2. a combination of female and male; or
3. neither female or male.'

This attribute is directed at protecting the 'biological' aspects or characteristics of intersex persons, but not the person's gender identity. These provisions will afford an intersex person protection from discrimination based on whether that person may have the biological attributes of both sexes, or lack some of the biological attributes considered necessary to be defined as one or the other sex.

School Management Plans

The Principal should:

- identify current supports that are in addition to standard college-based wellbeing supports.
- respond to students or parents / guardians who identify a need, such as counselling support.

It is important that the student understands they are a partner in a plan and actively follow the agreed decisions.

The principal, with the student and parents / guardians, creates a College Management Plan and will actively follow the agreed decisions.

The College Management Plan should:

- cater to the student's gender identity
- reflect this policy
- take a common-sense approach
- be developed over staggered sessions to allow time and opportunity for adjustments to occur
- consider the best timing to undertake any change of gender identity, such as term break
- consider implementing a Student Support Group to support, guide and monitor the student's progress see: [Department resources](#)
- agree to arrangements in relation to toilet facilities
- consider the wellbeing of other students in an addendum to the plan, in the event the student's transgender status becomes known and causes distress. This should include a student support referral process
- determine whether other staff members, such as a student welfare coordinator or the physical education teacher, need to be advised to support or teach the student
- list the names of staff members who know of the gender identity change
- Identify processes to:
 - review the plan
 - inform others should it be decided necessary
 - address potential school community concerns
 - manage unforeseen circumstances

Important: The best way to protect a student's privacy and confidentiality is to minimise the number of staff required to know the student's transgender status. In most cases this is limited to the principal. It should not be assumed a staff member or the student's social network is aware.

Toilet Facilities

Toilets, showers and change rooms vary. The arrangements for the use of these facilities will be documented in the College Management Plan. Careful consideration should be given to the use of facilities that are appropriate to the student's preferred or chosen gender.

Note: Use of standard signage of disabled toilets by a student without disabilities can draw attention to the student and is not appropriate for these purposes.

Community adjustment

Where the student changing gender identity stays at the same school, community members who knew the student before may need:

- support
- further information on gender identity
- to discuss issues in general with a senior staff member

Adjustments typically:

- occur as a matter of practice over time
- include use of:
 - a student's new name
 - address appropriate to the preferred gender identity

Parent Consent

The policy currently does not explicitly address situations in which a student and their parents are not in agreement regarding the student's gender identity. There may arise circumstances in which students wish to change their gender identity without the consent of their parents, and without consulting medical practitioners.

If no agreement can be reached between the student and the parent regarding the student's gender identity, or if the parent will not consent to the contents of a Student Management Plan, it will be necessary for the college to consider whether the student is a mature minor (see below) enabling the student to permissibly make decisions for themselves without parental consent.

The principal will need to be satisfied that the student has sufficient maturity, understanding and intelligence to make up their own mind about a particular issue (such as decision making around name change). This is a decision for the principal and a written record should be kept regarding the decision, including consideration of whether the student understands the consequences that might flow from the relevant decision.

Should the College consider that the student is a mature minor, in these circumstances it may not be appropriate for the student's family representative / carer to be invited to participate in formulating the school management plan.

The DET 'Decision Making Responsibilities Policy For Students' addresses situations in which students, though under the age of 18 years, may be sufficiently mature to make their own decisions.

See: [Decision Making Responsibilities for Students](#)

Guiding principles in determining mature minor status

The law recognises that as children become older and more mature, they are more capable of making their own decisions about a wide range of issues including decisions about their education, healthcare and wellbeing. The law recognises that a young person may reach this stage before they are 18 years old. These young people are referred to as 'mature minors'.

The Department's policy is to engage parents in schooling matters unless it is not objectively in the best interests of the student to do so. The best interests of the student must always govern a principal's decision about whether a student should be deemed a mature minor.

Principals should consider whether a student is a mature minor based on these points;

- the law recognises that a young person with sufficient maturity and intelligence to understand the nature and effect of a decision has the capacity to make that decision on their own behalf
- there is no specific age when a young person may be deemed sufficiently mature and capable of making his or her own decision
- the principal is responsible for determining whether a student is a mature minor for the purpose of making a particular decision about their education or welfare
- the principal must be satisfied that the young person has sufficient maturity, understanding and intelligence to comprehend the nature and effect of the particular decision
- a mature minor student's consent must be informed, voluntary, specific and current. The principal is responsible for assessing and establishing this, based upon their interview/s and conversations with the student and the student's:
 - age
 - level of maturity for their age
 - understanding of the issues and consequences
 - living arrangements (independence)
 - previous academic results / school reports
- to reach this decision, principals may also consult other members of the leadership team, any relevant teaching staff, SSS staff or any external health professionals treating the student with the consent of that student. Principals may also seek advice from the Legal Division.
- The principal should document their decision and the reasons for their decision.

A principal may deem a student to be a mature minor for some decisions and not for others. For example, a principal may deem a student to be a mature minor for the purpose of participating in such as, a Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) support group at school, or attend a sex education class. In these circumstances the principal may decide that the student may choose to participate on their own behalf without parent consent. This does not automatically mean that the school would deem the student a mature minor for any other aspect of their education or welfare.

College Documentation

This table describes how school change records and documentation:

Step	Description
1	Parents / Guardians or the student advise the school they intend to change the birth certificate
2	Update school records and documentation with the new name and sex, including enrolment documentation. See: Enrolment
3	Parents / Guardians or the student provide the new birth certificate when it becomes available

Related Policies

- [Decision Making Responsibilities for Students](#)
- [Enrolment](#)
- [Information Privacy](#)

Related Legislation

- *Victorian Equal Opportunity Act 2010 (Vic)*
- *Sex Discrimination Act 1984 (Cth)*

Department Resources

- [Sexuality education for parents](#)
- [Safe Schools](#)
- For teachers: a copy of SSAFE Gender Identity Issues (2007), see: [Prevention and support](#)
- For principals: links to government and school-based support documents for principals and leaders when engaging in sexuality education, see: [For principals](#)
- For contact details for regional student wellbeing managers, see: [Regions](#)

Other Resources

For more information see:

- [GQ: Gender Questioning \(2006\)](#)
- [The legal recognition of sex in documents and government records – Concluding paper of the sex and gender diversity project \(2009\)](#)
- [Transgender Victoria](#)