



Gender Identity

(Last DET Update: 04/03/16)

First Developed March 2016
Updated April 2016

1. Background and information

Rationale

- 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).

Definitions

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 *Sex Discrimination 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 *Sex Discrimination Act* does not use these labels; however it is intended to cover these identities and more.

Intersex Status is defined by the *Sex Discrimination Act* as meaning ‘the status of having physical, hormonal or genetic features that are:

- a) neither wholly female nor wholly male; or
- b) a combination of female and male; or
- c) neither female nor 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.

Further information may be obtained from:

GQ: Gender Questioning (2006) - available from Gay and Lesbian Health Victoria
The legal recognition of sex in documents and government records – Concluding paper of the sex and gender diversity project (2009) - Australian Human Rights Commission
Safe Schools Coalition Victoria
Transgender Victoria

Victorian Equal Opportunity Act 2010 (Vic)

Sex Discrimination Act 1984 (Cth).

Please also refer to the school's *Child Safe Policy, Duty of Care Policy, the Parental Responsibilities (Decisions about Students) Policy & the Enrolment and Information Privacy Policies.*

Reference:

www.education.vic/gov.au/school/principals/spag/participation/pages/gendersexuality.aspx

2. Carranballac College Gender Identity Policy (October 2016)

Purpose

- To ensure Carranballac P-9 College supports 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)*.

Implementation

- Carranballac P-9 College will 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 school will respect privacy and confidentiality in relation to gender identity and intersex status.
- The young person and a family representative/carer will be invited to be part of the formulation of a School Management Plan.
- A letter from a gender identity specialist will be requested by the school to support staff 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 the school can adequately discharge its duty of care to a student by planning appropriately. Gender identity specialists are available through Royal Children's Hospital and Monash Medical Centre.
- The school will identify current supports that are in place and not automatically assume school-based wellbeing supports are required and respond to students or parents/guardians who identify a need, such as counselling support.

Ratification and Review

- This policy will be reviewed as part of the school's three-year review cycle or if guidelines change

This policy was ratified by School Council on 18th October 2016

3. Carranballac College Gender Identity Procedures

School Management Plan

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

The school, with the student and parents/guardians will create a School Management Plan that ensures the school responds to the student's needs and addresses any facilities and privacy issues.

The School Management Plan will:

- cater to the student's gender identity
- reflect this policy
- take a common sense approach
- be developed over staggered sessions to allow time for trialing 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
- agree to arrangements in relation to toilet facilities using existing 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.

Privacy

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 will be limited to the Principal. Do not assume a staff member or the student's social network is aware.

- Community members who knew the student before may need support, further information on gender identity and the opportunity to discuss issues in general with a senior staff member.
- Please note that adjustments typically occur as a matter of practice over time and include use of the student's new name and address appropriate to the preferred gender identity.

Disputes within families

- 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, the school is to consider whether the student is a mature minor 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 will be kept regarding the decision, including consideration of whether the student understands the consequences that might flow from the relevant decision.
- Should the school 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.

Birth Certificates

- If parents/guardians advise the school that they intend to change the student's birth certificate all school records will be updated with the new name and sex. A copy of the new birth certificate will be filed when available.

Communication of Policy

- When parents/guardians approach the school about gender identity issues, they will be given a copy of this policy.