

Learning Co-operative Students and Gender Identity Policy

1. Purpose of this Policy

- 1.1 To ensure that the Learning Co-operative supports the gender identity of each student, including those with intersex status, in accordance with both the *Equal Opportunity Act 2010 (Vic)* and the *Sex Discrimination Act 1984 (Cth)*.

2. Policy

- 2.1 The Learning Co-operative supports and respects a student's right to express their gender identity whether this aligns with their designated sex at birth.
- 2.2 The principal will endeavour to protect a student's privacy and confidentiality in relation to gender identity and intersex status but there may be circumstances where this is not possible.
- 2.3 The student and a family representative/guardian will be 'invited to be part of the formulation of a school management plan'¹.
- 2.4 A letter 'from a gender identity specialist may be requested by' the Learning Co-operative to support the school 'in developing the school management plan. This letter is not a conditional requirement for provision of support to the student, but it may help to ensure that the school can adequately discharge its duty of care to the student by planning appropriately'².

3. Gender Identity and Intersex Status: Definitions

- 3.1 '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

- 3.2 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'.

¹ Victorian Department of Education and Training, *Gender Identity* (5 July 2019) <<https://www.education.vic.gov.au/school/principals/spag/health/Pages/genderidentity.aspx>>. Accessed 16 July 2019.

² Ibid.

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

3.3 Intersex Status is defined by the SD 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 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 sex³.

4. School Management Plans

4.1 In formulating a school management plan, the Principal and Child Safety Officer will work with the student and their parents/guardian to identify the ways in which the school may be able to provide support. The purpose of the school management plan is to ensure that 'the school responds to the student's needs and addresses any facilities and privacy issues'⁴.

4.2 It is 'important that the student understands they are a partner in a plan and actively follow the agreed decisions'⁵.

4.3 The school management plan may include or address the following:

- a. it will 'cater to the student's gender identity
- b. reflect the terms of this policy
- c. be developed to allow time for trialling and opportunity for adjustments to occur

³ Ibid.

⁴ Ibid.

⁵ Ibid.

- d. consider the best timing to undertake any change of gender identity, such as term break
- e. consider the wellbeing of other students in an addendum to the plan, in the event the student's transgender status becomes known and causes distress⁶
- f. 'Determine whether other staff members, such as the Student Welfare Officer, need to be advised to support or teach the student.
- g. identify processes to:
 - i. support, guide and monitor the student's progress
 - ii. review the plan
 - iii. address potential school community concerns
 - iv. manage unforeseen circumstances⁷.

5. Toilet Facilities and Change Rooms

- 5.1 The arrangements for the use of toilet facilities on excursions, including showers and change rooms, should 'be documented in the school management plan. Careful consideration will be given to the use of facilities that are appropriate to the student's preferred or chosen gender'⁸.

6. Community Adjustment

- 6.1 Where the student changing gender identity is an existing student at the Learning Co-operative, 'community members who knew the student before may need:
- a. support
 - b. further information on gender identity
 - c. to discuss issues in general with a senior staff member'⁹.
- 6.2 Adjustments typically include:
- a. use of a student's new name
 - b. using forms of address appropriate to the student's preferred gender identity¹⁰.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

7. Parental Consent

- 7.1 Circumstances may arise in which a student wishes to change their gender identity without the consent of their parents.
- 7.2 If 'no agreement can be reached between the student' and their parents/guardian 'regarding the student's gender identity'¹¹, to discharge the school's duty of care to the student, it must be satisfied that the student has sufficient maturity and understanding to make this decision for them self without parental consent. Consideration needs to be given to the student's ability to understand the consequences that might flow from the relevant decision. The school may require such external evidence or approvals it considers necessary to be satisfied that the student has sufficient maturity and understanding to make the relevant decision.

8. Related Policies

- 8.1 Child Safety and Well Being Policy
- 8.2 Student Welfare Policy
- 8.3 Anti-bullying and Anti-harassment (students) Policy

9. Related Legislation

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

¹¹ Ibid.

10. Policy review

- 10.1 The governing board will review this Policy every 2 years.
- 10.2 The governing board will require the principal to report on the implementation of this Policy as part of the board’s review of the policy.

This policy was ratified by the School Board on: 11/10/2021

This policy will be reviewed every two years as part of the ongoing overall policy review process.

Chairperson’s signature:



(NAME)

Date	Version	Approver	Next Review Date
4/10/2021	1	Name: MYRA THEISZ Position: Chairperson of the School Board Signature: 	4/10/2023