

Procedure

Transgender and intersex student support

Please note this procedure is mandatory and staff are required to adhere to the content

Summary

This procedure outlines school and preschool processes for supporting transgender and intersex children or young people enrolled at departmental education and care sites in accordance with the DECD policy, *Supporting same sex attracted, intersex and gender diverse students*

Table 1 - Document details

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Related legislation	Children's Protection Act 1993 Equal Opportunity Act 1984 (SA) Sex Discrimination Act 1984 (Cth) as amended by the Sex Discrimination Amendment (Sexual Orientation, Gender Identity And Intersex Status) Act 2013 (Cth)
Related policies, procedures, guidelines, standards, frameworks	Camps and excursions guidelines for schools and preschools Child protection in schools, early childhood education and care policy Information Sharing Guidelines for Promoting Safety Wellbeing (ISG) Procedure (DECD Appendix) Maintaining EDSAS records to support transgender students Memorandum of Operational Collaboration 2014-2017 (SHineSA & DECD) Supporting same sex attracted, intersex and gender diverse students policy School dress code policy School enrolment policy Sexual harassment policy Information Sharing Guidelines for promoting safety and wellbeing (ISG), Ombudsman SA. South Australian Strategy for the Inclusion of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer People (LGBTIQ) 2014-2016 SA Information Privacy Principles (IPPS) Instruction 2013 (Cabinet Administrative Instruction PC012) Australian Government Guidelines on the Recognition of Sex and Gender, 2013

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1. Title

Transgender and intersex children and young people support procedure

2. Purpose

This procedure aims to inform the application of the DECD policy, [Supporting same sex attracted, intersex and gender diverse students](#) with regards to intersex and transgender children and young people by:

- outlining the requirements to ensure that site practices support transgender and intersex children and young people to receive a quality education in a safe and inclusive environment, free from discrimination, bullying and harassment;
- informing sites about practices and procedures that support compliance with the requirements of the [Equal Opportunity Act 1984](#) (SA) and the [Sex Discrimination Act 1984](#) (Cth) as amended by the [Sex Discrimination Amendment \(Sexual Orientation, Gender Identity And Intersex Status\) Act 2013](#) (Cth) in relation to intersex and transgender students.

3. Scope

This procedure applies to all staff and volunteers working in DECD sites and early childhood education and care services, DECD education and care leaders and DECD corporate leaders.

4. Policy detail

It is important to read the definitions in section 7 before proceeding to 4.1.

The procedural considerations outlined below will help schools to provide appropriate support for students who express their intention to affirm a gender identity at school that is different from their assigned sex at birth. This process is often referred to as gender transition or gender affirmation.

Young people under the age of 18 years have the legal capacity to make many decisions if they have the maturity and cognitive ability to do so. However this can only be determined on a case-by-case basis informed by age and developmental capacity. Site leaders are best placed to make this determination. It can also be informed by advice from a health care professional.

Once a young person attains the age of 18 years, the law assumes that they are generally capable of making decisions without parent /guardian consent.

4.1 School Management

If a transgender student requests to transition or affirm gender identity at school the Principal and/or delegate should initiate a meeting with the young person and their parent/carer/family, if possible, to identify their wellbeing needs, concerns and school support processes. In instances where one or both parents/guardian do not support or oppose the young person's decision to affirm their identity the school must assess the best interests of the child to ensure their physical and psychological safety and wellbeing. The [Information Sharing Guidelines for Promoting Safety Wellbeing \(ISG\) Procedure](#) provides guidance for DECD personnel when managing conflicting views. Consideration should be given to the age of the student and their understanding and developmental capacity to make decisions about their needs.

The student may choose to involve other key school support persons in a meeting with the school. Often this support is best provided by a school counsellor or wellbeing coordinator and/or year level

coordinator with consideration given to other professionals that may be consulted. This could include health professionals and support agencies as appropriate to each student's individual needs.

It is important to have a student led process with regards to timing; which students and staff are informed; when the communication will occur and the language used.

The decisions and actions made at any meetings must be recorded and adhered to with a plan of action put in place. It can be helpful to consider setting a specific date for any changes regarding a new name, pronoun, use of toilet facilities and/or change of uniform to occur together.

Items 4.2 – 4.8 outline these considerations.

4.2 Names and pronouns

A transgender student should be asked their preferred first name and pronoun. Pronouns may include, but are not limited to, she/her, he/him, they/their. The preferred name should be recorded as part of the school management procedure and be used by staff and students regardless of enrolment information. The DECD [Sexual Harassment Policy](#) and the school's Anti-Bullying & Harassment Policy should be utilised where staff and students deliberately or repeatedly use names or pronouns other than the one identified by the student concerned.

If the parent/guardian does not support using the student's preferred name the school must consider the welfare and best interests of the young person as outlined in 4.1. A student, who has sufficient maturity and understanding, ought to be able to choose the name by which they are to be known. When contacting the parent or guardian of a transgender student however, school staff should use the student's name and the pronoun corresponding to the student's gender and name on the enrolment record unless the student, parent, or guardian has specified otherwise. Item 4.3 below provides guidance on parental consent to change the enrolment record.

4.3 Enrolment record and student records

Currently, for students under the age of 18 a request to change their enrolment name and gender identifier requires:

- the signed consent of a parent/guardian unless the student has been declared an independent student by Centrelink or
- documentation that the change of name has been registered with Births Deaths and Marriages or
- a passport has been issued with the changed name is provided (deed polls are no longer used for changing names in Australia).

If the parent/guardian objects then the site leader will need to make a decision about what is in the best interests of the child. Refer to the [Information Sharing Guidelines for Promoting Safety Wellbeing \(ISG\) Procedure](#) for guidance when managing conflicting views between children and young people and their parents, guardians or carers and follow the recommended practice. Consideration of advice from a treating health professional regarding the student's capability and maturity may also enable an informed decision to be made. Failure to accede to a request to change a child's first name to align with the child's gender identity or intersex status may breach the Sex Discrimination Act and Equal Opportunity Act. Further legal or other advice may be sought from DECD legal services. (DECD.LegalRequests@sa.gov.au)

Any changes on the EDSAS system must be informed by the EDSAS Fact Sheet, *Maintaining EDSAS Records to Support Transgender Students*. The ED ID is the unique student identifier and should always remain the same. Although changes on EDSAS will change official records, care should be

taken to ensure that other records not automatically generated through EDSAS are also kept up to date. This includes for example, re-issuing the student ID card and email with the student's preferred name.

4.4 Confidentiality and Privacy

Transgender and gender diverse students are entitled to the same confidentiality and privacy as any other student. The decision to disclose gender identity is an individual matter and must be treated respectfully and in accordance with confidentiality and privacy requirements. Disclosure to other students, staff, families or other third parties without informed consent may violate employee obligations under Information Privacy Principles (IPPS) Instruction (PC012).

As for all students, staff must adhere to their mandatory reporting obligations if they suspect on reasonable grounds that a child has been abused or neglected. *The DECD Information Sharing Guidelines for promoting safety and wellbeing (ISG) – Procedure* sets out a framework for disclosure of information that applies to all DECD staff.

4.5 Toilet and change room facilities

Transgender and gender diverse students should have the choice of accessing a toilet / change room that matches their gender identity. It is important to discuss with the student the options available in an open way that does not put pressure on their decisions. Children and young people's safety and wellbeing are the primary consideration in determining appropriate use of toilet and change room facilities. Such facility arrangements are to be made and managed by the school in consultation with the young person and family and other identified support persons the student may choose. Some possible alternative options may include use of disability or staff facilities. These must be considered short-term solutions only unless the student themselves indicates otherwise, with the ultimate aim being to minimise any risk to the student's safety and wellbeing.

Schools may also have unisex/gender neutral facilities. While this is a helpful strategy for creating an inclusive school environment for gender diverse students broadly, it is not appropriate to insist that any student, including a transgender student, use this toilet if they are not comfortable doing so.

The agreed decisions about the use of facilities must be documented, followed and reviewed at least annually and at major transition points. The considerations will be specific to each student and each school's individual circumstances.

Failure to provide transgender students with access to appropriate toilet and change facilities may breach anti-discrimination legislation.

4.6 Uniforms / Dress Code

Guidelines for school uniforms and dress codes vary from school to school. Governing councils determine the uniform policy in consultation with their school community. Many schools already have gender neutral uniforms/dress codes.

The DECD [School dress code policy](#) alerts schools to the relevant Acts of Parliament when deciding a school uniform. An inflexible dress code policy that requires a person to wear a uniform (or assume characteristics) of the sex that they do not identify with is likely to be in breach of anti-discrimination legislation including under the *Equal Opportunity Act (1984)* SA. Students who identify as transgender or intersex should be allowed to choose from the uniform options available at the school. Transgender students may be treated less favourably than other students if they are not permitted to dress in accordance with their identified gender where other students are able to do so.

The above considerations apply to all uniforms including any sports uniforms.

4.7 Excursions, school camps including overnight

A risk assessment for the safety and wellbeing of all children and young people is a requirement of all excursions and camps (further detail is provided in the DECD [Camps and excursions guidelines for schools and preschools](#)). Item 4.5 above provides guidance on the use of toilet and change room facilities in schools and these same considerations apply to the access of facilities by transgender and gender diverse students whilst on excursion or camp.

There will also need to be consideration of sleeping arrangements should the excursion or camp include an overnight stay. It is important to discuss with the student the options available. As with access to toilet and change room facilities, the ideal situation will be for a student to access sleeping quarters that correspond to the student's gender identity if they choose. If this is not possible or appropriate then private or separate sleeping quarters can be considered. In order to not isolate the student consideration of sharing sleeping quarters with other students such as friends of the transgender student should be considered.

These decisions should be incorporated and documented as part of the risk assessment and consultation with the student prior to the excursion or camp.

4.8 Sport

Transgender and gender diverse students can participate in Physical Education classes as per the National Curriculum and in most school sports as their identified gender. This applies for any sport before a young person turns 12, non-competitive or mixed gender sports and events and those sports where strength, stamina or physique do not give someone a competitive advantage. Should participation in sports competitions be at an elite competitive level then it may be lawful to exclude students aged 12 and over. However while lawful, schools are not required to discriminate and full participation should be the ultimate goal. In such circumstances schools should seek DECD legal advice before preventing any student from competing in the sport as their identified gender. (DECD.LegalRequests@sa.gov.au)

The same considerations apply for use of toilet, shower or change room facilities for sporting purposes (or sleeping quarters on a sport related excursion or camp) and sports uniforms as set out in items 4.5, 4.6 and 4.7 above.

4.9 Professional Support

In order to support a student to affirm or transition gender at school staff professional development should be considered to ensure the greatest level of understanding and support is provided for the student.

Many South Australian schools are successfully supporting gender diverse and transgender students to affirm their true gender identity at school. Safe Schools Coalition SA, delivered by SHine SA, can provide advice and support to help schools who may be unsure of what they can and should do to provide a safe and inclusive learning environment for gender diverse and transgender students. This includes facilitating planning discussions, providing free staff professional development, talking to groups of students, providing print and online resources, and policy guidance.

The session can be tailored to address the needs of the specific student. Explicit consent from the student on all content that refers to their personal experiences and wishes must be sought.

4.10 Documentation and review

The decisions and actions made at any meetings must be recorded and adhered to with a plan of action put in place. This plan must include review points to ensure that the young person feels safe and supported and that any concerns are addressed appropriately and in a timely manner.

This should not to be considered as a comprehensive, all-encompassing procedure given the diverse factors that will relate to the individual, the school community, families, children and young people. It does not anticipate every situation that may occur and the needs of each student must be assessed on an individual basis.

5. Roles and responsibilities

Table 3 - Roles and responsibilities

Role	Authority/responsibility for
Chief Executive	This procedure is issued under the authority of the Chief Executive in order to prevent discrimination on the basis of sexual orientation, gender identity or intersex status and to ensure compliance by DECD sites and staff with the legislative requirements of the <i>Equal Opportunity Act 1984 (SA)</i> and the <i>Sex Discrimination Act 1984 (Cth)</i> as amended by the <i>Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth)</i> .
Education Directors	<p>Education Directors will ensure that:</p> <ul style="list-style-type: none"> • all Principals and Preschool Directors are familiar with the procedure and the DECD <i>Supporting Same Sex Attracted, Intersex and Gender Diverse Students Policy</i> • sites are safe and inclusive environments for intersex and gender diverse children, young people and families • sites have practices and procedures in place to address and respond to homophobia, biphobia and transphobia in addition to supporting young intersex and gender diverse students. <p>The Education Director will support sites to implement the procedure and will respond to concerns raised by the school community and DECD staff in relation to the procedure.</p>
Site leaders	<p>Site leaders are responsible for ensuring:</p> <ul style="list-style-type: none"> ▪ all staff are familiar with the procedure and that sites are safe and inclusive environments for transgender and intersex children, young people and their families (as per Protective practices guidelines; Child protection policy) ▪ all volunteers and service providers act in accordance with the obligations outlined in

Role	Authority/responsibility for
	<p>this procedure</p> <ul style="list-style-type: none"> ▪ compliance with the <i>Information sharing guidelines for promoting safety and wellbeing (ISG) Procedure</i> ▪ the site's anti-bullying policy addresses homophobia, transphobia and biphobia to ensure the wellbeing and safety of transgender and intersex young people ▪ appropriate support is provided for transgender and intersex students to affirm their gender identity as outlined in this procedure ▪ current support services for transgender and intersex students are identified (do not automatically assume school-based wellbeing supports are adequate) ▪ employees are appropriately trained to support and respond to the needs of transgender and intersex children and young people ▪ incidents of homophobic, transphobic and biphobic bullying, harassment and discrimination are recorded on EDSAS <p>In addition site leaders with a secondary enrolment are responsible for ensuring:</p> <ul style="list-style-type: none"> • that secondary schools have a written policy against sexual harassment by students that incorporates procedures for resolving complaints • that the school community is made aware that it is unlawful under the <i>South Australian Equal Opportunity Act 1984</i> for a student 16 years and over to sexually harass another student or staff member
Staff	<p>All staff are responsible for:</p> <ul style="list-style-type: none"> ▪ complying with this procedure and modelling appropriate and professional conduct at all times ▪ using the student's preferred name and pronoun

Role	Authority/responsibility for
	<ul style="list-style-type: none"> ▪ ensuring privacy and confidentiality of a child or young person's disclosed gender identity ▪ responding to and challenging all forms of homophobic, transphobic and biphobic behaviour and language ▪ promoting the use of inclusive and non-gendered language within the school
Statewide Support Services	<p>Statewide Support Services are responsible for supporting sites to implement this procedure and the DECD <i>Supporting Same Sex Attracted, Intersex and Gender Diverse Students</i> Policy. This includes assisting with the referral of children, young people and families to appropriate support services where possible.</p>

6. Monitoring, evaluation and review

This procedure will be reviewed in line with the requirements of the DECD Policy Framework, within 12 months of the date of approval and in response to current research and any legislative changes. The procedure will be evaluated not more than three years from the commencement date unless it is required earlier because of legislative changes.

Site/service leaders will provide ongoing monitoring of their site's/service's compliance with this procedure and the DECD Policy, *Supporting Same Sex Attracted, Intersex and Gender Diverse Students*, with Education Directors supporting sites to address gaps in compliance and advise corporate leaders as required. Corporate leaders will maintain oversight of the procedure and policy's relevance, its alignment with legislation, state government commitments and national standards and will amend the procedure/policy as appropriate.

7. Definitions and abbreviations

Language in the same sex attracted, intersex and gender diverse community is constantly changing. The use of inclusive and acceptable terminology empowers individuals and enables visibility of important issues.

All terms mean something unique and specific to the person using them. There are also a large number of culturally distinct terms that are used and should be respected. Generally speaking, it is useful to ask which terms students may prefer and respect their choices.

Table 4 - Definitions and abbreviations

Term	Meaning
Discrimination	Treating a person in a way that results in that person receiving less favourable treatment because of their sexual orientation, gender identity or intersex status and includes

Term	Meaning
	discrimination as defined in the <i>Equal Opportunity Act 1984 (SA)</i> and the <i>Sex Discrimination Act 1984 (Cth)</i> as amended by the <i>Sex Discrimination Amendment (Sexual Orientation, Gender Identity And Intersex Status) Act 2013 (Cth)</i> .
Gender diverse	A broad term that can refer to all forms of gender identity and gender expression and includes people who may identify as for example trans, transgender, genderqueer or gender questioning. It refers to people whose gender expression or identity differs from the gender identity associated with the sex assigned them at birth or society's expectations. The person may identify as neither male nor female, or as both.
Gender expression	A person's gender expression is the outward signs they present to the world around them. This could include their choice of name and preferred pronoun (which may include using no pronoun), their style of dress and appearance and/or mannerisms.
Gender identity	Refers to a person's strongly held internal sense of self, of being masculine or feminine, or both or neither. Gender identity does not necessarily relate to the sex a person is assigned at birth.
Gender transition/affirmation	<p>Refers to the process whereby a transgender person commences living as their true gender identity. This is sometimes referred to as 'affirming' gender because it means they start living in what they identify as their true gender, rather than a process of change.</p> <p>Individuals may choose to transition/affirm their gender in different ways.</p>
Intersex	<p>Intersex is an umbrella term for people born with sex characteristics that do not fit medical norms for female or male bodies. Intersex traits – or atypical sex characteristics – include a wide range of hormonal, genetic and gonadal differences that may be diagnosed prenatally, at birth, at puberty, when trying to conceive, or through random chance.</p> <p>Being intersex is not about gender identity and most intersex people identify as women or men. Some intersex people do not identify as the sex assigned to them at birth, and therefore may go through a process of affirming their true gender identity in a way that is similar to a transgender person.</p>

Term	Meaning
<p>~phobia</p> <p>(as in, homophobia, transphobia and biphobia)</p>	<p>The fear, intolerance, and/or discrimination of people who identify as:</p> <ul style="list-style-type: none"> ▪ Same-sex attracted (homophobia) ▪ Transgender, gender diverse or gender nonconforming (transphobia) ▪ Bisexual (biphobia). <p>These phobias can be linked with hostility, verbal and physical abuse, prejudice or discrimination.</p>
<p>Sistergirls and Brotherboy</p>	<p>Terms used by some Aboriginal and Torres Strait Islander people to describe an Aboriginal or Torres Strait Islander person assigned male or female at birth and living partly or fully as the other gender. Use and spelling of the terms may vary across different groups and communities, and other cultures will use different terms to describe gender diversity.</p>
<p>Transgender (or trans or trans*)</p>	<p>An umbrella term used to describe a person whose gender identity or gender expression is different from the sex assigned to them at birth. An example is a child who is assigned a male sex at birth but actually feels more comfortable living as a girl and identifies as female.</p>

These definitions have been sourced from:

- [Australian Human Rights Commission](#)
- [Safe Schools Coalition Australia](#)
- [Victorian Department of Education & Training](#)

8. Supporting documents

DECD approved policies/programs/guidelines

- [Access to legal services across DECD procedure](#)
- [Bullying and harassment at school: advice for parents and caregivers](#)
- [Challenging homophobia in schools: a guide for school staff](#)
- [Child Protection in Schools, Early Childhood Education and Care Services Policy](#)
- [Camps and excursions guidelines for schools and preschools](#)
- [Information Sharing Guidelines for Promoting Safety and Wellbeing \(ISG\) Procedure](#)
- [Keeping Safe: Child Protection Curriculum](#)
- Maintaining EDSAS records to support transgender students

- Memorandum of Operational Collaboration 2014-2017 (SHineSA & DECD)
- [Protective practices for staff in their interactions with children and young people](#)
- [Responding to Abuse & Neglect – Education & Care training \(RAN-EC\)](#)
- [School based counselling service – information for students](#)
- [School Dress Code Policy](#)
- [School Enrolment policy](#)
- [Sexual Harassment Policy](#)
- [Supporting same sex attracted, intersex and gender diverse students policy](#)
- [Supporting sexual diversity in schools: a guide](#)

9. References

- [Australian Government Guidelines on the Recognition of Sex and Gender, 2013](#) (updated 2015)
- Australian Human Rights Commission 2014, [Face the facts: lesbian, gay, bisexual, trans and intersex people](#)
- Australian Human Rights Commission (2015) [Resilient individuals: sexual orientation, gender identity & intersex rights](#): National Consultation Report 2015
- Department of Education and Training, Victoria, [Gender Identity](#)
- Equal Opportunity Act 1984 (SA)
- Government of South Australia, Department for Communities and Social Inclusion, [South Australian Strategy for the Inclusion of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer People 2014-2016](#) (May 2014)
- Memorandum of Operational Collaboration 2014-2017 (SHineSA & DECD)
- [National Safe Schools Framework](#)
- [New South Wales Government 2014, Transgender students in schools – legal rights and responsibilities, Legal Issues Bulletin](#) No. 55 issued Dec 2014
- SA Information Privacy Principles (IPP) Instruction PC012 (2013) Department of Premier & Cabinet
- [Safe Schools Coalition Australia](#)
- [Safe Schools Coalition South Australia \(SHine SA\)](#)
- Sex Discrimination Act 1984 (Cth) as amended by the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth).

- Smith e., Jones T., Ward R., Dixon J., Mitchell A., & Hillier L 2014 [From blues to rainbows: mental health and wellbeing of gender diverse and transgender young people in Australia](#). Melbourne: The Australian Research Centre in Sex, Health and Society
- United Nations Convention on the Rights of the Child
- Victorian Equal Opportunity and Human Rights Commission 2015, [Guideline: Transgender people and sport – complying with the Equal Opportunity Act 2010](#)
- Ward, R., Radcliffe, J., Parsons, M., Gaylard, M., & Toussaint, D. W. (2015). [Guide to supporting a student to affirm or transition gender identity at school](#). Safe Schools Coalition Australia.