

# Policy: Gender Identity

## Purpose of these Guidelines

To ensure that Haileybury supports the gender identity of students and staff members, including those with intersex status, in line with both the *Equal Opportunity Act 2010 (Vic)*, the *Sex Discrimination Act 1984 (Commonwealth)*, *Charter of Human Rights Act (2006)* and *Australian Government Guidelines on the Recognition of Sex and Gender*.

## Policy Statement

- Haileybury supports and respects a person's right to express their gender identity whether or not this aligns with their designated sex at birth.
- Haileybury will endeavour to protect a person's privacy and confidentiality in relation to gender identity and intersex status.
- The individual and their support network will be invited to be part of the formulation of a diversity support plan.

## 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 (Commonwealth)* (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'.

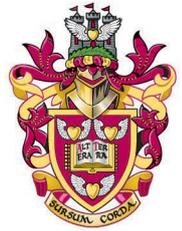
By this definition, the SD Act therefore affords protection from discrimination for persons who identify as men, women or also as neither male nor female. It does not matter what sex the person was assigned at birth, or whether the person has undergone any medical intervention. Some terms used to describe 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:

- 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 sex.

## **Diversity Support Plans**

In formulating a diversity support plan, Haileybury will work with the individual and their support network to identify the ways in which the School may be able to provide assistance. The purpose of the diversity support plan is to ensure that the School responds to the individual's needs as is reasonably possible.

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

The diversity support plan may include or address the following:

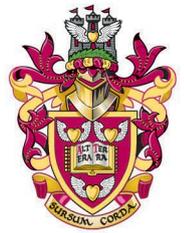
- It will cater to the individual's gender identity
- Reflect the terms of this policy
- Be developed to allow time for trialling and opportunity for adjustments to occur
- Consider the best timing to undertake any change of gender identity, such as term break
- Agree to arrangements in relation to toilet facilities and uniform/clothing (if appropriate)
- Agree to arrangements in relation to gender-defined functions of the School, ie enrolled School, House, etc
- Consider the wellbeing of other students in an addendum to the plan
- Determine whether other staff members, such as Heads of Campus, Heads of School, Heads of House, Psychologists, Deans of Staff, HR need to be advised to support the individual
- Identify processes to:
  - Support, guide and monitor the individual's progress
  - Review the plan
  - Address potential School community concerns
  - Manage unforeseen circumstances.

## **Toilet Facilities and Change Rooms**

The arrangements for the use of toilet facilities, including showers and change rooms, should be considered in the diversity support plan. Haileybury endeavours to provide 'All Access' labelled toilets available at the School properties.

## **Physical Education and Sport**

The diversity support plan for each individual will make provision for the individual to continue their participation in physical education and sport. Haileybury is aware that there can be lawful discrimination on the basis of sex and/or gender identity for some specific sports and these issues will be discussed in detail with the individual and their support network. The individual and their supports will also acknowledge that sports staff and coaches running these activities will require an appropriate level of information in order to assist in creating an inclusive environment for the student or staff member.



## **School Camps, Options/Expeditions and Excursions**

The diversity support plan for each individual will make provision for the individual to continue their participation in camps, options/expeditions and excursions. The plan will detail the individual's requirements regarding accommodation, toileting, and change areas. The individual and their support network will also acknowledge that externally contracted staff running these activities will require an appropriate level of information in order to assist in creating an inclusive environment for the individual.

## **School Documents and Records**

Where possible, school records should be updated to reflect the individual's preferred name, gender identity and gender marker. This name and gender should be used for all further documentation and reporting. All staff requiring this information should be aware that this information now reflects the individual's real name.

Haileybury is required to report student's gender to the Australian Bureau of Statistics as part of the National Schools Statistics Collection (NSSC) on an annual basis. In accordance with the Australian Government Guidelines on the Recognition of Sex and Gender (2015) and the 2018 Non-government Schools Census Guidelines, Haileybury will report student's as M, F or X in the manner they have chosen to be identified by the School.

## **Community Adjustment**

Where the individual changing gender identity is an existing student or staff member at Haileybury, community members who knew the individual before may need:

- Support
- Further information on gender identity
- To discuss issues in general with a senior staff member or pastoral team member.

Adjustments typically include:

- Use of an individual's new name
- Using forms of address appropriate to the individual's preferred gender identity
- Adjustment of expectations regarding uniform/clothing, sporting engagement and use of facilities.

## **Parental Consent for Students**

Circumstances may arise in which a student wishes to change their gender identity without the consent of their parents.

If no agreement can be reached between the student and their parents/guardian regarding the student's gender identity, 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 themselves 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.



HAILEYBURY

## Related Policies

- 15/0002A Counselling Services (Student).

## Related Reference Documents

- *Equal Opportunity Act 2010 (Vic)*
- *Sex Discrimination Act 1984 (Commonwealth)*
- *Charter of Human Rights Act (2006)*
- *Australian Government Guidelines on the Recognition of Sex and Gender (Nov 2015)*
- Telfer, M.M., Tollit, M.A., Pace, C.C., & Pang, K.C. *Australian Standards of Care and Treatment Guidelines for Trans and Gender Diverse Children and Adolescents Version 1.1*. Melbourne: The Royal Children's Hospital; 2018
- Safe Schools Coalition Australia., *Guide to supporting a student to affirm or transition gender identity at school*
- ISV (2018) *Students and Gender Identity: Model Policy*
- 2018 Non-government Schools Census Guidelines.

**Guidelines Created:** June 2019

**Date for Review:** November 2019