

Ballarat Associated Schools Inclusion Guidelines

As an inclusive Association BAS supports and encourages the participation of all students in our sporting programs and events.

Sport is an important part of life for many people and has significant social and health wellbeing benefits. One of the key principles of BAS is to provide opportunities for students to participate in sport who would otherwise not play at all. BAS will work with schools and other school sport stakeholders to ensure that opportunities are provided for all students to play sport competitively and with dignity. In partnership with schools, BAS will support all concerned to build the confidence and capacity to support participation for all students regardless of race, gender, culture or disability in sport.

Transgender and Gender Diverse Students

Definitions: (from the Safe Schools Resource "All of Us")

Transgender: An umbrella term used to describe people whose gender identity 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.

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 then at birth or society's expectations. The person may identify as neither male nor female, or as both.

Participation

Students who identify as transgender or gender diverse are encouraged to participate in the sport of their choice. Directors/Heads of Sport will work together to support and encourage their participation and build their confidence.

BAS has an inclusive approach to transgender and gender diverse students playing sport competitively and schools should encourage participation in sport by transgender students.

Communication

Communication between schools is important, however all concerned must be mindful of privacy and confidentiality. The process for *initial communication* is:

1. Head/Director of Sports will communicate with each other where appropriate and where safety is concerned
2. Heads/Directors of Sport to communicate with coaches where appropriate

Any commentary relating to the gender identity or sexuality of a student or staff member is inappropriate and should be addressed immediately.

The Equal Opportunity Act 2010 prohibits discrimination on the basis of a person's gender identity. Refusing or failing to select a student in a sporting team, or excluding a student from participating in a sporting activity. On the basis of that student's gender identity or status may constitute unlawful discrimination.

Exceptional circumstances:

Exceptional circumstances will only be considered after all other options have been exhausted and safety concerns remain.

There are exceptional circumstances in which exclusion of a student aged 12 years or over from a competitive sporting activity on the basis of their gender identity may not constitute unlawful discrimination. The law provides that in limited circumstances in single-sex competitions where strength, stamina or physique of players is relevant in a competitive sporting activity, it may be lawful to exclude a student on the basis of their gender identity. These protections and the exceptions are aimed at ensuring fairness by protecting players from discrimination while also ensuring individuals do not have an unfair competitive advantage.

In deciding whether to apply this exception to discrimination, consideration should be given to:

- Whether the student would have an unfair physical advantage over other students
- In sporting competitions involving player-to-player contact, where the disparity in strength or physique of a student of transgender status differs so significantly that it may give rise to concerns for the safety of the student or other students

Even if the exception applies, it remains lawful to decide to allow a transgender student to participate (subject to complying with applicable obligations in relation to ensuring the safety of students).

Before making a decision to exclude a student on the basis of their gender identity or intersex status from participating in a competitive school sporting activity, or modifying participation in such an activity, the relevant school should:

1. consult with the student and their parents / carers and provide them with the opportunity to have input into any decision to exclude the student from a competitive sporting activity;
2. consider how best to respect the dignity of the student;
3. consider and act compatibly with the human rights of the student, including their right to enjoy their human rights without discrimination; and
4. consider the student's privacy and the impact that any decision may have on such privacy. Information about a student's gender identity or intersex status is personal information of a sensitive nature and should not be disclosed to the wider school community without the consent of the student.

Consideration of applying exceptional circumstances will be done on a case by case basis by the BAS Principals with information and recommendations from the Directors/Heads of Sport.

Information in the above guidelines has been sourced from the Victorian Equal Opportunity & Human Rights Commission's Guideline: Transgender people and sport - Complying with the Equal Opportunity Act 2010 and School Sport Victoria's Inclusion Policy.

**Accepted with updated recommendations from DET
BAS Inc. 4th August 2021**