

SECTION 5.2.7: GENDER IDENTITY POLICY

The Australian Ballet School

RESPONSIBLE: Health and Wellbeing Committee (HWC)

THIS VERSION APPROVED BY THE BOARD: December 2019

LATEST VERSION: March 2024

REVIEW DATE: This policy will be reviewed after any significant child safety and bullying incident and at least every 2 years and improved where applicable.

POLICY ACCESS LOCATION: Staff Portal, Student Portal, The Australian Ballet School website

1. OVERVIEW

Gender identity has the potential for discriminatory and unfair treatment. The Australian Ballet School (School) and its boarding community at Marilyn Rowe House (MRH) is committed to providing a safe, open and unbiased environment, where every member of the **School Community** is treated in a respectful and supportive manner.

In line with the Child Safe Standards, the School supports the rights of all children to feel safe, to be provided with a child-safe and child friendly environment, to be protected from abuse which includes ensuring that children, families or personnel who wish to report allegations of abuse or child safety concerns know how to report abuse allegations and are encouraged to do so. Discrimination based on any form of stigma and harassment including those based on **Protected Attributes** including gender, **Gender Identity, Race and Sexual Orientation** is unlawful and will not be tolerated.

The School complies with their legal obligations that relate to managing the risk of child abuse under the *Children, Youth and Families Act (2005)* (Vic), the *Crimes Act (1958)* (Vic) and the recommendations of the *Betrayal and Trust Report*. The School follows compliance requirements of the *Victorian Ministerial Order 1359* and considers protecting children as everyone's responsibility – parents/carers, communities, governments and the School and its boarding facility MRH as a business, having an integral role to play.

The School acknowledges that to reach their full potential, all persons should be supported to live their lives authentically, to be healthy, safe, challenged and stimulated and that a positive learning environment and culture helps to foster the development of attaining this.

Related Policies: This policy should be read in conjunction with Code of Conduct (1.2), Bullying Policy (5.1.2), Equality, Respect and Diversity Policy (5.1.3) (*pending*), Sexual Harassment Policy (5.1.4), Safety, Health, Wellbeing - Occupational Health and Safety (5.2), Duty of Care (6.1), and Child Safe Policy (6.4), Child Safety and Wellbeing Policy (6.4.2) (*pending*), Child Harm, Abuse and Complaints Policy (6.4.3) (*pending*), Child Safety Risk Management Policy (6.4.4), Child Safety Code of Conduct (6.4.5) (*pending*) and Boarding Student Behaviour Management Policy.

2. WHO DOES THIS POLICY APPLY TO

This policy applies to all members of the School Community. This policy also covers the standards of conduct expected of any person while on the **School Premises** or engaged in any way in **School Activities**.

3. DEFINITIONS

Child Safety Officer: the designated officer on the School staff who has a thorough knowledge of child safety issues and is the primary point of contact for any member of the School Community who has concerns or wishes to report an allegation or abuse. The position is jointly held by The Director of the School (Director), the Executive Director, the Head of Boarding and the Health and Wellbeing Manager.

Gender identity: terms used to describe a person's gender identity include transgender, trans and gender diverse, although neither the *Sex Discrimination Act 1984* (Cth) nor the *Equal Opportunity Act 2010* (Vic) use these terms. For the purpose of this policy, the School extends the definition of "gender identity" to include those terms, and otherwise adopts the definition of "gender Identity" set out in the *Sex Discrimination Act 1984* (Cth): *"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."* This definition is similar, but not identical, to that in the *Equal Opportunity Act 2010* (Vic).

Intersex Status: has the meaning set out in the *Sex Discrimination Act 1984* (Cth): the status of having physical, hormonal or genetic (chromosome) features that are:

- (a) neither wholly female or wholly male;
- (b) a combination of female and male; or
- (c) neither female or male.

Protected Attribute: a personal characteristic including age, impairment/disability, industrial activity, pregnancy, race, sex, religious belief or activity, lawful sexual activity, gender identity, Intersex Status, Sexual Orientation, marital, parental, career status, breast feeding, physical features, political belief or activity, and personal association with a person who is identified by reference to any of those attributes.

Race: includes nationality or national origin, descent or ancestry, skin colour, and ethnicity or ethnic origin.

School Management Plan: means the customized transition plan described in Section 5.1 of this policy.

Sexual Orientation: means a person's sexual orientation towards:

- (a) persons of the same sex; or
- (b) persons of a different sex; or
- (c) persons of the same sex and persons of a different sex.

Transition: the process where a gender diverse person takes steps to socially and/or physically feel more aligned to their preferred or chosen gender identity.

4. PURPOSE

The purpose of this policy is to provide a framework which supports and respects a person's choice to identify as their preferred or chosen gender rather than their designated gender at birth.

5. POLICY

All members of the School Community are equally respected, and diversity is valued, by measures which include the following:

- Negative stereotyping and biased behaviours are challenged through a range of anti-discrimination policies (see: **Related Policies**, above);
- Inclusive and supportive behaviours are promoted in the workplace and curriculum;
- Teachers who are up to date with current practices and contemporary values;
- The Student Health and Wellbeing Program, including class sessions directed by the School Counsellor and external providers;
- Supportive Victorian College of the Arts Secondary School (VCASS) policies and procedures.

This policy is subject to:

- The School's obligations with respect to occupational health and safety requirements;
- Necessary and important considerations of a student's artistic and technical abilities, which must have a bearing on all aspects of their training and life at the School.

The School recognizes that language is important. Gender and the sexuality of a person should not be assumed. Words such as "partner", "parents", "in a relationship" and "communities", are all examples of inclusive language. The School Community should avoid making generalizations and assumptions regarding gender identity and Sexual Orientation.

Privacy and **Confidentiality** in relation to gender identity or Intersex Status will be fully maintained absent any express permission from the person concerned. Different cultures or faith traditions may also have different customs around disclosing or discussing gender identity. Everyone has the right to disclose information about their gender identity and Intersex Status in their own time and on their own terms.

5.1 Identity, Names and Pronouns:

Pronouns are a way in which people refer to each other and themselves. Instead of using the pronoun "he" or "she", there may be a preference to use a gender-neutral pronoun such as "they". If there is a concern as to which pronoun is to be used, the person concerned should be asked respectfully and in private, which identity pronoun they prefer.

Most gender transitions will result in the change to a new name and use of pronouns. Respecting a person's request to change their name and pronoun is an essential component to endorsing and supporting their preferred or chosen identity. The School Community must adopt these changes when requested to do so.

When confirming their preference for the use of pronouns, a person may elect to be context-specific or it may be dependent on the particular environment or specific people with whom they are interacting. People may not feel safe, comfortable or confident in particular environments and this may influence their choice of pronoun.

Changes to relevant records of the School, including student records, may be required. This should be undertaken at a time agreed with the person transitioning. For a student transitioning, the Child Safety Officer will advise all Staff Members who need to be informed of these changes. The Child Safety Officer will inform other students and their families, as appropriate, in line with the wishes of the student who is transitioning and their family as outlined in the School Management Plan.

5.2 Toilets, Change rooms and Marilyn Rowe House:

The School will provide facilities that are appropriate to a person's preferred or chosen gender.

The School recognizes that the regular or prolonged use of disabled toilets by a person without a disability is not appropriate.

6. PROCEDURES

6.1 School Management Plan for Students Transitioning:

Subject to this policy, the School accepts the gender identity with which each student identifies. Students who transition while at the School will work with the Child Safety Officer, Year, Head of Teaching and Learning, the Director and Executive Director to prepare and implement a School Management Plan. The student may also wish to nominate an additional Staff Member to support them during this process and, if the student wishes, throughout their time at the School.

Parents/carers play an invaluable role in boosting a student's learning and wellbeing through being actively involved and informed from the early years to adolescence. For this reason, the School continues to engage parents/carers in schooling matters even after the student has turned 18 years old and is legally recognized as an adult. Accordingly, but subject to Section 6.3 below, in addition to the student, the parent/carer must be invited to participate in the development of a School Management Plan.

Students who have already undertaken or are in the processes of transitioning when they commence with the School will have the same support to prepare and implement a School Management Plan, provided the School is appropriately notified by the parent/carer of the student's circumstances.

In order to assist the School to provide the most appropriate support and fulfil an acceptable duty of care to the student and their family, the School requires a written opinion from a medically qualified gender identity specialist to support the development of a School Management Plan.

A School Management Plan will identify the ways in which a framework of support can be created and agreed which responds to the student's needs. It is important that the student understands that they are an active participant in developing their School Management Plan and agrees with any decisions.

Any measures in the School Management Plan must be subject to the student's ability to fulfil the physical and training requirements of the gender with which they identify at the relevant class level. For example, in dancing a male role, a student must have sufficient strength to lift a female partner without risk to either party. The School Management Plan must also address any requirements for physical (on site) facilities, school tours, curriculum-based or privacy issues.

If a student is also enrolled at VCASS, the School will liaise with VCASS as necessary to support the development and implementation of the School Management Plan.

The School Management Plan must:

- Cater to the student's gender identity;
- Employ a common sense/practical approach;
- Be developed over a number of sessions to allow time for trialling and an opportunity for modifications to be made;
- Consider the best timing to undertake any change of gender or identity, such as term break;
- Consider constructing a Student Support Group to assist, guide and monitor the student's progress;
- Document arrangements in relation to toilets and change rooms;
- Consider the physical and emotional health, wellbeing and safety of the student, as well as that of other students and Staff Members;
- a student and staff support referral process.

The School Management Plan must document:

- Which Staff Members may need to be advised to support, teach or train the student;
- How and when other students and/or their families are advised;
- The names of Staff Members who know of the gender identity change (which will be kept securely by the School Counsellor);
- A process and timeframe to review the plan.

6.2 Uniforms:

Students may wear the appropriate uniform that matches their gender identity and is in line with the physical requirements of their relevant class level. The same uniform standards apply to all students.

6.3 Absence of Parental/Carer Consent:

Circumstances may arise where a student wishes to change their gender identity without the consent of their parent or carer *or without* consulting medical practitioners.

The law recognizes that as children become older and more mature, they are more capable of making their own decisions about a wide range of issues, including decisions regarding their education, healthcare and wellbeing. The law recognizes that a young person may reach this stage, demonstrating sufficient maturity and intelligence to understand the nature and effect of a decision and has the capacity to make that decision on their own behalf before they are 18 years old. These young people are referred to 'mature minors'.

In determining if a student is a mature minor, consideration must be given to establishing that a student is capable of making an informed and responsible decision and that any consent is similarly informed as well as, voluntary, and specific. The Child Safety Officer is responsible for assessing this, based upon consultation with the other Staff Members involved in the School Management Plan, any external health professionals treating the student, and a medically qualified gender diversity specialist. This assessment will include discussions with the student and consideration of the student's:

- Age;
- Level of maturity for their age;
- Understanding of the issues and consequences;

- Living arrangements (level of independence).

Any decision to treat the student as a mature minor is a decision in respect of a specific item or issue. Such decisions and the related reasons will be documented. Any such decision does not mean that the mature minor will be regarded as being capable of making an informed and responsible decision for any other aspect of their education, health or welfare.

If a student is deemed to be a mature minor and no agreement can be reached between the student and their parent/carer regarding the student's gender identity and the School's duty of care to the student, or if the parent/carer will not consent to the contents of the School Management Plan, the School will consider whether the student (as a mature minor) has sufficient maturity to make suitable decisions for themselves without parental/carer consent. The Child Safety Officer is responsible for assessing this, based upon consultation with other Staff Members involved in the School Management Plan, any external health professionals treating the student and a medically qualified gender diversity specialist. In these circumstances, the School may decide that it is not appropriate for the parent/carer to continue to participate in the development of the School Management Plan or its implementation.

6.4 Counselling Support:

The Child Safety Officer will provide counselling support to students transitioning and any other student who may be affected. Referrals to outside agencies and specialists will be provided if required.