



October 2019

SPORTS ASSOCIATION OF CATHOLIC COEDUCATIONAL SECONDARY SCHOOLS INCLUSION POLICY

THE RATIONALE

Sports Association of Catholic Coeducational Secondary Schools (SACCSS) supports the right of all students to access the same opportunities to school sport as their peers, and is committed to providing the same access, where appropriate, to school sport for all students regardless of gender, race, culture or disability.

THE POLICY

CULTURAL DIVERSITY AND STUDENTS WITH DISABILITIES

SACCSS will work with State Sporting Organisations (SSOs) and the existing school sport structures to provide opportunities for all students, regardless of gender, race, culture or disability, to participate in school sport in a supportive and respectful environment.

In the case of students with disabilities, this will include providing opportunities to play sport in settings where they compete with able-bodied students and in settings where they compete with other students with a disability.

SACCSS believes that the first level of entry to school sport is critical and should be inclusive. This level provides valuable integrated opportunities for all students to play sport with their peers. Where practical, schools should ensure that minor modifications are made to the rules at the first level of entry to better include all students. This is best done at a local level, and between schools, using a common-sense approach to competition.

SACCSS will also work with its member schools and SSOs to facilitate the existence of competition opportunities for students with a disability, and for the pathways between school and community sport to be mirrored.

Where the need arises, the SACCSS Executive Group and Heads of Sport will decide what competition opportunities should be set up for students with a disability.

GENDER IDENTITY (INCLUDING TRANSGENDER STUDENTS) AND INTERSEX STATUS

SACCSS will work with its member schools, SSOs and other school sport structures to endeavour to provide opportunities for all students to play sport competitively regardless of their gender identity or intersex status, and to build the confidence and capacity of schools to support gender diversity.

SACCSS has an inclusive approach to transgender and intersex students playing sport competitively and schools should encourage participation in sport by all students.

It is unlawful to discriminate on the basis of a person's gender identity or intersex status. 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 intersex status may constitute unlawful discrimination.

There may be circumstances where the exclusion of a student aged 12 years or over from a competitive sporting activity on the basis of their gender identity or intersex status may not constitute unlawful discrimination. The law provides that in limited circumstances where the strength, stamina or physique of players is relevant in a single-sex competitive sporting activity, it may be lawful to exclude a student on the basis of their gender identity or intersex status.

The purpose of this exception is to ensure students do not have an unfair competitive advantage in single-sex competitions. The skill and competition level of the activity should be carefully considered when deciding whether it is appropriate to rely on this exception. The relevance of the strength, stamina and/or physique of players may also depend on the sport in question.

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

- whether the student would have an unfair advantage over other students in relation to strength, stamina and/or physique; and
- in sporting competitions involving player-to-player contact, whether the disparity in strength or physique of a transgender or intersex student differs so significantly that it may give rise to concerns for the safety of that student or other students.

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

Commented [ME1]: We previously noted that this reference to working with the Australian Paralympic Committee appears to be based on the equivalent reference in the SSV policy, and that if this is not something that SACCSS currently does, it may be better to refer to working with stakeholders more broadly to avoid the potential to be criticised in relation to whether SACCSS has worked with the APC to an adequate degree to comply with the policy. Based on your email query in relation to the reference to the APC, we have suggested deleting this reference.

Commented [JL2R1]:

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.

Guidelines for the implementation of this policy (gender identity and intersex status)

Students 11 years and younger

- Students 11 years or younger will be permitted to compete in SACCSS competitions as the gender to which they identify.

Students 12 years and older

- Students 12 years and older will be permitted to compete in SACCSS competitions as the gender to which they identify, subject to the following qualifications.
- Students may be excluded from participation in competitive school sporting activities on the basis of their gender identity or intersex status only in the circumstances contemplated by this policy (or as otherwise permitted by legislation).
- Any decision to exclude a student on the basis of their gender identity or intersex status will only be made after considering the particular circumstances of the student and the factors outlined in this policy.
- If schools require assistance in making a decision whether to exclude a student from participating in a competitive sporting activity in the circumstances contemplated by this policy, they can contact the Executive Officers at SACCSS, who will refer the matter to the SACCSS Executive Group for guidance. The SACCSS Executive Group may seek advice from the Victorian Equal Opportunity and Human Rights Commission, Australian Sports Commission, The Royal Children's Hospital Gender Dysphoria Service and/or similar organisation(s).
- Primary decision-making authority in relation to the inclusion or exclusion of a student in accordance with this policy rests with the relevant school. If the decision of a school is challenged in this regard, then the matter may be referred to the SACCSS Executive Group (and, if necessary, the SACCSS Committee) for a review of the initial decision.

IMPLEMENTATION

1. All schools will be notified of this policy and it will be placed on the SACCSS website.
2. All Heads of Sport will be informed of this policy via email.

ENDORSEMENT

This policy was endorsed by the SACCSS Committee on Tuesday 29th October 2019

REVIEW

This policy shall be reviewed every two (2) years.

ACKNOWLEDGEMENTS

This policy was adapted in part from the School Sports Victoria (SSV) Inclusion Policy (<http://www.ssv.vic.edu.au/Downloads%20Library/Inclusion%20Policy.pdf>) and drafted with reference to the Victorian Equal Opportunity and Human Rights Commission's *Guideline: Trans and gender diverse inclusion in sport* (https://www.glhv.org.au/sites/default/files/2017-06/Guideline_Trans_and_gender_diverse_inclusion_in_sport_0.pdf).