

Supporting Sexual and Gender Diversity in Schools and Colleges Guidelines

[THIS DOCUMENT IS UNDER REVIEW BUT SHOULD BE CONSIDERED CURRENT]

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1. Purpose

This Guideline applies to all Department of Education (DoE) schools and colleges and details research and good practice for supporting sexual and gender diversity in schools and colleges.

2. Guideline

2.1 What we need to know

Approximately ten per cent of young people acknowledge feelings of same-sex attraction while they are at school and college. A smaller percentage of students question their gender. For many students, these feelings begin during primary school or earlier.

More than half of these students report that they are bullied, harassed or humiliated because of their difference. For LGBTI (lesbian, gay, bisexual, transgender and intersex) students, discrimination, harassment and bullying based on sexual orientation and gender identity increase their risk of drug and alcohol misuse, homelessness, early school leaving, irregular school attendance, conflict with their peers and parents, self-hatred and self-harm including suicide.

Discrimination, harassment and bullying based on sexual orientation and gender identity are against the law. They have negative impacts throughout the whole school community, affecting teachers, students, parents and other family members.

One outcome of discrimination, harassment and bullying that is significant for educators is that many students are afraid to “come out” at school or college. These students can remain invisible, often resulting in schools and colleges believing that very few students identify as LGBTI in their school years and that therefore there is no need to provide a supportive culture for them.

2.2 What the research is telling us

The *Third National Report on the Sexuality, Health and Wellbeing of Same-sex Attracted Young People: Writing Themselves in Again* tells us that 60 per cent of same-sex attracted young people experience verbal or physical abuse, and that the greatest amount of this abuse (74 per cent) occurs within schools.

Because of this abuse and discrimination LGBTI young people are four to six times more likely to seriously consider suicide and four times more likely to misuse drugs and alcohol. Research also shows that the suicide risk for LGBTI young people is at its highest in the months before they disclose their sexual orientation.

Fifty percent of all school bullying is on the basis of sexual orientation or gender identity. However, most of those who are bullied are not LGBTI. They are bullied because of other factors such as behaving in ways that are seen as inappropriate for their gender or having a sibling, friends or parents who are LGBTI. According to researchers in the area of boys' education, fear of being perceived to be gay limits the academic outcomes of all boys, not just those who are same sex attracted.

Encouragingly, the same research that describes high levels of violence in schools against LGBTI young people also indicates that the schools addressing these issues are making a difference. In particular, students in schools which have specific policies in relation to LGBTI students report feeling safer and are more likely to feel good about their sexuality than students in schools without such policies.

We also know from independent academic evaluations of classroom anti-homophobia programs in Tasmania and Victoria that such programs significantly reduce prejudice among the students involved in the programs and also reduce levels of bullying across the entire school community.

2.3 Legislation Overview

Tasmanian schools/colleges are supported by a clear legal framework that mandates appropriate and fair treatment for all school staff and students. To be compliant with the law, schools and colleges must:

- adhere to the *State Service Act 2000* (Tas)
- comply with section 104 of the *Anti-Discrimination Act 1998* (Tas) by taking reasonable steps to ensure that no staff member or student engages in or experiences discrimination, incitement to hatred or other prohibited conduct
- ensure that in providing their services they are not exposing people to health or safety risks including risks caused by bullying (*Work Health and Safety Act 2012* (Tas))
- treat same-sex relationships as they would heterosexual relationships (*Relationships Act 2003* (Tas), *Anti-Discrimination Act 1998*, and the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – Superannuation) Act 2008* (Cth))
- take steps to ensure there is no discrimination by staff members or students against partners in same-sex relationships (*Relationships Act 2003*, *Anti-Discrimination Act 1998* and the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – Superannuation) Act 2008*).

More detailed information on the contents and requirements of these Acts is in Appendix 2.

2.4 Human Rights and Social Inclusion

Tasmanian schools and colleges are governed by broader state and national strategies and frameworks for social inclusion and human rights. At the state level these include:

- the Tasmanian Social Inclusion Strategy. This strategy was released in 2009. Its overall goal is a fairer Tasmania where all Tasmanians have access to the personal, social, economic and civic resources and relationships that make life healthy, productive and happy.
- the Whole of Government Framework for Tasmania's Lesbian, Gay, Bisexual, Transgender and Intersex Community. This framework aims to enhance access and use of State Government services by Tasmania's LGBTI community through providing these services in a more appropriate and effective way.

As a nation, Australia is a signatory to international human rights treaties including the Convention on the Rights of the Child (CRC), the International Covenant on Economic Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). The ICCPR prohibits discrimination and affirms equality on the grounds of sexual orientation. The ICESCR sets out the right to education, rights in relation to work, and the right to equality in education and employment.

The CRC requires that Australia protects children and young people from all forms of physical or mental violence, injury or abuse. It recognises that education of children and young people should be focused on enabling them to reach their full potential, and to develop respect for human rights and diversity. It requires children and young people to be protected against discrimination because of, for example, their gender or sexual orientation or that of their parents or other family members.

2.5 Tasmanian schools and colleges can make a difference

DoE is committed to ensuring that the education experience for LGBTI students is free from discrimination, harassment and bullying based on sexual orientation and gender identity.

DoE's Conduct and Behaviour Standards require all staff to treat everyone with respect and without harassment, victimisation or discrimination.

2.6 A supportive school culture

All DoE schools and colleges are places where students learn the core values of equity and respect. DoE values positive and respectful relationships within all learning settings and believes that from both a social and economic perspective, Tasmania's future depends on all Tasmanian students having the opportunity to do and be their best and reach their full potential.

It is important for all students and their families to feel they belong to their school or college. This sense of belonging provides an environment where students are confident to participate fully in all aspects of their education.

All schools and colleges are required to have school wide approaches to improving student learning, wellbeing and behaviour and everyone has a role in creating a safe environment for all students. From a staff perspective, Tasmanian Government workplaces are required to promote diversity and to be free from harassment and discrimination.

The use of language is an important way of ensuring a supportive school or college culture. Language can cause harm, and words and phrases that are likely to offend, that are negative or derogatory uses of terms identified with particular characteristics, or that are hurtful (such as "that's so gay" or "don't be such a girl") should always be avoided and their use should be challenged.

Being supportive and inclusive should not just happen in the presence of people who are known to belong to the LGBTI community. In schools and colleges there may be many young people who have not "come out" or who have family and friends who are LGBTI. Behaviour, attitudes and language should therefore always be inclusive in order to avoid hurting or offending others.

Recognising the cohort of LGBTI students, families and friends is important and can be achieved in many ways including through the curriculum, through posters and information and through library resources.

2.7 Proven approaches to developing a supportive school culture

Proven approaches to combat discrimination, harassment and bullying based on sexual orientation and gender identity in schools and colleges include:

- developing and maintaining school wide approaches (such as Positive Behaviour Support and KidsMatter), policies and practices for learner wellbeing and behaviour support that are inclusive of all members of the school community, including LGBTI young people
- modelling exemplary behaviour by the school/college leadership team and the teaching and student support staff.
- fostering a culture of openness and a celebration of diversity, and a mutual understanding of expected behaviours in the whole school/college community
- immediately addressing issues caused by peer pressure, social stigmatisation or bullying
- adhering to DoE's policies and procedures on student wellbeing and behaviour, discrimination and harassment
- recognising LGBTI children, young people and staff as an everyday part of the social mix of the school or college
- respecting students who choose to remain unidentified, by making information and contacts related to support services readily available in ways that allow the information to be obtained confidentially
- ensuring the school curriculum contains appropriate content in relation to LGBTI students, particularly providing inclusive relationship and sexuality education

- developing a school policy that affirms sexual and gender diversity
- implementing evidence based programs for challenging homophobia and transphobia
- providing professional development for all staff in challenging homophobia and transphobia
- providing a safe, inclusive and welcoming space for individual students who benefit from an identified safe space and someone to talk to.

2.8 Key support

The goal of taking action is to make the total school community safe for those who are LGBTI and for those who are affected by discrimination, harassment and bullying based on sexual orientation and gender identity, such as family and friends.

However, many individual students also benefit from being able to rely on being supported in a particular place in the school or college and by particular staff. Student wellbeing staff (for example, school social workers, school nurses and school psychologists) are better able to do their work effectively when they have had appropriate training and are provided with relevant resources to develop an in-depth understanding of issues related to being same-sex attracted and/or gender questioning. This will assist them to be familiar with the resources and services available, and to display materials that signal an openness to discuss these issues without deterring students who may find accessing them difficult.

Reassurances of confidentiality and respect for the student's privacy are critical, as is a suitable referral to an appropriate support agency outside the school.

2.9 Inclusive learning and teaching

Teaching and learning opportunities about LGBTI issues exist across most learning areas within both the Tasmanian Curriculum (K-10) and the Australian Curriculum (K-12). These opportunities are not just restricted to areas addressing health and relationships. Learning areas such as English, History and Studies of Society and the Environment (SOSE), provide opportunities to include content and themes related to same sex attraction. Examples include studying human rights; investigating events that have resulted in civil improvements for minority groups; discussing texts that incorporate the theme of same-sex relationships; and reflecting on the diversity of families and young people within students' own school/college community.

Relationship and sexuality education in Tasmanian schools is currently addressed through the Australian Curriculum: Health and Physical Education as a specific focus area. The curriculum content supports students to develop knowledge, understanding and skills that will help them to establish and manage respectful relationships. It also supports them to develop positive practices in relation to their reproductive and sexual health and the development of their identities. In doing so, students gain an understanding of the factors that influence gender and sexual identities.

Under the Australian Curriculum: Health and Physical Education, students are also supported to value diversity as a key part of the strand 'personal, social and community health'.

2.10 Education for the whole school/college community

Children arrive at school sharing the beliefs and values of their family. These beliefs and values will invariably be a reflection of the broad cross-section of community views of relationships and family life. The beliefs and values a student brings from home may be challenged at school, where teachers work to create respectful, equitable and inclusive environments.

Teachers may need support and information to understand and feel confident in challenging the values students reflect from their homes, particularly in building and maintaining an inclusive learning environment.

Additionally, both teachers and families may need support and strategies to address discrimination, harassment and bullying based on sexual orientation and gender identity. Emphasis must be placed on the importance of addressing these issues in the school/college context. This context extends beyond the school gate to partners who provide learning opportunities or other support to students.

Professional learning opportunities for staff, parents and school/college association members can be crucial in providing a platform for change in school/college culture and in developing positive approaches. Professional learning opportunities are available from external providers such as [Working it Out](#), Tasmania's sexuality and gender support and education service, and [Equal Opportunity Tasmania](#) (which incorporates the Office of the Tasmanian Anti-Discrimination Commissioner).

Promoting and making available a range of written and electronic resources will also assist in explaining the importance of challenging discrimination, harassment and bullying and supporting young LGBTI people. Working It Out can provide such resources.

Launching into Learning programs and Child and Family Centres also have an important role to play in modelling inclusion of families with same sex parents and providing information when appropriate about relationships and sexuality.

2.11 Building on good practice – examples of people's experiences in schools and colleges

There are already many examples of teachers and staff working to build understanding and to affirm diversity within DoE. These guidelines acknowledge the work of these people and commit all staff to building on the good practice that is already occurring. Below are some examples of positive stories from DoE.

Young person at college

"When I was in high school and coming to terms with my sexuality, words like gay, dyke and lesbian were common put-downs and nothing was done about it. These words around diverse sexualities weren't acknowledged. They were words to be used as something to pick on people and so school wasn't really a place I felt comfortable and the last place I'd choose to come out in!

My first day at College was completely different. During his welcome speech the principal said something, something a lot of people may not have picked up on but it's something I have never forgotten. Most of us (I hope!) have heard something somewhere along the lines of 'We don't tolerate discrimination here'. At my first day of College at our very first assembly the principal said, "WE DO NOT tolerate discrimination regardless of whether it's based on gender, race, religion, sexuality or anything else".

The fact that he included sexuality in that list was major for me at that time. Coming from a place where homophobic bullying occurred but was mostly ignored, to an environment where sexual diversity is publicly acknowledged and supported, changed my whole outlook. I no longer had to hide to stay safe. The school, and the principal in particular, had just told me it was OK to be different, to be me. What's more he had told everyone else and that meant that the discrimination and prejudice I had experienced before wouldn't be happening at my new school but if it did and I spoke up something would happen about it.

By naming it up the principal was acknowledging that it happened and was saying it was not OK."

Same-sex couple

"At our school we had a teacher who was in a same-sex relationship and whose partner (also a teacher) was going to have a baby. Because our school was very challenging, the teacher was in a panic about how she was going to explain to her students that she was going on parental leave. At this point she was not 'out' with the

students. The local Learning Service was fantastically supportive (offering to transfer her if things got out of hand). In the end the kids (and principal) were fantastic and supportive and it was not an issue. The students were all interested in whether she was going to have a boy or a girl!"

Young parents group at a Child and Family Centre

"In our young parents' group there was discussion about a young woman in the area who was a lesbian. The conversations about this young woman were at first very negative but the Child and Family Centre staff were able to challenge the young parents' understandings of relationships in a professional and non-judgemental way."

2.12 Measuring improved practice

Improvement in the provision of safe and supportive learning environments for LGBTI students will be measured systemically within DoE at two levels.

The first level will be through annual surveys of staff and students in Tasmania's "Plus Schools". These are 23 schools which are participating in the Empowering Local Schools initiative. They are required to outline in their School Improvement Plan (SIP) targets for improving student outcomes and the ways in which these targets will be achieved. Survey questions will seek to identify perceptible shifts in behaviours and attitudes in relation to LGBTI students and staff and to assess the uptake and effectiveness of proven approaches for developing supportive school and college cultures.

The second level will be through the Australian Curriculum Assessment and Reporting Authority (ACARA). ACARA is an independent authority responsible for the development of a national curriculum, a national assessment program and a national data collection and reporting program. Items relating specifically to LGBTI issues in Tasmanian schools will be included in the ACARA Student and Parent Survey with feedback from the survey provided to Tasmania.

3. Related policies

School-specific Respectful Student Behaviour Policy (available direct from each Tasmanian State school)

4. Related procedures

- Nil

5. Legislation

- *Anti-Discrimination Act 1998* (Tas)
- *Relationships Act 2003* (Tas)
- *State Service Act 2000* (Tas)

6. Supporting information/tools

- [Child and Student Wellbeing Strategy](#)
- [Respectful Relationships Webpage](#)
- Curriculum ideas are available on the [Department of Education website](#)
- [Inclusive Language Guidelines](#)
- [Equal Opportunity Tasmania](#)

- Beyond 'That's So Gay', *Pride and Prejudice: Challenging Homophobia Program for Everyday Classrooms*
- Human Rights Campaign, *What Welcoming Schools Offers*
- Australian Human Rights Commission
- Beyond 'That's So Gay' – Books

Training and Development

- Professional Learning Institute
- Equal Opportunity Tasmania
- Working it Out (03) 6231 1200;
- A Fairer World – Tasmania's Leading Provider of Education for Social Justice and Human Rights, 0400 824 261;
- The Training Consortium, Public Sector Management Office, Department of Premier and Cabinet (03) 6232 7040.

7. Research

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 Irwin, J et al, (1995) "As Long As I've Got My Doona", Australian Centre for Lesbian and Gay Research, University of Sydney, Sydney.

Nicholas, J & Howard, J, (2001), 'Same-sex attracted youth suicide: Why are we still talking about it?', paper presented at Suicide Prevention Australia National Conference, Sydney, April, 2001

Plummer, D, (1999) One of the Boys, Masculinity, Homophobia and Modern Manhood, Harrington Park Press, New York.

Definitions

A note on definitions

The following are some commonly used terms in Australia. Their meanings are continually being contested and there is no worldwide agreement on them. Many of these words have different meanings depending on context, politics, place or culture. DoE acknowledges that some people may not agree with the definitions below and respects everyone's right to identify in any way they choose.

A note on pronouns

Transgender people should be identified with the pronoun that corresponds with the gender with which they identify. If you are unsure of someone's gender it is appropriate to respectfully ask his or her

name and what pronoun he or she prefers you to use. In general it is considered insensitive to refer to someone by the wrong pronouns once you have established which set of pronouns they prefer.

Prejudice

Prejudice means holding negative views and attitudes based on stereotypes of a person or people because they have a particular characteristic, such as how they speak, what they wear, where they come from, etc. Prejudice is about judging a person based solely on a particular characteristic or characteristics, rather than judging a person on their merit.

Discrimination

Discrimination is less favourable treatment of a person because of a personal characteristic, such as race, gender, sexual orientation or disability, or treating everyone the same way where to do so has a disadvantageous effect on a person or group of people because of a shared personal characteristic. Discrimination does not have to be intentional, nor does the effect have to be intended, for it to be unlawful. So discrimination includes, for example:

- calling a person a name that relates to a personal characteristic, eg, calling a person a 'bitch' relates to gender;
- specifically excluding a person from an activity because of a personal characteristic, eg, excluding a boy from a cooking class;
- having steps onto the podium/stage in the school assembly hall, as this excludes a person in a wheelchair from independently getting onto the stage/podium;
- using heterosexual examples only when talking about families, as this has the effect of excluding students with same-sex parents from being seen as an ordinary part of the school community.

Sexual Orientation

Sexual Orientation is the underlying direction of sexual attraction towards people of one gender or both. A person's orientation can be heterosexual, homosexual or bisexual. Having a homosexual or heterosexual orientation does not always mean people will have a gay, lesbian or heterosexual identity.

Sexual Identity

Sexual Identity is how you see yourself sexually and how you present yourself to others. It includes being gay, lesbian, bisexual or heterosexual.

Gender identity

Gender identity is how you see yourself from a gender perspective. It includes being male, female, transgender or intersex.

Sexual and gender diversity

Sexual and gender diversity is an umbrella term that includes the full spectrum of gender identity and sexual identity.

Lawful sexual activity

Lawful sexual activity means sexual activities that are not against the law. Sex between members of the same sex has been legal in Tasmania since 1997. Some forms of sex work are unlawful in Tasmania, others are lawful. Some sexual activity is a crime and therefore unlawful, for example, sexual intercourse with an animal, sexual intercourse or indecent acts with a person under the age of 17, and rape.

Relationship status

Relationship status means being or having been in a personal relationship as defined in the *Relationships Act 2003*. This means (a) being an adult in a couple relationship with another adult, whether of the same sex or different

sex, but not being married or related by family, or (b) being in a relationship that involves providing care to the other person in the relationship whether or not related by family. Such relationships may be registered under the *Relationships Act 2003*, but do not have to be registered in order to be protected under the *Anti-Discrimination Act 1998*. Same-sex and different-sex couples have equal spousal entitlements as "significant partners" in Tasmanian law and "de facto partners" in federal law. Discrimination because a person is in a same-sex or heterosexual de facto relationship is unlawful under the Tasmanian *Anti-Discrimination Act*.

Transgender

Transgender is a general term applying to individuals whose gender identity and experience does not match dominant cultural expectations about what it means to be male 'or' female. This includes a person whose gender identity does not 'match' (according to cultural beliefs) their physical / biological sex 'assigned' at birth.

Homophobia

Homophobia is any action, attitude, or behaviour that has the potential to limit same sex attracted people because of their sexuality.

Transphobia

Transphobia is any action, attitude, or behaviour that has the potential to limit people because of their gender identity. Intersex means 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 features; or
- (c) neither male nor female.

Appendix

Relevant legislation

1. *Anti-Discrimination Act 1998* (Tas)

Under this Act it is against the law to discriminate in education and training on the basis of (among other things) a person's:

- gender
- sexual orientation
- transgender status
- lawful sexual activity
- relationship status.

It is also against the law to discriminate against a person because of the gender, sexual orientation, transgender status or lawful sexual activity of someone they associate with. This includes discrimination because a person is believed to have a particular gender, sexual orientation, be transgender or engage in a particular lawful sexual activity.

It is also against the law to incite hatred, serious contempt or severe ridicule of a person because of their sexual orientation or transgender status, gender identity or to act in a way that is offensive, humiliating, ridiculing, intimidating or insulting because of a person's gender.

There are no exceptions to the obligation not to discriminate or incite hatred on the grounds of sexual orientation or transgender status.

Schools and colleges have a legal obligation to include the needs of all students within their policies, codes of conduct, curriculum, learning and teaching, student services, organisation and ethos.

2. *State Service Act 2000* (Tas)

The State Service Principles establish standards for personal behaviour and for the conduct of relationships with the Government and Parliament, within State Service workplaces, and with the Tasmanian community (section 7, *State Service Act 2000*). A Head of Agency is to develop and implement a workplace diversity program to assist in giving effect to the State Service Principles (section 34(1)(h), *State Service Act 2000*).

3. *Work Health and Safety Act 2012* (Tas)

The *Work Health and Safety Act 2012* establishes general health and safety duties that are expected of persons at Tasmanian workplaces. The Act does not specifically refer to bullying but the issue is covered under the general duty of care provisions within the Act.

Employers have a general duty of care under section 19 of the Act to ensure that employees while at work are safe from injury and free from risks to their health. This means they must not bully their employees (or other persons at their workplace). They must also take reasonable steps to ensure that bullying doesn't occur in workplaces under their control. They can do this through training their employees in appropriate workplace behaviour and also establishing policies and procedures for dealing with complaints.

This means that employers must ensure that they are providing an environment free from bullying or other conduct that could damage a person's health or wellbeing, whether that person is an employee, a student, a volunteer, a student's family member, a member of the broader community or beyond.

Employees also have a duty under section 28 to take reasonable care for the health and safety of other persons in the workplace.

This means that staff members must not bully or treat co-workers or others at the workplace, including students, family members and other community members coming into the education environment, in ways that could damage their health and wellbeing.

4. *Relationships Act 2003 (Tas)*

Under this Act a legally-recognised personal relationship can be a significant relationship (a different-sex or same-sex relationship), or a caring relationship (a companionate or familial relationship).

Such relationships have virtually the same rights and entitlements as marriages in state and federal law, including in areas such as next-of-kin, superannuation, insurance, compensation, public sector entitlements, and state licenses and taxes. In the area of parenting, and in federal law, caring relationships are not recognised.

They may be recognised and certified by a Deed of Relationship but they can also be deemed to legally exist without a Deed.

The *Relationships Act* recognises overseas same-sex marriages and overseas and interstate civil partnerships as Deeds of Relationship.

In Tasmania, discrimination on the grounds of "relationship status", that is the presence or absence of a legally-recognised relationship, or the type of such relationship, is unlawful.

5. *Same-Sex Relationships (Equal Treatment in Commonwealth Laws - Superannuation) Act 2008 (Cth)*

Under this Act, the existing definition of "de facto relationship" was expanded to include de facto same-sex relationships. This applies in all areas of federal law including superannuation, immigration, health care, public sector entitlements and family law.

Australian same-sex Deeds of Relationships are recognised in federal law but overseas same-sex marriages generally are not.

These guidelines have been developed by the Department of Education Gay, Lesbian, Bisexual, Transgender and Intersex (GLBTI) Issues in Education Strategic Working Group in consultation with the Office of the Tasmanian Anti-Discrimination Commissioner.

These guidelines are based on an original concept developed by the Victorian Department of Education and Childhood Development. Used with permission.

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