

# Associated Public Schools of Victoria

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## APS Sport Inclusion Framework

### INTRODUCTION:

*In the APS Sport setting 'Inclusion' means access for all. It means recognising differences between individuals / groups and providing opportunities for them to participate regardless of those differences.*

### THE RATIONALE:

APS Inc. (**APS Sport**) supports the right of all students to access the same opportunities to school sport as their peers. All schools and school sporting structures have a legal and a moral obligation to provide the same access, where appropriate, to school sport for all students. Sport is an important part of life and has significant social, health and wellbeing benefits.

This Inclusion framework is based on the principles of; access, participation and support for all student participants. It also follows the essence of Australian Sport principles; fair play, respect, responsibility and safety. The framework is underpinned by requirements of anti-discrimination and equal opportunity laws.

### PRINCIPLES:

The Inclusion framework has some essentials:

#### Legislative

*There are Commonwealth and State legislative requirements. The below Commonwealth legislation applies in Victoria and the Australian Human Rights Commission, established pursuant to the Australian Human Rights Commission Act 1986, has statutory responsibilities under them:*

- *Age Discrimination Act 2004*
- *Disability Discrimination Act 1992*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*

### THE INTENT:

APS Sport will work with its Member schools and other school sport stakeholders to ensure, where possible, that opportunities are provided for all students. Inclusion encompasses a holistic approach where reasonable provision for students to participate in APS Sport programs will be made in ways that are engaging, constructive and achieve meaningful outcomes.

APS Sport believes that school sport is critical and must be inclusive. It can provide valuable integrated opportunities for all students to play sport with their peers, particularly at junior levels.

APS Sport supports the rights of all students to access the same opportunities to participate in sport as their peers, and is committed to providing the same access, where appropriate, to school sport for all students regardless of biological sex, gender identity, race, culture, religious belief, age or disability.

#### ***Students with disabilities***

APS Sport is also committed to providing opportunities for students with disabilities to compete in sport and will ensure that competition opportunities exist for all students. APS Sport, in conjunction with its member schools, can help determine what competition opportunities these could be.

APS Sport will work with APS Member Schools to provide students with disabilities opportunities to play sport in settings where they may compete with students with or without disability, as is reasonable and appropriate in the particular circumstances.

Where reasonably practicable, APS Member Schools should make minor modifications 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.

APS Sport will work with its member schools to facilitate the existence of competition opportunities for students with a disability, and for pathways between school and community sport to be mirrored. Where the need arises, the APS Sport and APS Member Schools will decide what competition opportunities should be set up for students with a disability.

### ***Gender identity and sex***

APS Sport will work with APS Member Schools and other school sport structures to endeavor to provide opportunities for all students to play sport competitively regardless of their gender identity or biological sex.

APS Sport has an inclusive approach to all students playing sport competitively and encourages and supports participation of trans and gender diverse students in APS sports and competitions.

APS Sport recognises that some of its Member Schools are single-sex schools and may therefore organise sporting activities on that basis.

It is against the law to discriminate against someone on the basis of biological sex or gender identity in sport, unless an exception or exemption applies. Refusing or failing to select a student in a sporting team or excluding a student from participating in a sporting activity may in certain circumstances 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 biological sex or gender identity may not constitute unlawful discrimination. The law provides that in limited circumstances where the strength, stamina or physique of competitors is relevant in a single-sex competitive sporting activity, it may be lawful to exclude a student on the basis of their biological sex or gender identity. In these circumstances APS Sport would seek recommendations from the relevant sporting Body or organisation.

### ***Guidelines***

Students under 12 years should generally be permitted, with parental agreement, to compete in APS Sport competitions as the gender to which they identify.

Students 12 years and older will generally be permitted to compete in APS Sport competitions as the gender to which they identify, subject to the following qualifications.

Students may be excluded from participation in competitive sporting activities on the basis of their biological sex or gender identity only in the circumstances contemplated by this policy (or as otherwise contemplated by legislation).

In limited circumstances a student may be lawfully excluded from competing in a single sex competitive sporting activity on the basis of biological sex or gender identity where the strength, stamina or physique of competitors is relevant. However, the skill and competition level of the activities should be carefully considered when deciding whether it is appropriate to rely on this exception. The relevance of strength, stamina or physique will also depend on the sport. Given the diversity of sports and the role of different skills and physical characteristics (strength, stamina, physique) in each sport, the assessment and determination of exclusion should be specific to the sport in question.

Where APS Sport seeks to specifically exclude a student from a sporting activity based on biological sex or gender, then it will consider:

- what evidence supports the relevance of strength, stamina, and physique to the relevant sport.
- how a student's participation might lead to unfair disadvantage;
- whether a student's individual circumstances give the student a competitive advantage;
- what impact exclusion would have on both the student and the school;
- consulting with the relevant national or state sporting organisation;
- ensuring that any assessment is undertaken in a timely manner so that the student is not unnecessarily disadvantaged;
- consulting with and providing the student (and student's parent or guardian) with an opportunity to respond to any proposal to exclude the student based on the exemption;
- providing the student (and student's parent or guardian) with reasons for any decision to exclude the student; and
- providing the student (and student's parent or guardian) with an opportunity to seek a review of a decision to exclude them.

The decision making authority in relation to the inclusion or exclusion of a student in accordance with this policy rests in the first instance with the school attended by the student.

Additionally, the exemption is limited to competitive sporting activities & does not apply to:

- Coaching
- Umpiring or Refereeing
- Administration
- Sporting activities by children who are younger than 12 years of age

In a broader sense, the framework for '*Inclusion*' promotes:

- Social and community values
- The importance of valuing both participation and competition
- A respectful approach that values difference and diversity between people
- Treatment of people with respect, dignity and courtesy
- Good behaviour on and off the field (in line with Codes of Conduct and Rules & Regulations)
- Equal opportunity and a fair go for all members

### **COMMUNICATION:**

APS Sport Member schools may already have their own guidelines for inclusion in place. Communication between schools is important, however all concerned must be mindful of privacy and confidentiality.

### **EXCEPTIONAL CIRCUMSTANCES:**

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

Consideration of applying exceptional circumstances will be done on a case by case basis by the APS Heads with information and recommendations from the Delegates.

Before making a decision about any *exceptional circumstance* which may determine or change a student's opportunity to participate in a competitive school sporting activity, or modifying participation, the APS Head(s) involved should:

- Consult with the student and their parent/carer
- Consider and act compassionately
- Consider how best to respect the dignity of all concerned
- Consider privacy and confidentiality

## **IMPLEMENTATION**

All schools will be notified of this Framework via email. It will be made available on request from the APS Sport office. It will also be posted on the APS Sport website.

## **ENDORSEMENT**

This Framework was first endorsed by the APS Heads on 1 September 2020.

## **REVIEW**

This Framework is to be reviewed every two (2) years.

This framework document will formally be reviewed, evaluated and re-endorsed or modified by the board bi-annually (every two years). Ongoing monitoring and evaluation will take place with an annual report provided to the Board. Any reported complaints or reported incidents in relation to this document are to be reported to the next Board meeting. Any recommendations for changes can be submitted and tabled for discussion by the Board. All changes will be communicated to all schools, and should be passed on to any affiliated organisations (i.e. coaches, volunteers etc.) when deemed necessary.

Title	<b>Inclusion Framework</b>
Updated On	<b>9 June 2020</b>
Approved by APS Heads on	<b>1 September 2020</b>

## **REFERENCES:**

- Australian Human Rights Commission in June 2019 - 'Guidelines for the inclusion of transgender & gender diverse people in sport'.
- School Sport Victoria - Inclusion Policy
- Play By The Rules - Inclusion and Diversity

Luke Soulos  
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APS Sport  
1 September 2020