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Queensland laws have prohibited discrimination against LGBTIQ+ students for 20 years

The Queensland Human Rights Commission works to promote an understanding and acceptance of human rights in Queensland and conciliates complaints about unlawful discrimination. The Commission is aware of recent media attention on how discrimination laws apply to schools in Queensland regarding students' sexuality and gender identity. The Commission understands there has been some confusion about what exemptions are available in Queensland for religious schools, which are different from those under the federal Sex Discrimination Act.

The Queensland Anti-Discrimination Act has not permitted religious schools to discriminate against currently enrolled students because of their sexuality or gender identity for 20 years.¹ Expelling, disciplining or otherwise treating a student unfavourably because of these characteristics is unlawful discrimination in Queensland.

A school policy that requires a trans or gender diverse young person to be treated as their sex assigned at birth, or that requires a young person to hide or deny their sexuality, is likely to amount to unlawful discrimination. If a child in a school is treated unfavourably because their parent is LGBTQ+ this may also amount to discrimination on the basis of 'association' with their parent's sexuality or gender identity. Schools cannot contract out of their duties under discrimination laws by asking parents or students to agree to discriminatory terms.

While there is an exemption in Queensland that allows for a school to operate as a single sex or a religious school, this applies only to prospective students, and does not allow a school to refuse enrolment based on gender identity or sexuality.

The Commission appreciates that most educators in Queensland actively work to support and include LGBTIQ+ students, understanding that student wellbeing and academic performance suffers when a student is not accepted for who they are at school. All students and their families should feel that they belong in their school community. A sense of belonging is conducive to an environment in which students feel confident to participate, and which enables them to reach their full potential.

The Commission's website contains information on the current discrimination laws in Queensland and the relevant exemptions: <https://www.qhrc.qld.gov.au/your-responsibilities/for-schools-and-universities/religious-schools-and-discrimination>.

The Commission's Trans@school guide and other resources aimed at helping educators with how to support their trans and gender diverse students are available here: <https://www.qhrc.qld.gov.au/your-responsibilities/for-schools-and-universities/trans-@-school>

Contact

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¹ The Discrimination Law Amendment Act 2002 narrowed the scope of religious exemptions to no longer include the area of 'education'.