



## Disability Discrimination Policy

<b>Authorised by:</b>	Saint Stephen's College Board	<b>Date of Authorisation:</b> February 2018
<b>References:</b>	<ul style="list-style-type: none"><li>• <u>Anti-Discrimination Act 1991 (Qld)</u></li><li>• <u>Australian Human Rights Commission Act 1986 (Cth)</u></li><li>• <u>Disability Discrimination Act 1992 (Cth)</u></li><li>• <u>Disability Standards for Education 2005 (Cth), including Guidance Notes</u></li><li>• <u>Australian Education Act 2013 (Cth)</u></li><li>• Saint Stephen's College Disability Procedures</li><li>• Saint Stephen's College Anti-Discrimination Policy</li><li>• Saint Stephen's College Student Bullying Policy</li><li>• Saint Stephen's College Child Protection Policy</li><li>• Saint Stephen's College Student Code of Conduct</li><li>• Saint Stephen's College Dispute Resolution Policy</li><li>• Saint Stephen's College Privacy Policy</li></ul>	
<b>Review Date:</b>	Review every 2 years	<b>Date of last review:</b> February 2020
<b>Policy Owner:</b>	Assistant to the Headmaster Administration and Compliance	



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## **Disability Discrimination Policy**

### **Purpose**

The purpose of this policy is to protect students with a disability or students who have an associate with a disability from unlawful discrimination, harassment and victimisation on the basis of that disability.

### **Scope**

This policy applies to all students, employees, as well as contractors, volunteers and people undertaking work experience or vocational placements.

### **References**

- Anti-Discrimination Act 1991 (Qld)
- Australian Human Rights Commission Act 1986 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Disability Standards for Education 2005 (Cth), including Guidance Notes
- Australian Education Act 2013 (Cth)
- Saint Stephen's College Anti-Discrimination Policy
- Saint Stephen's College Student Bullying Policy
- Saint Stephen's College Child Protection Policy
- Saint Stephen's College Student Code of Conduct
- Saint Stephen's College Dispute Resolution Policy
- Saint Stephen's College Privacy Policy

### **Policy Statement**

All students at Saint Stephen's College have the right to learn in an environment free from unlawful discrimination. Saint Stephen's College values the diversity of all students including those with special educational needs, recognises the right of all students to equitable access to the curriculum, and offers education programs specific to the educational needs of students with disabilities.

Saint Stephen's College will provide a fair and safe learning environment where all students have equal opportunities. In particular, the College will ensure that students with a disability are provided with opportunities to realise their potential through participating in education and training on the same basis as other students.

In accordance with relevant law, Saint Stephen's College is committed, whilst students are engaging in their education, to protecting students with a disability, and students associated with a person where that person has a disability, from both direct and indirect:

- discrimination on the basis of disability
- harassment and victimisation on the basis of disability,

In accordance with the relevant law, Saint Stephen's College will take reasonable steps to prevent unlawful discrimination, including harassment and victimisation, against students on the basis of disability in all facets of education at the College, including:

- enrolment
- participation
- curriculum development, accreditation and delivery
- student support services.

Saint Stephen's College will make reasonable adjustments that do not cause unjustifiable hardship to ensure this equality of access and participation.

Saint Stephen's College is committed to responding appropriately should such discrimination, harassment or victimisation occur, including possible disciplinary action. Any instances of disability discrimination, harassment or victimisation should be reported under the College Dispute Resolution Policy.

**Definitions:**

**Disability** in relation to a person, means:

- a) total or partial loss of the person's bodily or mental functions
- b) total or partial loss of a part of the body
- c) the presence in the body of organisms causing disease or illness
- d) the presence in the body of organisms capable of causing disease or illness
- e) the malfunction, malformation or disfigurement of a part of the person's body
- f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction
- g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour and includes a disability that:
  - i) presently exists
  - ii) previously existed but no longer exists
  - iii) may exist in the future (including because of a genetic predisposition to that disability)
  - iv) is imputed to a person.

To avoid doubt, a disability that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.

**Associate**, in relation to a person includes:

- a) a spouse of the person
- b) another person who is living with the person on a genuine domestic basis
- c) a relative of the person
- d) a carer of the person
- e) another person who is in a business, sporting or recreational relationship with the person.

**Direct disability discrimination:** a person (the discriminator) discriminates against another person (the aggrieved person) on the ground of a disability of the aggrieved person if, because of the disability, the discriminator treats, or proposes to treat, the aggrieved person less favourably than the discriminator would treat a person without the disability in circumstances that are not materially different.

A person (the discriminator) also discriminates against another person (the aggrieved person) on the ground of a disability of the aggrieved person if:

- a) the discriminator does not make, or proposes not to make, reasonable adjustments for the person
- b) the failure to make the reasonable adjustments has, or would have, the effect that the aggrieved person is, because of the disability, treated less favourably than a person without the disability would be treated in circumstances that are not materially different.

For the purposes of this section, circumstances are not materially different because of the fact that, because of the disability, the aggrieved person requires adjustments.

**Indirect disability discrimination:** a person (the discriminator) discriminates against another person (the aggrieved person) on the ground of a disability of the aggrieved person if:

- a) the discriminator requires, or proposes to require, the aggrieved person to comply with a requirement or condition
- b) because of the disability, the aggrieved person does not or would not comply, or is not able or would not be able to comply, with the requirement or condition
- c) the requirement or condition has, or is likely to have, the effect of disadvantaging persons with the disability.

A person (the discriminator) also discriminates against another person (the aggrieved person) on the ground of a disability of the aggrieved person if:

- a) the discriminator requires, or proposes to require, the aggrieved person to comply with a requirement or condition
- b) because of the disability, the aggrieved person would comply, or would be able to comply, with the requirement or condition only if the discriminator made reasonable adjustments for the person, but the discriminator does not do so or proposes not to do so
- c) the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the disability.

**On the same Basis:** A person with a disability is able to seek admission to, or apply for enrolment in, an institution on the same basis as a prospective student without a disability if the person has opportunities and choices in admission or enrolment that are comparable with those offered to other prospective students without disabilities.

**Reasonable adjustment:** an adjustment is reasonable in relation to a student with a disability if it balances the interests of all parties affected. This involves consultation with the student (and their family) to consider whether an adjustment is necessary. Determining if an adjustment is reasonable consideration should be given to:

- (a) the student's disability;
- (b) the views of the student or the student's associate;
- (c) the effect of the adjustment on the student, including the effect on the student's:
  - (i) ability to achieve learning outcomes; and
  - (ii) ability to participate in courses or programs; and
  - (iii) independence;
- (d) the effect of the proposed adjustment on anyone else affected, including the education provider, staff and other students;
- (e) the costs and benefits of making the adjustment.
- f) In assessing whether an adjustment to the course or program in which the student is enrolled, or proposes to be enrolled, is reasonable, the provider is entitled to maintain the academic requirements of the course or program, and other requirements or components that are inherent in or essential to its nature.

**Unjustifiable hardship:** When complying with the Disability Standards for Education imposes an excessive burden on the education provider, staff or other students. Examples may include the need to protect public health or comply with other legal acts or provisions. This might even occur in the case of an

adjustment that the school and parents feel would achieve the desired goal. Unjustifiable hardship does not apply to the Standards for harassment and victimisation.

**Utmost Good Faith:** The student, and their parents/caregivers, must provide full disclosure of information relevant to assist the College determine the need for potential adjustments, both prior to enrolment and during enrolment.

**Victimisation:** When a person is treated or threatened to be treated in a detrimental manner as a result of making or threatening to make a complaint about an alleged breach of anti-discrimination laws.

Victimisation can also occur when there is detrimental treatment because a person has:

- Refused to do something that might breach anti-discrimination laws;
- Supported the complaint of another; or
- Supplied information or documents to a person performing a function under anti-discrimination laws.

As with discrimination, motive is irrelevant. A complaint of victimisation can be successful even if the underlying complaint does not succeed. It is unacceptable and against the law for any person to be treated differently for the reason that he or she decided to exercise his or her legal rights under anti-discrimination laws or to help someone else to do the same.

## **Responsibilities**

### **School Responsibilities**

Saint Stephen's College will not unlawfully discriminate, harass or victimise a student on the ground of the student's disability or a disability of any associate of a student. The College acknowledges that its responsibilities are as follows:

- Enrolment - Saint Stephen's College will take reasonable steps to ensure that a student with a disability is able to seek admission to, or apply for enrolment in, the school on the same basis as a prospective student without a disability, and without experiencing discrimination.
- Participation - Saint Stephen's College will take reasonable steps to ensure that a student with a disability is able to participate in the courses or programs provided by the school, and use the facilities and services provided by it, on the same basis as a student without a disability, and without experiencing discrimination.
- Curriculum development and delivery - Saint Stephen's College will take reasonable steps to ensure that courses and programs are designed in such a way that a student with a disability is able to participate in the learning experiences (including the assessment and certification requirements) of the course and program on the same basis as a student without a disability, and without experiencing discrimination.
- Support services - Saint Stephen's College will take reasonable steps to ensure that a student with a disability is able to use support services used by other students of the school in general on the same basis as a student without a disability, and without experiencing discrimination.
- Harassment and victimisation - Saint Stephen's College will develop and implement strategies and programs to prevent harassment or victimisation of a student with a disability, or a student who has an associate with a disability, in relation to the disability.

Reasonable steps will depend upon the specific circumstances at the time, but may include reasonable adjustments that do not impose an unjustifiable hardship. When considering an adjustment for a student with a disability, any confidential information provided to Saint Stephen's College will not be disclosed

except for the purposes of the adjustment or in accordance with a lawful requirement. The College will act in compliance with the College Privacy Policy.

### **Student and Employee Responsibilities**

All students and employees at Saint Stephen's College have a responsibility not to engage in discriminatory conduct, including harassment and victimisation, and to uphold the school's policies on these issues. If students, parents or employees believe that this type of behaviour is occurring in the school, they should contact the relevant member of the pastoral care team. Should the matter remain unresolved, they are able to make a complaint under the College Dispute Resolution Policy, which can be accessed on the College website.

### **Implementation**

#### At Enrolment

To enable the College to meet the educational needs of each child, parents/caregivers are required to complete all questions on the College enrolment form. The utmost good faith requirement forms a condition of enrolment, that the College is provided with all relevant information to enable determination of resources required to meet each individual student's needs. Unless waived by the College, all students will sit needs analysis testing prior to enrolment. Students entering Prep year, will have their enrolment confirmed after testing by the College in the year prior to commencing.

If a child has a disability, parents/caregivers will be asked to sign a permission form which allows the College to collect information from specialist personnel who may have information to assist in meeting the needs of their child. Specialist personnel may include the child's previous school, disability agencies, and medical and allied health professionals. The cost of providing and collecting specialist information will be met by parents/caregivers. The collection, use and disclosure of information about a child is protected by the provisions of the College's Privacy Policy, a copy of which can be obtained from the College's website. The enrolment application includes a privacy statement for parents to sign.

#### Identification Process

The level of specialist educational support required by students with disabilities is identified through the Educational Adjustment Program (EAP)

. This includes the collection of information from parents or caregivers, consultation with specialist personnel, including the College's Learning Enhancement Department, Needs Analysis testing and formal profiling procedures, if appropriate.

The collation of this information will help ascertain the student's need for adjustments to:

- Curriculum
- Communication
- Social Participation / Emotional Wellbeing
- Health and Personal Care
- Safety
- Learning Environment / Access

Based on the information gathered, the delegated staff member will make a preliminary assessment of the student's curriculum support needs, and the College's ability to meet these needs. At this time the

Principal, or delegated staff member, will meet with parents/caregivers to discuss the outcomes of the information-gathering process and to present the educational program the School can offer. This discussion may involve:

- The student, if appropriate
- Special education advisers
- Agency representatives
- Therapists, counsellors, other professionals
- An advocate
- An interpreter

It is possible at this time that the enrolment will not proceed because parents form the view that the College cannot meet their child's needs, or the College can demonstrate that the enrolment will cause unjustifiable hardship.

### **Education Program**

On confirmation of enrolment, parents will receive, in writing, an outline of the support the school can offer the student in order for them to access the curriculum successfully.

The Student Support Plan will include such matters as:

- A:** the basis for the comprehensive collection of the information about the needs of students with disabilities. A list of the information collected and the significance of the information to the formation of the Support Plan. This information may also be the basis for a school deciding not to accept the student's enrolment.
- B:** the documentation of curriculum/assessment modifications and issues related to behaviour management, liaison with parents and outside agencies, as appropriate. It will outline resource requirements, including facilities and equipment, evacuation and emergency procedures, reporting requirements, and training requirements for staff or others who work with the student.
- C:** the development of Health Care Plans for students with health support needs.

### Post Enrolment

The Student Support Plan will be reviewed at the end of each semester and at this time parents will be requested to meet with the Principal, or delegated representative, in order to discuss the progress of their child.

Partnerships will be developed with key stakeholders including teachers, family, students and relevant Professionals. Further relevant evidence will be gathered about the learner and used to inform educational decisions, including managing change or transition from the Learning Enhancement Department support.

Transition (Managing Change) Guidelines:

- Students move into new learning environments with support
- Student transition is monitored
- Accurate records are kept
- Timely planning occurs
- Relevant networking is undertaken
- Resourcing for adjustments is negotiated

### **Reporting**

No one should feel obliged to tolerate behaviour in breach of this policy. Anyone who believes there has been a breach of this policy should report it immediately to a member of the Pastoral Care Team, whom include the Dean of Students, Head of Consolidations or relevant Head of Year, and act as Contact Officers.

The Contact Officers:

- Are available to answer questions about this policy or about what constitutes behaviour that might breach this policy.
- Can discuss concerns and assist understanding of the rights and options under the policy.
- Can provide support to resolve concerns in a manner appropriate to the nature and seriousness of the matter.
- Will not be responsible for investigating concerns or determining resolutions.

### **Consequences for Breach of This Policy**

Once reported, allegations breach of this policy will be investigated by the College, so far as is reasonably possible:

- On a confidential basis;
- In a timely way; and
- In a fair and impartial manner.
- A person who makes a complaint will not be victimised.

Disciplinary action, up to and including termination of enrolment or employment, may be taken against a student or Staff member who is found, by the Principal or the Board (as appropriate), to have breached this policy. If a person is found to have raised a false or malicious complaint against another person in order to prejudice that other person, they may be subject to appropriate disciplinary action.

Where a person is alleged to have breached anti-discrimination legislation, it is also possible that legal action could be taken against them personally.



## Appendix: Enrolment Process Flow Chart

(Adapted from: *Students with Disabilities: Enrolment Guidelines for Independent Schools*, SA Independent Schools Targeted Programs Authority Inc., Adelaide: Hyde Park Press)

