



Non-Discrimination and Anti-Harassment Policy

Aims

- A. A safe and inclusive school environment, where all community members feel welcome, physically and emotionally secure, and supported to meet their full potential.
- B. Social justice and equal opportunity for all community members.
- C. All explicit and implicit processes of the school are non-discriminatory, and meet legislative requirements related to non-discrimination on the grounds of disability, sex, sexual orientation, gender identity, race, age, religion, marital status, pregnancy, family responsibility, family status and political convictions.

Scope and Application

This policy applies to:

- A. Employees.
- B. Students.
- C. Parents.
- D. Community members.
- E. Visitors to the school.

Definitions

- A. **Discrimination** is treating one person less favorably than another in the same circumstances.
 - 1. Discrimination takes many forms, all of which are unlawful, including:
 - a. Disability discrimination – is the unlawful discrimination against a person because of a disability. It can be either direct, where someone is treated less favourably because of their disability, or indirect, which occurs when a person with a disability is required to comply with a requirement or condition that: those without a disability would be able to comply; it is not reasonable for the person to have to comply, and; the person cannot comply.
 - b. Sexual harassment and discrimination (including sexual orientation) – sexual discrimination, which can be direct or indirect, occurs when a person is treated less fairly than another person because of their sex (or sexual orientation), marital status or because they are pregnant or potentially pregnant. It also includes being dismissed

from employment because of family responsibilities. Sexual harassment is unwelcome sexual conduct, remarks or innuendo aimed at an individual or a group of people that creates an uncomfortable environment for the recipient.

- c. Racial harassment and discrimination – racial discrimination can be direct (where someone is treated less favourably because of their race, colour, descent, national origin or ethnic origin) or indirect (where a policy or a rule that treats everyone in the same way has an unfair effect on people of a particular race, colour, descent, national origin or ethnic origin, unless it can be justified). Racial harassment occurs when a person threatens, abuses, insults or taunts another person because of their race, and that other person is disadvantaged, or has reasonable grounds for believing that they will be disadvantaged, by taking objection.
- d. Other: gender identity, age, religion, pregnancy, family, political.

B. Discrimination can manifest in various aspects of school, including:

1. Employment of staff.
2. Enrolment of students.
3. Educational program.
4. Access to services.
5. Inclusion as a member of the school community, including involvement in decision making and volunteering at school.
6. Behavior and attitude of students and adults, including bullying.

C. **Direct discrimination** is when a person is treated less favorably than another because of a certain characteristic such as sex, sexual orientation or disability, e.g. not employing a male teacher because he is male.

D. **Indirect discrimination** is when a condition is set that is more easily fulfilled by people of one group than another, e.g. 'It could be indirect disability discrimination if the only way to enter a public building is by a set of stairs because people with disabilities who use wheelchairs would be unable to enter the building'.

E. **Harassment** – an action or behavior constitutes harassment of another person if:

1. the act is unwelcome;
2. it is reasonable in the circumstances that the person who was harassed felt offended, humiliated or intimidated;
3. the person being harassed believed that resistance would in any way lead to disadvantage in his or her opportunities or employment.

F. **'Reasonable adjustments'** - is a measure or action taken to assist a student with a disability to participate in education on same basis as other students. An adjustment is reasonable if it takes into account the student's learning needs and balances the interests of all parties affected, including the student with the disability, the education provider, staff and other students. Factors to take into account in assessing whether a particular adjustment is reasonable include:

the nature of the disability; the effect of adjustment on the student, including the student's ability to participate in courses or programs, achieve learning outcomes and operate independently; and the costs and benefits of making the adjustment.

Examples of **adjustments** include: making adjustments for sensory impairments e.g. a modified telephone for a person with a hearing impairment; removing physical barriers e.g. ramps for wheelchair access; providing information or training to other people about disability e.g. training teachers in dealing with students in their class who have autism, and; making adjustments to off-campus activities including camps and excursions.

- G. 'Unjustifiable hardship'** – is a specific exception in both the Federal and State legislation applying to both employers and education providers, that provides that it is not unlawful to refuse or fail to accept a person's application for a job where the person, if the successful applicant, would require services or facilities that are not required by other staff who do not have a disability and the provision of which would impose unjustifiable hardship on the employer.

The same exception applies for an education provider employer when assessing a person's application for admission as a student. However, the introduction of the Standards expands the scope of the defense of unjustifiable hardship from the point of enrolment, as is covered under the Act, to apply to other areas of the Standards – participation; curriculum development, accreditation and delivery; student support services; and elimination of harassment and victimisation – over the total period of a student's enrolment in an institution.

Before a school can claim 'unjustifiable hardship' they must look at what adjustments would need to be made to help a person with a disability be afforded the same service or opportunity as a person without the disability.

- H. Special measures intended to achieve equality** – it is not unlawful to do an act that is reasonably intended to ensure equal opportunity, for example on the grounds of:
1. disability (for example, measures reasonably intended to:
 - a. ensure that persons who have a disability have equal opportunities.
 - b. afford persons who have a disability goods, access to services, opportunities, grants or benefits to meet their special needs).
 2. sex (for example, measures intended to achieve substantive equality between men and women or women who are pregnant and people who are not pregnant).

Principles

- A. All community members have the right to work, learn and participate in an environment free from all forms of discrimination and harassment.
- B. As a community we are all responsible for identifying and alleviating instances of discrimination in our school.
- C. Not every question regarding a person's disability is permitted, and as such could be inappropriate and discriminatory. Certain questions about a student's or employee's disability are permitted under the exemptions stated in the disability legislation. Where permitted by

legislation, the asking of permitted questions enable the school to: determine any reasonable adjustments required in order for the person to perform at school or work; determine if the person can perform the inherent job requirements; and determine the requirements regarding insurance, workers compensation and superannuation.

- D.** We respect an individual's right to privacy and will not disclose confidential information.
- E.** If we realise direct or indirect discrimination, in any form, is intentionally or unintentionally occurring in the school, all efforts will be made to eliminate it.
- F.** We will provide equal opportunity and access to facilities, services or opportunities to meet special needs or overcome barriers to education and employment (i.e. special measures intended to achieve equality) where reasonable and where to do so does not impose unjustifiable hardship on the school.
- G.** The educational program of the school will include the consideration of human rights and non-discrimination.
- H.** When designing, writing and reviewing educational programs and procedures and policies of the school, and when making decisions at school, there will be an awareness of the possibility of discrimination occurring.
- I.** All allegations and incidents of discrimination and harassment should be brought to the attention of the Principal and or appropriate party/ies in accordance with the Concerns and Complaints procedure. All allegations and incidents will be responded to promptly in accordance with these procedures.
- J.** All school processes, including enrolment and employment procedures, involvement in decision making and volunteering at school, will be non-discriminatory.
- K.** We will promote our school's policy on anti-discrimination through staff induction and student/community code of conducts.

Responsibilities

A. Board

1. Demonstrate professional and ethical behaviour, and not engage in any form of discrimination or harassment.
2. Ensure all KSCS policies are non-discriminatory and lawful.

B. Principal

1. Demonstrate professional and ethical behaviour, and not engage in any form of discrimination or harassment.
2. Provide leadership that promotes equity, diversity and inclusivity within the school community and in the teaching and learning program.
3. Ensure of KSCS procedures are non-discriminatory and lawful.
4. Maintain work and learning environments free of unlawful discrimination and harassment.

5. Provide access to facilities, services or opportunities to meet special needs, where reasonable and practical.
6. Monitor the workplace, learning program and student behaviour and address issues of discrimination and harassment.
7. Respond promptly to issues, incidents and allegations of discrimination and harassment involving students, staff, visitors, volunteers and contractors.

C. Teachers

1. Demonstrate professional and ethical behaviour, and not engage in any form of discrimination or harassment.
2. Incorporate social justice, human rights and non-discrimination into social-emotional and other curriculum areas.
3. Report incidents of discrimination to the Principal.

D. Admin

1. Demonstrate professional and ethical behaviour, and not engage in any form of discrimination or harassment.
2. Report incidents of discrimination or harassment to the Principal.

E. Students

1. Report incidents of discrimination to the teacher and/or Principal.
2. Demonstrate ethical behaviour, and refrain from all forms of discrimination or harassment.

F. Members of the School Community

1. Demonstrate ethical behaviour, and refrain from all forms of discrimination or harassment.

Related Legislation

A. State legislation:

1. Equal Opportunity Act (WA) 1984
2. Occupational Safety and Health Act 1997
3. School Education Act 1999

B. Commonwealth legislation:

1. Age Discrimination Act 2004
2. Human Rights and Equal Opportunity Commission Act 1986
3. Disability Discrimination Act 1992
4. Disability Standards for Education 2005
5. Racial Discrimination Act 1975
6. Racial Hatred Act 1995

7. Sex Discrimination Act 1984
8. Workplace Gender Equality Act 2012
9. Workplace Relations Act 1996

***NB:** Federal Acts are not intended to limit or exclude the State laws. Where provisions of the Federal and State Acts are similar, and can operate together, both will apply. In the event of an inconsistency, the Federal Act should be followed.*

As employers have to comply with both Federal and State legislation, sound employment and compliance practices will ensure employers avoid potential breaches.

If both Federal and State laws seem to apply, the complainant must choose the forum in which they will make their complaint. It is important to realise that a person cannot make a complaint to different forums about the same matter. This is called 'double dipping'. For example, the Federal Sex Discrimination Act states that a person cannot lodge a complaint under both Federal and State law. If a person initially complains under State law, they cannot later complain under Federal law. However, if a person initiates the complaint under Federal law, they can move to State law.

Related Kerry Street Documentation

- A. Kerry Street Procedures:
 1. Concerns and Complaints procedures
- B. Kerry Street Policies:
 1. Anti-Bullying Policy
 2. Behaviour Guidance Policy
 3. Concerns and Complaints Policy
 4. Curriculum Policy
 5. Enrolment Policy
 6. Students at Educational Risk Policy
- C. KSCS Constitution
- D. KSCS Student Code of Conduct
- E. KSCS Staff Code of Conduct
- F. KSCS Values and Philosophy

Contact Person

Enquiries relating to this policy should be directed to the School Principal or Board Chair.

Breaches of this Policy

Any breach of this policy may result in disciplinary action up to and including termination.

Authorisation and Review

- A.** This policy was read, discussed and endorsed by the staff in December 2004
- B.** It was authorised by the Kerry Street Community School Council on
- C.** Reviewed on 13/1/06 by meeting of staff and council
- D.** This policy was reviewed September 2012
- E.** To be reviewed 2017

Revision

Date	Revision	Detail
August 2019	V2	Significant rewrite of policy.