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# BISHOP TYRRELL

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ANGLICAN COLLEGE

## DISCRIMINATION POLICY

<b>Document Approval and Version Control</b>			
<b>Policy Number:</b>	02.03.01	<b>Last Amended</b>	December, 2021
<b>Approved By:</b>	Principal	<b>Approval Date:</b>	December, 2021
<b>Contact Officer</b>	Corporate Services Manager	<b>Next Review Date:</b>	December, 2022



## TABLE OF CONTENTS

<b>1. DOCUMENT MANAGEMENT</b>	<b>3</b>
1.1 Version History	3
1.2 Related Documents	3
1.2.1 Legislation	3
1.2.2 Policies	3
1.2.3 Procedures	3
1.2.4 Other Documents	3
<b>2. SCOPE</b>	<b>4</b>
<b>3. STUDENT PROTECTION</b>	<b>4</b>
<b>4. BACKGROUND</b>	<b>4</b>
<b>5. OBJECTIVE</b>	<b>4</b>
<b>6. DEFINITIONS</b>	<b>5</b>
<b>7. WHAT IS DISCRIMINATION?</b>	<b>5</b>
<b>8. TYPES OF DISCRIMINATION</b>	<b>5</b>
8.1 Direct Discrimination	6
8.2 Indirect Discrimination	6
8.3 Vilification	6
8.4 Disability Harassment	6
8.5 Victimisation	6
8.6 Relevant Areas	7
8.6.1 Education	7
8.6.2 Employment	7
8.7 Protected Attributes	7
<b>9. WHAT ISN'T UNLAWFUL DISCRIMINATION?</b>	<b>8</b>
9.1 What is Reasonable Management Action?	8
<b>10. RESPONSIBILITIES</b>	<b>9</b>
10.1 College Responsibilities	9
10.2 Student and Staff Responsibilities	9
<b>11. REPORTING</b>	<b>10</b>
<b>12. PROCEDURES</b>	<b>10</b>
<b>13. HEALTH AND WELLBEING</b>	<b>12</b>
<b>14. PRIVACY</b>	<b>12</b>
<b>15. POLICY MANAGEMENT</b>	<b>12</b>
15.1 Responsibilities	12
15.2 Policy Adherence	12
15.3 Review	12

# 1. DOCUMENT MANAGEMENT

## 1.1 Version History

*Responsibility of author to track and maintain*

Version	Date	Author	Section #	Amendment (What Changed?)
1.1	02/09/2015	Tamara Powell	All	Initial draft
1.2	09/02/2016	Tamara Powell	3.1, 3.2	Amended draft
1.3	14/09/2016	Tamara Powell	5.4	Amended policy
1.4	2016	Tamara Powell	All	Amended policy
1.5	15/04/2019	Peter Moulds	All	Review policy
1.6	26/02/2020	Janelle Ebert	All	Amended policy
02.03.00	Nov 2020	Shea Hafey	All	General update as part of overall update of College policies to consolidate, reformat, restructure
02.03.01	Dec 2021	Shea Hafey	All	Review Policy

## 1.2 Related Documents

### 1.2.1 Legislation

- Anti-Discrimination Act 1977 (NSW)
- Disability Discrimination Act 1992
- Australian Human Rights Commission Act 1986

### 1.2.2 Policies

- Complaints Handling Policy and Procedure
- Grievances Policy

### 1.2.3 Procedures

- As outlined in this Policy

### 1.2.4 Other Documents

- Code of Conduct – Students
- Behaviour Management Plan

## **2. SCOPE**

This policy applies to all College employees, students, parents, Council members, contractors, volunteers and people undertaking work experience or vocational placements at the College. This policy applies to all conduct, work, interaction or any other activities that are under the management, control, influence or participation within the College. This policy applies to all College interests and activities, both on and off campus.

## **3. STUDENT PROTECTION**

Bishop Tyrrell Anglican College supports the rights of children and young people and is committed to ensuring the safety, welfare and wellbeing of students. The College is therefore committed to responding to allegations of student harm resulting from the conduct or actions of any person including that of employees. This commitment includes the provision of a safe and supportive learning environment for all students and requires all employees, volunteers and visitors to model and encourage behaviour that upholds the dignity and protection of students from harm.

## **4. BACKGROUND**

All students and staff at the College have the right to learn and work in an environment free from discrimination. The College will strive to provide a fair and safe learning and teaching environment, where all students and staff have equal opportunities.

In accordance with relevant anti-discrimination laws, it is unlawful to discriminate against students and staff, on the basis of 'protected attributes' relevant to the College, while students and staff are engaging in their education and work at the College.

Both direct and indirect discrimination are prohibited, as well as victimisation, disability harassment and vilification.

## **5. OBJECTIVE**

This policy has been developed to ensure the respectful treatment of every student in the care of the College. The purpose of the College's Discrimination Policy is to make the College Community members aware of:

- a) the definition of 'discrimination'
- b) the procedures the College has in place to deal with complaints relating to discrimination, and
- c) who to talk to at the College if you wish to make a complaint.

This policy applies to all students, employees, contractors, volunteers and parents involved with the College and applies to their behaviour:



- a) In the College, including outside normal College hours;
- b) While undertaking College activities including interaction with the Community or other third parties and while working away from the College (e.g. College trips or sport activities); and
- c) At College-related events e.g., conferences and functions.

Every effort will be made to deal informally, internally and efficiently with such problems; however, it should be clearly understood that ongoing behaviour of this nature will not be tolerated and will be considered adequate grounds to ask the perpetrator to leave the College.

This policy summarises some of the rights and obligations which are created by the legislation.

The policy is not intended to go beyond the legislation. This policy is not a term of any contract, including any contract of employment or enrolment. This policy may be varied from time to time.

## **6. DEFINITIONS**

For the purpose of this policy the following definitions apply:

**The College** refers to Bishop Tyrrell Anglican College

## **7. WHAT IS DISCRIMINATION?**

The College may be held responsible for the behaviour of staff if it is found that it did not take all reasonable steps to ensure that all places where the College conducts its business were free of discrimination, victimisation, vilification, and disability harassment.

It is unacceptable and against the law for any person to be treated differently for the reason that they decided to exercise their legal rights under anti-discrimination laws or to help someone else to do the same.

It is also unlawful to:

- request or encourage a contravention of anti-discrimination laws; or
- request unnecessary information which can be used to discriminate against a person, unless genuinely required for a non-discriminatory purpose.

## **8. TYPES OF DISCRIMINATION**

Not all discrimination is against the law. Anti-discrimination legislation determines what kind of discrimination is unlawful by identifying particular 'areas' and 'protected attributes'.



## 8.1 Direct Discrimination

Where a person with a particular attribute is treated unfavourably due to that attribute. The motivation for the treatment is irrelevant.

## 8.2 Indirect Discrimination

Where a person, or group of people with an attribute is unreasonably disadvantaged as a result of a requirement, condition or practice being imposed on that person or group. The motivation for the treatment is irrelevant.

## 8.3 Vilification

On the basis of race, religion, sexuality or gender identity is unlawful. Vilification is a public act or statement that incites others to hate a person or their group because of their race, religion, sexuality or gender identity. Vilification where a person or their property is threatened with physical harm is also a criminal offence.

## 8.4 Disability Harassment

This is the harassment of a person in relation to disability or based upon a relative or associate having a disability. It is unlawful. Examples include:

- humiliating comments or action about a person's disability, such as insults
- comments or action which create a hostile environment; or
- overbearing or abusive behaviour towards staff or students with intellectual disabilities.

## 8.5 Victimisation

Victimisation occurs 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. The motivation for the treatment is irrelevant. A complaint of victimisation can be successful even if the underlying complaint fails. Victimization 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
- supplied the information or documents to a person performing a function under anti-discrimination laws.

If you feel that you are being victimised because you have made or propose to make a complaint of unlawful discrimination or because you have provided information in relation to a complaint you

should raise the issue as soon as possible with either the Deputy Principal or College Principal. If your issue is about the College Principal, then you should raise it as a grievance with the Chair of the College Council under this statement.

## 8.6 Relevant Areas

### 8.6.1 Education

Discrimination can occur in relation to students in all facets of education, including:

- admission and enrolment applications
- terms of admission and enrolment
- variation of the terms of a student's enrolment
- denial or limitation of benefits normally resulting from enrolment
- exclusion or suspension of students
- assessment and examination
- access to resources and facilities; or
- treatment of a student in regard to training or instruction.

### 8.6.2 Employment

Discrimination can occur in the employment relationship, including:

- Recruitment
- terms and conditions
- training
- promotion, and
- termination of employment

## 8.7 Protected Attributes

The protected attributes referred to in the Anti-Discrimination legislation include:

- age
- sexuality or sexual preference
- marital or relationship status
- pregnancy, breastfeeding
- parental status; family responsibilities, responsibilities as a carer

- race, colour, descent, nationality, national origin, ethnicity or ethno-religious origin
- religious belief or activity
- political belief or activity
- trade union activity
- disability or impairment
- gender identity
- lawful sexual activity
- service in the voluntary defence forces.
- and association with, or relation to, a person identified on the basis of any of the above attributes.

## **9. WHAT ISN'T UNLAWFUL DISCRIMINATION?**

It is not discrimination if the actions:

- are reasonable management action
- are allowed under state or federal anti-discrimination law
- are taken against any College Community members of a religious institution to avoid harming the organisation's religious beliefs
- do not relate to one of the protected attributes; or
- relate to the necessary requirements of the job.

### **9.1 What is Reasonable Management Action?**

Reasonable management action carried out in a reasonable manner does not constitute harassment.

Reasonable management action may include for example:

- performance/behaviour management processes;
- disciplinary action for misconduct;
- informing a worker about unsatisfactory work performance or inappropriate work behaviour;
- directing a College Community member to perform duties in keeping with their role; and
- maintaining reasonable goals and standards.

However, any management actions must be conducted in a reasonable manner. If not, it could still be discrimination.



## 10. RESPONSIBILITIES

### 10.1 College Responsibilities

The College takes reasonable steps to prevent discrimination and other behaviour in breach of this procedure occurring at the College, as follows:

- developing, implementing and reviewing this procedure
- educating and training relevant staff to assist in preventing any instances of discrimination or other behaviour in breach of this procedure, and to appropriately respond should an alleged breach occur
- removing any discriminatory or offensive materials, rules and practices; and
- encouraging students and staff to contribute to a healthy College culture and community.

**The College Council** ~ Is responsible for ensuring the proper and effective management and operation of the College. This includes defining and monitoring the strategic direction, developing and monitoring policies, monitoring the effectiveness of the College Council and College, and establishing control and accountability systems.

**The Principal** ~ Is responsible for the administration and implementation of the College's strategic direction, policies and procedures and control and accountability systems developed by the College Council. The Principal works closely with and is accountable to the College Council for leading the College to deliver high quality curriculum and educational outcomes, excellence in teaching and learning, a strong College community and driving market growth.

**College Leadership Team (CLT)** ~ Members of the CLT are responsible for ensuring that this policy is adhered to in their respective areas.

**Employees** ~ All employees are expected to abide by this policy and its procedures.

### 10.2 Student and Staff Responsibilities

Staff must always consider how their behaviour will be viewed by the person or people they are dealing with. A staff member might unlawfully discriminate against someone even if he or she does not mean to do or say anything offensive. It is not a legally acceptable defence to say that you did not mean or intend to discriminate against somebody else. It is sometimes difficult to know whether someone will find the behaviour acceptable. What is offensive to one person may not be offensive to another. Staff should be careful not to risk being misunderstood and, as a result, becoming the subject of a complaint.

All students and staff contribute to the creation of an inclusive College culture and community. All students and staff have a responsibility to comply with this procedure. All students and staff are required to attend any training provided by the College to ensure they fully understand all aspects of this procedure and the College's commitment.

It is important to note that all College Community members also have responsibilities should a situation of discrimination occur. All should be careful if they feel the need to tell a trusted friend or work colleague about the matter. Accusations of unlawful discrimination can harm the reputation of those involved and could lead to legal action for defamation. Matters of this kind must be dealt with confidentially on a need-to-know basis. It is in everyone's best interests if rumours are not allowed to spread.

The responsibilities of all College Community members are:

- to take steps to resolve the issue according to these procedures
- not to make malicious complaints
- to minimise interference with College responsibilities; and
- to ensure absolute confidentiality by not talking to other uninvolved staff about the matter.

Should the College Community have any questions in relation to this policy regarding unlawful discrimination, they should contact the College Executive Leadership team.

## **11. REPORTING**

No one should feel obliged to tolerate behaviour that is discriminatory. Anyone who believes that they have been discriminated against, either directly or indirectly, should report it immediately to the Principal. A complaint can also be lodged with an external agency such as Anti-Discrimination NSW or the Australian Human Rights Commission.

## **12. PROCEDURES**

What to do if you are being Unlawfully Discriminated Against?

If you feel that you are being unlawfully discriminated against, there is action which you can take that may resolve the problem, such as:

- a) do not ignore circumstances where you feel you are being unlawfully discriminated against, thinking it will go away. Ignoring the behaviour could be taken as tacit approval by the person causing the discrimination;
- b) where you feel comfortable ask the person to stop, or make it clear that you find the behaviour offensive or discriminatory. Use unambiguous terms and plain language to ensure that the person causing the discrimination is fully aware of the nature of the complaint and verbally informed that the behaviour is unacceptable. Be polite but firm and clear, indicating that the discrimination should stop. Maybe the alleged discriminator is not aware that his or her behaviour is offensive or discriminatory and will stop once they are told. It may be useful to speak with your supervisor/tutor teacher or the Dean of Students in the first instance to seek guidance on how to do this; and/or raise the issue as a grievance with either your Head

of House or Head of Department or the Deputy Principal or College Principal under this statement, as soon as possible after the incident(s) have occurred.

If you are not able to approach the person causing the discrimination unaided, especially if the person is in a position of authority, you can choose to either seek the assistance of another member of staff - a colleague, a Head of House, a Head of Department or a Union Representative in verbally approaching the person or make the complaint to the person in writing rather than face to face. Such an approach may be sufficient to stop the discrimination. If it is not, a formal complaint should be made in writing to the Deputy Principal or College Principal, supported by relevant documentation indicating time, date, location, what happened and what was said. The complaint will then be dealt with in accordance with the College's Complaints and Grievances Policy and Procedures.

Bishop Tyrrell Anglican College is committed to quickly and confidentially handling complaints regarding discrimination and the main aim of all formal procedures is to ensure that:

- the behaviour stops
- that there are no reprisals for having made the complaint; and
- where disadvantage has occurred, that the situation is redressed as far as possible.

The guiding principles behind such aims are:

- the right of all individuals to be treated with respect
- observance of natural justice
- observance of confidentiality where appropriate
- acceptance of the legitimacy of the complainant's feelings
- support and protection for all parties concerned
- preservation of an unbiased approach by mediators.

The College will ensure that the formal complaint handling is:

**Confidential** – Only the people directly involved in making or investigating a complaint will have access to information about it.

**Impartial** – Both sides will have their chance to tell their side of the story. No assumptions will be made and no action taken until all relevant information has been collected and considered.

**Free of repercussions** – No action will be taken against anyone for making a complaint or helping someone to make a complaint. The College will take all necessary steps to ensure that no victimisation occurs against anyone who makes a complaint.

**Timely** – All complaints will be dealt with as quickly as possible.

The College will take whatever action it considers appropriate if there has been unlawful discrimination including disciplining or dismissing offenders. While a careful, measured and considerate course is the preferred option, it should be emphasised that nothing in the foregoing will prevent the College taking immediate action if a situation is considered to be sufficiently serious.

## **13. HEALTH AND WELLBEING**

College Community members should take care of his or her health and wellbeing. Discrimination at the College is a serious issue that can affect people in a number of ways.

If a staff member is feeling anxious or depressed it is important to speak to someone. The College's Employee Assistance Program (ACCESS EAP) that can offer confidential support and assistance. Staff may also make an appointment to visit a doctor, or call Lifeline on 13 11 14.

## **14. PRIVACY**

Personal information may be collected, stored and released and is done so in accordance with the *Privacy Act 1988*. For further information, please refer to the College's [Privacy Policy](#).

## **15. POLICY MANAGEMENT**

### **15.1 Responsibilities**

In accordance with responsibility for the College compliance, the Principal also retains responsibility for this policy and all delegated authorities within.

All employees are responsible for the welfare of students and their colleagues. All employees should be familiar with this policy and ensure adherence is maintained at all times. This responsibility cannot be delegated.

### **15.2 Policy Adherence**

Adherence to this policy is a mandatory requirement of all College employees. Breaches of the policy will be subject to formal investigation and may lead to disciplinary action.

### **15.3 Review**

This policy will be reviewed annually, or when legislative or governing body changes may warrant a review. The Principal reserves the right to make changes as and when required. The Principal or the Principal's delegate is responsible for reviewing or making approved modifications to the policy and distribution of the policy.