

HORIZONS COLLEGE – POLICY & PROCEDURE

STUDENT DISABILITY DISCRIMINATION POLICY



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

Scope: Persons who are bound by this policy are students (including prospective) and employees, including full-time, part-time, permanent, fixed-term and casual employees, as well as contractors, volunteers and people undertaking work experience or vocational placements in the school.

This policy does not apply to the enrolment of students with a general or specific impairment, in a school that operates wholly or mainly for students who have that general or specific impairment.

Discrimination of school employees with disabilities is not addressed in this policy. The Anti-Discrimination Policy addresses school employees with disabilities and discrimination on other grounds.

- References:**
- [Anti-Discrimination Act 1991 \(Qld\)](#)
 - [Australian Human Rights Commission Act 1986 \(Cth\)](#)
 - [Australian Education Act 2013 \(Cth\)](#)
 - [Disability Discrimination Act 1992 \(Cth\)](#)
 - [Disability Services Act 2006 \(Qld\)](#)
 - [Disability Standards for Education 2005 \(Cth\), including Guidance Notes](#)
 - [Education \(Accreditation of Non-State Schools\) Act 2017 \(Qld\)](#)
 - [Education \(Accreditation of Non-State Schools\) Regulation 2017 \(Qld\)](#)
 - [Education \(General Provisions\) Act 2006 \(Qld\)](#)
 - [Privacy Act 1988 \(Cth\)](#)
 - Horizons College Anti-Discrimination Policy
 - Horizons College Student Anti-Bullying Policy
 - Horizons College Reporting Concerns of Harm and Abuse Policy
 - Horizons College Individual Support Program Policy and Procedure
 - Horizons College Complaints Handling Policy
 - Horizons College Privacy Policy
 - Horizons College Staff Code of Conduct

Policy Name:	Student Disability Discrimination Policy	Version 202605_01
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Note: Policy types marked with asterisks as follows are:

- * published on school website

- ** only mandatory for schools incorporated through the *Corporations Act 2001* (Cth)



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Policy Statement

In Queensland, both the *Anti-Discrimination Act 1991* (Qld) and the *Disability Discrimination Act 1992* (Cth) regulate disability discrimination in schools. A disability discrimination claim may be brought by a student against a school in either jurisdiction.

This policy outlines written processes for how Horizons College will identify students with a disability, and how the school devises educational programs specific to the educational needs of students with a disability. These processes comply with the *Anti-Discrimination Act 1991* (Qld) and the *Disability Standards for Education 2005* (Cth) (the **Disability Standards**) under the *Disability Discrimination Act 1992* (Cth)¹.

Discrimination of students and school employees on the grounds of disability and on certain other specific grounds is also addressed in the School's *Anti-Discrimination Policy*.

All students at Horizons College have the right to learn in an environment free from unlawful discrimination. Horizons College will provide a fair, supportive and safe learning environment where all students are treated with dignity and are educated in an environment that values and encourages participation by all students. In particular, Horizons 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.

The discrimination laws also protect the rights of students who have an associate with a disability. Where this policy refers to discrimination of students, it should also be read to include discrimination of a student who has an associate with a disability.

Provided that adjustments do not cause unjustifiable hardship for the school, Horizons College will make reasonable adjustments to ensure equality of access and participation by students with a disability.

In accordance with relevant law, Horizons College is committed to protecting students with a disability from both direct and indirect discrimination on the basis of disability while engaging in their education, including but not limited to the areas of:

- enrolment
- participation in curricular and co-curricular activities and use of facilities and services
- curriculum development, accreditation and delivery
- student support services
- elimination of harassment and victimisation²

Horizons College may at times still be required to directly comply with other specific laws which may mean that the school is exempt from having contravened a discrimination law in some circumstances. In limited circumstances, there are also certain public health requirements which schools must comply with which may require a school to isolate, or discriminate against, a student with a disability to protect the health and welfare of the student with the disability or others.

Horizons College is committed to responding appropriately to allegations of discrimination, including promptly investigating and bringing disciplinary action when warranted against individual employees. The school is also committed to eliminating the harassment and victimisation of students who have a disability.

¹ *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld), s11

² *Disability Standards for Education 2005* (Cth)

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Definitions

Adjustment: A measure or action (or a group of measures or actions) taken by a school that has the effect of assisting a student with a disability:

- (a) in relation to an admission or enrolment — to apply for the admission or enrolment; and
- (b) in relation to a course or program — to participate in the course or program; and
- (c) in relation to facilities or services — to use the facilities or services;

on the same basis as a student without a disability, and includes an aid, a facility, or a service that the student requires because of his or her disability.³

Associate: The *Disability Discrimination Act 1992 (Cth)* defines 'associate' in relation to a student to include:

- (a) a spouse of the student; or
- (b) another person who is living with the student on a genuine domestic basis; or
- (c) a relative of the student; or
- (d) a carer of the student; or
- (e) another person who is in a business, sporting or recreational relationship with the student.⁴

The *Anti-Discrimination Act 1991 (Qld)* makes it unlawful to discriminate against a student because of their association with, or relation to, another person who is identified as having an impairment.

Direct Discrimination: A school directly discriminates against a student on the ground of their disability, if because of the disability, the student is treated, or is proposed to be treated, less favourably than they would be treated without the disability in circumstances that are not materially different.

A school also directly discriminates against a student on the ground of their disability if:

- (a) reasonable adjustments are not made, or proposed to be made, for the student; and
- (b) the failure to make the reasonable adjustments has, or would have, the effect that the student, because of the disability, is treated less favourably than a person without the disability would be treated in circumstances that are not materially different.

Disability: The term 'disability' in this document includes physical, intellectual, psychiatric, sensory, neurological and learning disabilities and is used to encompass both of the legal meanings of 'disability' and 'impairment', being differently defined in State and Commonwealth legislation as follows -

Disability Discrimination Act 1992 (Cth) - 'disability' in relation to a person, means:

- (a) total or partial loss of the person's bodily or mental functions; or
- (b) total or partial loss of a part of the body; or
- (c) the presence in the body of organisms causing disease or illness; or
- (d) the presence in the body of organisms capable of causing disease or illness; or
- (e) the malfunction, malformation or disfigurement of a part of the person's body; or
- (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or

³ Disability Standards for Education (Cth), s3.3

⁴ *Disability Discrimination Act 1992 (Cth)*, s4

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- (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.

A 'disability' includes past, present and future disabilities as well as imputed disabilities. A disability otherwise covered by the definition includes behaviour that is a symptom or manifestation of the disability.⁵

Anti-discrimination Act 1991 (Qld) - The term '**disability**' is not used in this Act. The term '**impairment**' is used, being an attribute for which discrimination is prohibited. Under this Act, 'impairment' in relation to a person is defined to mean:

- (a) the total or partial loss of the person's bodily functions, including the loss of a part of the person's body; or
 - (b) the malfunction, malformation or disfigurement of a part of the person's body; or
 - (c) a condition or malfunction that results in the person learning more slowly than a person without the condition or malfunction; or
 - (d) a condition, illness or disease that impairs a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour; or
 - (e) the presence in the body of organisms capable of causing illness or disease; or
 - (f) reliance on a guide, hearing or assistance dog, wheelchair or other remedial device;
- whether or not arising from an illness, disease or injury or from a condition subsisting at birth, and includes an **impairment** that—
- (g) presently exists; or
 - (h) previously existed but no longer exists.⁶

Harassment: Under the *Disability Standards for Education 2005* (Cth), harassment means an action taken in relation to a student with disability that is reasonably likely to humiliate, offend, intimidate or distress the student. Harassment of students with disability by school employees is unlawful under the *Disability Discrimination Act (1992)* (Cth). The *Anti-Discrimination Act 1991* (Qld) only prescribes sexual harassment as unlawful.

Indirect Discrimination: A school indirectly discriminates against a student on the grounds of their disability if:

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

A school also indirectly discriminates against a student on the ground of their disability if:

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

Unjustifiable hardship: The term unjustifiable hardship is defined differently in the Commonwealth and State legislation as follows -

⁵ *Disability Discrimination Act 1992* (Cth), s4

⁶ *Anti-Discrimination Act 1991* (Qld), Schedule 1

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Anti-Discrimination Act 1991 (Qld) - It can be lawful to discriminate on the basis of impairment where special services or facilities are needed for a student with an impairment, and supplying these would impose an unjustifiable hardship on the school. Factors that are relevant include the nature of the special service or facility, cost of supplying it, the number of people to benefit, the financial circumstances of the organisation, the disruption that the supplying of those services or facilities might cause and the nature of any benefit or detriment to all people concerned.

Disability Discrimination Act 1992 (Cth) - In determining whether a hardship that would be imposed on a school would be an **unjustifiable hardship**, all relevant circumstances of the particular case must be taken into account, including the following:

- (a) the nature of the benefit or detriment likely to accrue to, or to be suffered by, any person concerned, including the community; and
- (b) the effect of the disability of any person concerned; and
- (c) the financial circumstances, and the estimated amount of expenditure required to be made, by the school; and
- (d) the availability of financial and other assistance to the school.

Victimisation: Under the *Disability Discrimination Act (1992)* (Cth), it is unlawful for a person to commit an act of victimisation against another person. The offence is made out in various circumstances where a person subjects, or threatens to subject, another person to detriment on the ground of various matters, for example, that they have made an allegation, raised a complaint or brought proceedings for disability discrimination. The offence differs under the *Anti-Discrimination Act (1991)* (Qld).

Responsibilities

Responsibilities under the Disability Standards for Education 2005 (Cth)

Horizons College will take reasonable steps to ensure it meets its obligations under the **Disability Standards for Education 2005 (Cth)** (Standards), made under the **Disability Discrimination Act 1992 (Cth)**, including by:

1) Making reasonable adjustments

- identifying barriers to access and participation for students with disability and proposing reasonable adjustments
- consulting with the student and/or their parent/carer (or other associate) as appropriate
- implementing, monitoring and reviewing adjustments over time
- maintaining records of reasonable adjustments and reviews.

2) Curriculum development, accreditation and delivery

- ensuring teaching, learning and assessment are delivered in ways that enable students with disability to access and participate on the same basis as their peers (where reasonably possible)
- making adjustments to curriculum delivery and assessment where required to support access and participation, while maintaining the inherent requirements of the course/program (where applicable).

3) Student support services

- coordinating supports (including internal and external supports where available/appropriate) to assist student participation
- ensuring staff supporting students with disability have access to induction, training and guidance relevant to their role.

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4) Harassment and victimisation

- promoting a school culture that does not tolerate disability-related harassment, discrimination or victimisation
 - responding to concerns and complaints in accordance with the Horizons College Complaints Handling Policy.
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Specific responsibilities

Leadership responsibilities (Leadership Team)

The Leadership Team is responsible for overseeing:

- the development, ongoing monitoring and review of Individual Support Plans (ISPs)
- enrolment processes to identify and support students with disability
- collection of records of reasonable adjustments made by teachers for individual students
- ensuring teachers and Education Support Officers (ESOs) receive appropriate professional development during induction and on an ongoing basis
- the process followed during enrolment and throughout enrolment, prior to making an adjustment for a student, including:
 - consultation with the student (and/or their associates)
 - consultation with relevant specialists (where appropriate)
 - consideration of whether an adjustment is necessary
 - consideration of whether the adjustment may need to be changed over the period of a student's enrolment
 - consideration of the need to ensure the school maintains the academic requirements of the course/program and any inherent requirements
 - where an adjustment is necessary, identification of the particular reasonable adjustment
 - consideration of whether there is any other reasonable adjustment that would be less disruptive/intrusive and no less beneficial for the student
 - identification of situations where an adjustment may impose an unjustifiable hardship on the school and referral to the Executive Leadership Team for consideration.

Teacher responsibilities

Teachers at Horizons College are responsible for:

- identifying students who may need adjustments to access the educational program
- recording differentiation and/or adjustments for students in the classes for which they are responsible
- working with the Leadership Team to develop and implement Individual Support Plans (ISPs)
- planning for the effective use of Education Support Officers (ESOs) to support implementation of reasonable adjustments
- participating in review, reflection and evaluation of the effectiveness of adjustments in achieving individualised educational goals.

Education Support Officer (ESO) responsibilities

Education Support Officers (ESOs) at Horizons College are responsible for:

- implementing adjustments by assisting teachers (as directed)
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- providing timely feedback to the relevant teacher and/or Leadership Team on the implementation and effectiveness of adjustments.

Parent/carers responsibilities

Parents/carers (or other associates) of students enrolled at Horizons College should:

- provide the school with relevant information about their child's learning needs during the enrolment process
- provide the school with up-to-date relevant information about the student's learning needs (including reports/assessments from medical and allied health professionals, where available)
- raise any concerns about the student's learning, engagement or behaviour with the school in a timely manner
- participate in consultation with the school regarding the development and review of ISPs or other support plans.

Student and employee responsibilities

All students and employees at Horizons College have a responsibility not to engage in unlawful discriminatory conduct and to uphold the school's policies. If students, parents/carers or employees consider that discriminatory conduct is occurring, they may make a complaint under the Horizons College Complaints Handling Policy.

Breaches of Policy

The Leadership Team is available to discuss this policy and its interpretation.

Complaints concerning a breach of this policy should be raised under the school's Complaints Handling Policy in the first instance. A breach of this policy may lead to an investigation and potentially disciplinary action against both students and individual employees.

A disability discrimination claim can be made by a student or their parent/carers against the school and/or the individual employee who is alleged to have unlawfully discriminated the student. The claim can be made to an external entity such as the Queensland Human Rights Commission (QHRC) (www.qhrc.qld.gov.au) in the State jurisdiction or the Australian Human Rights Commission (AHRC) (www.humanrights.gov.au) in the Commonwealth jurisdiction.