



RIVERMOUNT COLLEGE

Realising the Potential Within

8.01.02 DISABILITY DISCRIMINATION POLICY

PURPOSE OF THIS POLICY

The purpose of this policy is to protect students with a disability and 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 students 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.

RESPONSIBILITY

Principal reporting to the Board of Directors

LEGISLATION AND 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](#)

3.07.01 Staff Code of Conduct

3.16.01 Complaints Handling Policy & Procedure

Staff Handbook Section 4.15 - Education of Students with Diverse Learning Needs

5.01.01 Student Code of Behaviour

8.01.01 Anti-Discrimination Policy

8.03.01 Child Protection Policy

8.08.01 Privacy Policy

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BACKGROUND

INTRODUCTION

The Commonwealth *Disability Discrimination Act 1992* (DDA) makes discrimination against people on the grounds of disability unlawful in a wide range of areas of public life, including education. Similar provisions also exist in the Queensland *Anti-Discrimination Act 1991*.

In addition, the College must comply with the *Disability Discrimination Act Education Standards* dated 17 March 2005. The objects of these Standards are:

- a) to eliminate, as far as possible, discrimination against persons on the ground of disability in the area of education and training; and
- b) to ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law in the area of education and training as the rest of the community; and
- c) to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.

To comply, Rivermount College must make 'reasonable adjustments' to accommodate a student with a disability. An adjustment is a measure or action taken to assist a student with a disability to participate in education and training on the same basis as other students. An adjustment is reasonable if it does this while taking into account the student's learning needs and balancing the interests of all parties affected, including those of the student with the disability, the education provider, staff and other students.

Rivermount College is also required to comply in relation to its obligation to put in place strategies and programs to prevent harassment and victimisation. That is, it must ensure that staff and students know not to harass or victimise students with a disability, or students who have associates with a disability and must take reasonable steps to ensure that staff and students know what to do if harassment or victimisation occurs.

Consistent with the DDA, Rivermount College does not have to comply with a requirement of the Standards to the extent that compliance would cause 'unjustifiable hardship'. Rivermount College may consider all costs and benefits, both direct and indirect, that are likely to result for the College, the student and any associates of the student, and any other persons in the learning or wider community, including:

- costs associated with additional staffing, the provision of special resources or modification of the curriculum
- costs resulting from the student's participation in the learning environment, including any adverse impact on learning and social outcomes for the student, other students and teachers, and
- benefits deriving from the student's participation in the learning environment, including positive learning and social outcomes for the student, other students and teachers,

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and any financial incentives, such as subsidies or grants, available to the provider as a result of the student's participation.

In assessing whether an adjustment to the course or program in which the student is enrolled, or proposes to be enrolled, is reasonable, Rivermount College 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.

There is no requirement to make unreasonable adjustments. The concept of unreasonable adjustment is different from the concept of unjustifiable hardship on the provider. In determining whether an adjustment is reasonable the school may consider any effect of the proposed adjustment on anyone else affected, including the education provider, staff and other students, and the costs and benefits of making the adjustment. The specific concept of unjustifiable hardship is not considered. It is only when it has been determined that the adjustment is reasonable that it is necessary to go on and consider, if relevant, whether this would nonetheless impose the specific concept of unjustifiable hardship on the provider.

More information about the DDA including the Measures for Compliance with Standards can be accessed at: <https://www.education.gov.au/disability-standards-education-2005>

POLICY STATEMENT

All students at Rivermount College have the right to learn in an environment free from unlawful discrimination. Where possible the 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, Rivermount College is committed 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, the 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.

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

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Confidentiality

When considering an adjustment for a student with a disability, any confidential information provided to the College will not be disclosed except for the purposes of the adjustment or in accordance with a lawful requirement, in compliance with the College's *Privacy Policy*.

Breaches of this Policy

The 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's *Complaints Handling Policy and Procedure*.

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:

- h) presently exists
- i) previously existed but no longer exists
- j) may exist in the future (including because of a genetic predisposition to that disability)
- k) 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.

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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: Students with disability have a right to access education on the same basis as other students. Schools and education providers must make adjustments to ensure that students with disability have the same or similar choices and opportunities as students without disability, particularly in regard to enrolment, participation, curriculum, and support services.

Reasonable adjustment: are changes to the work environment that allow people with disability to work safely and productively. Employers are required to make 'reasonable adjustments' to help a person with a disability carry out the inherent requirements of the job.

Unjustifiable hardship: is based on an assessment of what is fair and reasonable in the circumstances. If the proposed adjustments are likely to cause hardship, it is up to the person or organisation to show that they are unjustified.

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RESPONSIBILITIES

College Responsibilities

Rivermount 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 this policy applies in the following areas:

- **Enrolment**
 - The 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**
 - The 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 College, 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, accreditation and delivery**
 - The 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 a student without a disability, and without experiencing discrimination.
- **Support services**
 - The 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.
- **Elimination of harassment and victimisation**
 - The 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.

Student and Employee Responsibilities

All students and employees at Rivermount College have a responsibility not to engage in discriminatory conduct, including harassment and victimisation, and to uphold the College’s policies on these issues.

If students, parents or employees believe that this type of behaviour is occurring in the College, they are able to make a complaint using the College’s *Complaints Handling Policy and Procedure*.

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IMPLEMENTING THE POLICY

Rivermount College undertakes the following steps in preventing discrimination on the basis of disability, including the following:

Awareness

The College regularly makes employees and students aware of the need to avoid discrimination, harassment and victimisation. This includes the development and implementation of a *Disability Discrimination Policy* and the implementation within the College of the *Anti-Discrimination, Anti-Sexual Harassment and Anti-Bullying Policies*, as well as more direct advice to employees and via the clear support and promotion of these policies by senior management.

Training

The College regularly provides professional development to ensure employees have sufficient information and expertise concerning non-discriminatory methods of service delivery.

Dispute resolution

The College promotes the *Complaints Handling Policy and Procedure* ensuring that complaints are properly and effectively dealt with in accordance with the policy and procedure.

Recording, monitoring, reporting

The College shall implement other reasonably available monitoring strategies, in addition to complaint mechanisms, including internal monitoring through supervisory and management responsibilities and external monitoring.

Culture

The College shall remove any discriminatory or offensive materials, rules and practices, and encourage students, parents and employees to contribute to a healthy school culture.

COMPLIANCE AND MONITORING

The College maintains documentation which adequately reflects the frequency, range and complexity of adjustments recorded for students with disabilities including:

- curriculum planning documents identifying adjustments such as weekly plan and unit overview;
- timetables for students and staff;
- current confirmation of verification letter;
- current Support Plan or equivalent in place for any student with disability;
- student data/reporting including Confirmation of Enrolment and Census requirements;
- relevant progress notes;
- documentation of relevant communication;
- evidence of monitoring and evaluation of programs and support;
- evidence of consultation with the parent/guardian.

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