



Disability Discrimination Policy

(OHA)PPADDP2023:1

Purpose:	The purpose of this policy is to embed within the College a culture which protects 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 such that College staff comply with the legislation.	
Scope:	The College Board of Directors, Officers, Workers, Contractors and Service Providers, Other Persons associated with the College, including students and parents and third-party providers.	
Status:	APPROVED	Supersedes: DDP2021
Authorised by:	Board	Date of Authorisation: 20 July 2023
Authorities & References:	<i>Anti-Discrimination Act 1991 (Qld)</i> <i>Australian Education Act 2013 (Cth)</i> <i>Australian Human Rights Commission Act 1986 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Disability Standards for Education 2005 (Cth)</i> Complaints Handling & Disputes Policy Enrolment Policy Privacy Policy Staff Code of Conduct RAP	
Review Date:	Annual	Next Review Date: August 2024
Policy Owner:	Board	

Introduction

The College understands that as an education provider, it has more inherent power than students with disabilities and their families. This includes the ability to find out how students with a disability can take part in learning.

This power imbalance can lead to distress, anxiety and discrimination for students with a disability and their families.

Ohana College aims to have all students learn in an environment free from unlawful discrimination. 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 laws, the College is committed, whilst students are engaging in their education, to protecting students with disability, and students associated with a person where that person has a disability, from both direct and indirect:

- discrimination on the basis of disability; and
- harassment and victimisation on the basis of disability.

In accordance with the relevant laws, 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:

- the application and enrolment process (in accordance with the College's *Enrolment Policy*);
- everyday participation;
- curriculum development, accreditation and delivery; and
- student support services.

The College will make reasonable adjustments that do not cause unjustifiable hardship to ensure this equality of access and participation. Extra measures will be made available to ensure that indigenous students with disabilities have the support they need.

The College is committed to responding appropriately should 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 and Disputes Policy*.

Definitions

The Act defines 'Associate' and 'Disability' as follows:

- 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; and/or

- 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); and/or
 - 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; and/or
 - e) another person who is in a business, sporting or recreational relationship with the person.
- 'On the same basis as' means that a student with a disability should have access to the same opportunities and choices in their education that are available to a student without disability.
- 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; and/or
- 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; and/or
- c) the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the disability.

College responsibilities

The 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 - 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 College on the same basis as a prospective student without a disability, and without experiencing discrimination.
- Identification - the College will take reasonable steps to identify students requiring educational adjustments both at enrolment and during the course of time at the College, including those with a disability, and consult with families/carers to develop a support plan.
- 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 College in general on the same basis as a student without a disability, and without experiencing discrimination. The College will inform the student and their family of the support available.
- 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.

- Complaints – the College has in place a *Complaints Handling & Disputes Policy*. The College will ensure the student and their family are informed of this policy where they need to fix something that has gone wrong.

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 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*.

Student and employee responsibilities

All students and employees of the 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/caregivers or employees believe that this type of behaviour is occurring in the College, they are able to make a complaint under the College's *Complaints Handling & Disputes Policy*.

Compliance and monitoring

There will be regular staff training with respect to the implementation of this policy.

This policy will be reviewed annually.