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Anglican Church Grammar School *Anti-Discrimination Policy*

Contact Officer:	Human Resources Administrator
Approved by:	School Council
Date Approved:	12 July 2007
Date Last Amended	9 February 2012
Date for Next Review:	1 July 2014
Legal Opinion:	
Related Policies or Legislation:	See 'background' listed below
Related Procedures:	Anti-Discrimination Legislation as below.
Access:	Council

Policy Statement

The School is committed to providing a work environment that is safe and free from discrimination and harassment, and in which decisions regarding hiring and promotion are based purely on merit. In addition, the School seeks to identify, understand, value and respect the differences in its employees, and in doing so, create an environment that values creativity and innovation rather than conformance to any stereotypes.

The School believes that to ensure continued success it is necessary to select "the best person for the job", whilst complying with requirements of Anti-discrimination and Equal Employment Opportunity legislation. The Position Description identifies the key skills and competencies required to fulfil the responsibilities of the position, and the advertising, short listing, interviewing, reference checking and selection processes all target those key competencies in an effort to ensure objective decision making.

Background

Discrimination is any practice that distinguishes different groups or individuals based on characteristics defined in anti-discrimination legislation, and results in one group being advantaged and another group being disadvantaged. Discrimination does not have to be conscious or deliberate to be illegal. The following legislation prohibits certain forms of discrimination throughout Australia, with one Act specific to Queensland:

- Race Discrimination Act (Commonwealth) 1975
- Sex Discrimination Act (Commonwealth) 1984
- Disability Discrimination Act (Commonwealth) 1992
- Disability Discrimination and other Human Rights Legislation Amendment Act 2009
- Human Rights and Equal Opportunity Act (Commonwealth) 1986
- Anti-Discrimination Act (Qld) 1991
- Age Discrimination Act (Commonwealth) 2004

The Workplace Relations and other Legislation Amendment Act (Commonwealth) 1996 and the Fair Work Act (Commonwealth) 2009 also prohibits various discriminatory practices in relation to the termination of employment.

Bases for discrimination which are generally prohibited by the above legislation are:

- ❖ Sex;
- ❖ Relationship status which includes married, defacto and same sex relationships;
- ❖ Pregnancy;
- ❖ Parental Status;

- ❖ Breastfeeding
- ❖ Age
- ❖ Race;
- ❖ Impairment;
- ❖ Religious belief or religious activity;
- ❖ Political belief or activity
- ❖ Trade Union activity;
- ❖ Lawful sexual activity;
- ❖ Gender Identity;
- ❖ Sexuality (heterosexuality, homosexuality, bisexuality);
- ❖ Family responsibilities;
- ❖ Association with or relation to a person identified on the basis of any of the above attributes.

An exemption for religious schools with regard to religious belief or activities is outlined in Section 25(3)(a) of the Anti-Discrimination Act 1991 and is set out below
"It is not unlawful for an employer to discriminate with respect to a matter that is otherwise prohibited under Section 14 or 15, in a way that is not unreasonable, if:

(a) The person openly acts in a way that the person knows or ought reasonably to know is contrary to the employer's religious beliefs-

- (i) during a selection process; or*
- (ii) in the course of a person's work; or*
- (iii) in doing something connected with the person's work: and*

(b) if it is a genuine occupational requirement of the employer that the person, in the course of, or in connection with the person's work, act in a way consistent with the employer's religious beliefs."

Policy Type

This policy falls under the category of 'Regulatory' policies, and must be endorsed by School Council.

Scope

This policy is relevant to all members of the School Community.

Definitions

The Anti-Discrimination Act 1991, one of the pieces of legislation governing this policy, describes the Act as one which was created to:

".....promote equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity including work, education and accommodation."

Policy Provisions

Discrimination may occur when:

- A person receives less favourable treatment than is received by others because he/she has a characteristic defined in the legislation.
- Assumptions are made about a person based on certain characteristics, for example, the assumption that a woman will not be available to work overtime because she has children.
- Unreasonable requirements or conditions are set.

Types of Discrimination:

Direct Discrimination

Direct discrimination on the basis of an attribute occurs if a person treats or proposes to treat

a person with an attribute less favourably than a person without that attribute is or would be treated in the same or similar circumstances. It is not necessary that the person who discriminates considers that the treatment is less favourable and the person's motive for discriminating is irrelevant.

Direct discrimination occurs when irrelevant criteria exclude a person from employment opportunity, for example, an organisation stating that it does not hire employees over the age of 50, or when an employer treats an employee less favourably than another employee in similar circumstances. It involves an employee being targeted, isolated or specially selected and receiving discriminatory treatment.

Indirect Discrimination

Indirect discrimination on the basis of an attribute happens if a person imposes or proposes to impose a term

- (a) with which a person with that attribute does not have or is not able to comply
- (b) with which a higher proportion of people without the attribute comply or able to comply; and
- (c) that is not reasonable.

Determining what is reasonable depends on all of the relevant circumstances of the case. It is not necessary that the person imposing or proposing to impose the term is aware of the indirect discrimination.

Indirect discrimination occurs when policies, procedures or practices that appear on the surface to be neutral, have an adverse outcome for persons with a particular characteristic, thus reducing the employment opportunities for those persons. This occurs when an employer sets a requirement which substantially more employees of one status or class can comply with compared with the number or proportion of employees of another status or class.

It is important to note that indirect discrimination can only be found if the person alleging discrimination is required to meet an unreasonable criterion or condition. Certain criteria or conditions are inherent requirements for a particular job, for example, an airline would be justified in denying a visually impaired person the opportunity to become a pilot