



Mawarra Independent School

Disability Discrimination Policy

Purpose:	The purpose of this policy is to protect 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.	
Scope:	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.	
References:	<ul style="list-style-type: none">• 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 (Cth)• <i>Mawarra Independent School Child Protection Policy</i>• <i>Mawarra Independent School Student Code of Conduct</i>• <i>Mawarra Independent School Employee Code of Conduct</i>• <i>Mawarra Independent School Complaints Handling Policy</i>• <i>Mawarra Independent School Privacy Policy</i>	
Supersedes:	Previous 2020	
Authorised by:	Principal	Date of Authorisation: January 2022
Review Date:	Every 2 years	Next Review Date: 2024
Policy Owner:	School Management Committee	



Mawarra Independent School

INTRODUCTION

All students at Mawarra Independent School have the right to learn in an environment free from unlawful discrimination. Mawarra Independent School will provide a fair and safe learning environment where all students have equal opportunities. In particular, Mawarra Independent School 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, Mawarra Independent School is committed, whilst students are engaging in their education, 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, Mawarra Independent School 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 including:

- enrolment
- participation
- curriculum development, accreditation and delivery
- student support services.

Mawarra Independent School will make reasonable adjustments that do not cause unjustifiable hardship to ensure this equality of access and participation.

Mawarra Independent School 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 Mawarra Independent School's *Complaints Handling Policy*.

RESPONSIBILITIES

School Responsibilities

Mawarra Independent School 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 school acknowledges that its responsibilities are as follows:

- **Enrolment:** Mawarra Independent School 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.



Mawarra Independent School

- **Participation:** Mawarra Independent School will take reasonable steps to ensure that a student with a disability is able to participate in the courses or programs provided by the school, 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:** Mawarra Independent School 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:** Mawarra Independent School will take reasonable steps to ensure that a student with a disability is able to use support services used by other students at the school in general on the same basis as a student without a disability, and without experiencing discrimination.
- **Harassment and victimisation:** Mawarra Independent School 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.

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

Student and Employee Responsibilities

All students and employees at Mawarra Independent School have a responsibility not to engage in discriminatory conduct, including harassment and victimisation, and to uphold the school's policies on these issues.

If students, parents or employees believe that this type of behaviour is occurring in the school, they are able to make a complaint under the Mawarra Independent School's *Complaints Handling Policy*.

IMPLEMENTATION

Awareness

Mawarra Independent School will regularly inform staff, students and parents of this Policy and any related processes relating to the health, safety and conduct of staff and students in communications to them and it will publish these processes on its website, newsletter and handbooks.



Mawarra Independent School

Training

Mawarra Independent School will train its staff on this Policy and any related processes on their induction and will refresh training every two years.

Implementing the Processes

Mawarra Independent School will ensure it is implementing this Policy and any related processes by auditing compliance with this Policy and related processes annually.

Accessibility of Processes

This Policy and any related processes are accessible on the school website and will be available on request from the school administration.

Complaints Procedure

Suggestions of non-compliance with this Policy and any related processes may be submitted as complaints under the Mawarra Independent School's *Complaints Handling Policy*.

Culture

Mawarra Independent School will encourage students, parents and employees to contribute to a healthy school culture.



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Appendix 1

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.

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.



Mawarra Independent School

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.

Reasonable adjustment:

1. For these Standards, an adjustment is reasonable in relation to a student with a disability if it balances the interests of all parties affected.

Note: Judgements about what is reasonable for a particular student, or a group of students, with a particular disability may change over time.

2. In assessing whether a particular adjustment for a student is reasonable, regard should be had to all the relevant circumstances and interests, including the following:

- a) the student's disability;
- b) the views of the student or the student's associate, given under section 3.5 of the Act;
- c) the effect of the adjustment on the student, including the effect on the student's:
 - (i) ability to achieve learning outcomes; and
 - (ii) ability to participate in courses or programs; and
 - (iii) independence;
- d) the effect of the proposed adjustment on anyone else affected, including the education provider, staff and other students;
- e) the costs and benefits of making the adjustment.

Unjustifiable hardship:

In determining whether a hardship that would be imposed on a person (the **first person**) would be an **unjustifiable hardship**, all relevant circumstances of the particular case must be taken into account, including the following:



Mawarra Independent School

- a) the nature of the benefit or detriment likely to accrue to, or to be suffered by, any person concerned
- b) the effect of the disability of any person concerned;
- c) the financial circumstances, and the estimated amount of expenditure required to be made by the first person;
- d) the availability of financial and other assistance to the first person;
- e) any relevant action plans given to the Commission under section 64.

Harassment:

- a) in relation to a person with a disability, includes an action taken in relation to the person's disability that is reasonably likely, in all the circumstances, to humiliate, offend, intimidate or distress the person; and
- b) in relation to a person who has an associate with a disability, includes an action taken in relation to the associate's disability that is reasonably likely, in all the circumstances, to humiliate, offend, intimidate or distress the person or the associate.