

The BUSY School Ltd Disability Discrimination Policy

Purpose: The purpose of this policy is to protect students with disability or students who have an associate with 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

Status: Approved **Supersedes:** v2 (Sept 2021)

Authorised by: Board Chair **Date of Authorisation:** 20 Sept 2022

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* (Cth)
- The BUSY School Child Protection Policy
- The BUSY School Child Risk Management Strategy
- The BUSY School Student Code of Conduct
- The BUSY School Employee Code of Conduct
- The BUSY School Privacy Policy
- The BUSY School Complaints Handling Policy
- The BUSY School Complaints Handling Procedure

Review Date: Review every 2 years **Next Review Date:** 20 Sept 2024

Policy Owner: The BUSY School Ltd - Board of Directors

Policy Statement

All students at The BUSY School (School) have the right to learn in an environment free from unlawful discrimination. The School will as far as reasonably practicable provide a fair and safe learning environment where all students have equal opportunities. In particular, the School will ensure as far as is reasonably practicable, that students with 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, the School is committed, whilst students are engaging in their education, to protecting students with disability, and students associated with a person where that person has 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 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 the School including:

- enrolment
- participation

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

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

The 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 BUSY School Complaints Handling Policy and Complaints Handling 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:
 - a. presently exists
 - b. previously existed but no longer exists
 - c. may exist in the future (including because of a genetic predisposition to that disability)
 - d. 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.

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.

School Responsibilities

The School will take reasonable steps to ensure not to unlawfully discriminate, harass or victimise a student on the ground of the student's disability or disability of any associate of a student. The School acknowledges that its responsibilities are as follows:

- Enrolment - the School will take reasonable steps to ensure that a student with disability is able to seek admission to, or apply for enrolment in, the School on the same basis as a prospective student without disability, and without experiencing discrimination.
- Identification - the School will take reasonable steps to identify students requiring educational adjustments, including those with disability, and consult with families/carers to develop a support plan.
- Participation - the School will take reasonable steps to ensure that a student with 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 disability, and without experiencing discrimination.
- Curriculum development, accreditation and delivery - the School will take reasonable steps to ensure that courses and programs are designed in such a way that a student with 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 disability, and without experiencing discrimination.
- Support services - the School will take reasonable steps to ensure that a student with disability is able to use support services used by other students of the School in general on the same basis as a student without disability, and without experiencing discrimination.
- Harassment and victimisation - the School will as far as reasonably practical develop and implement strategies and programs to prevent harassment or victimisation of a student with disability, or a student who has an associate with 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 disability, any confidential information provided to the School will take reasonable steps to ensure not disclose except for the purposes of the adjustment or in accordance with a lawful requirement, in compliance with The BUSY School's Privacy Policy.

Student and Employee Responsibilities

All students and employees at the 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 encouraged to make a complaint under The BUSY School Complaints Handling Policy and Complaints Handling Procedure.

Implementation

At Enrolment

To enable the School to meet the educational needs of each student, parents/carers are required to complete all questions on the School enrolment form. The utmost good faith requirement forms a condition of enrolment, that the School is provided with all relevant information to enable determination of resources required to meet each individual student's needs.

If a student has disability, parents/carers will be asked to sign a permission/consent form which allows the School to collect information from specialist personnel who may have information to assist in meeting the needs of their student. Specialist personnel may include the student's previous school, disability agencies, and medical and allied health professionals. The collection, use and disclosure of information about a student is protected by the provisions of The BUSY School Privacy Policy, a copy of which can be obtained from the School website (www.busyschools.qld.edu.au). The enrolment application includes a privacy statement for parents/carers to sign.

Identification Process

The level of specialist educational support required by students with disabilities is identified through the Educational Adjustment Program (EAP) and Nationally Consistent Collection of Data on School Students with Disability (NCCD). These programs form a data collection and reporting process which prompts the School to identify and understand students with disability, establish expectations of processes and practices, and captures work done to provide personalised learning and support. The processes include the collection of information from parents/carers, consultation with specialist personnel, if appropriate.

The collation of this information will help determine the student's need for adjustments to:

- planning
- teaching and learning
- curriculum
- communication
- social participation / emotional wellbeing
- assessment
- reporting
- extracurricular activities
- learning environment, infrastructure and access
- resources
- health and personal care
- safety

Based on the information gathered, the delegated employee will make a preliminary assessment of the student's support needs, and the School's ability to meet these needs. At this time the Campus Principal, or delegated staff member, will meet with parents/carers to discuss the outcomes of the information-gathering process and to present the educational program the School can offer. This discussion may involve:

- the student, if appropriate
- special education advisers
- agency representatives
- therapists, counsellors, other professionals
- an advocate
- an interpreter

In the unfortunate event enrolment cannot proceed because parents/carers form the view that the School

cannot meet the student's needs, or the School can demonstrate that the enrolment will cause unjustifiable hardship, the School will as far as reasonably practical assist in providing advice on alternative options.

Education Program

On confirmation of enrolment, parents/carers will receive, in writing, an outline of the support the School can offer the student in order for them to access the education program successfully.

The Individual Learning Plan (ILP) will include such matters as:

- the basis for the comprehensive collection of the information about the needs of students with disabilities. A list of the information collected and the significance of the information to the formation of the ILP. This information may also be the basis for the School deciding not to accept the student's enrolment.
- the documentation of curriculum/assessment adjustments and issues related to behaviour management, liaison with parents/carers and outside agencies, as appropriate. It will outline resource requirements, including facilities and equipment, evacuation and emergency procedures, reporting requirements, and training requirements for staff or others who work with the student.

Post Enrolment

The ILP will be reviewed at the end of each semester and at this time parents/carers will be requested to meet with the Campus Principal, or delegated representative, in order to discuss the progress of the student.

Partnerships will be developed with key stakeholders including teachers, family, students and relevant professionals.

Reporting

Any breach of this policy should be reported immediately to the Campus Principal or Learning Support Teacher. The Campus Principal and Learning Support Teacher:

- are available to answer questions about this policy or about what constitutes behaviour that might breach this policy.
- can discuss concerns and assist understanding of the rights and options under the policy.
- can provide support to resolve concerns in a manner appropriate to the nature and seriousness of the matter.

Consequences for Breach of This Policy

Once reported, allegations breaching this policy will be investigated by the School, so far as is reasonably possible:

- on a confidential basis;
- in a timely way; and
- in a fair and impartial manner, ensuring a person who makes a complaint will not be victimised.

Any breach of this policy, and therefore a breach of The BUSY School Student Code of Conduct or Employee Code of Conduct will result in disciplinary action, up to and including termination of enrolment or employment. If a person is found to have raised a false or malicious complaint against another person in order to prejudice that other person, they may be subject to appropriate disciplinary action.

Where a person is alleged to have breached anti-discrimination legislation, it is also possible that legal action could be taken against them personally.

Compliance and Monitoring

According to The BUSY School Complaints Handling Policy and Complaints Handling Procedure, Disability Discrimination complaints can be lodged in writing or via email and can be discussed by contacting the School and arranging an appointment with the Campus Principal.

The School website has a specific feedback page to provide written feedback or complaint (www.busyschools.qld.edu.au/busy-schools-feedback/). Additionally, feedback can be provided in writing to any staff member of the campus, mailed or emailed to the relevant campus address (<https://www.busyschools.qld.edu.au/contacts/>).

For further details regarding the submission, recording, confidentiality and resolution of Disability Discrimination complaints, please refer to The BUSY School Complaints Handling Policy and Complaints Handling Procedure.

Complaints procedure

Suggestions of non-compliance with this policy and any related processes may be submitted as complaints under The BUSY School Complaints Handling Policy and Complaints Handling Procedure.

Version Control

Version no.	Date Effective	Approved by	Changes
1.0	October 2020	<ul style="list-style-type: none"> ▪ Approved by TBS Board of Directors 	<ul style="list-style-type: none"> ▪ Initial draft version
2.0	September 2021	<ul style="list-style-type: none"> ▪ Endorsed by TBS Governance, Compliance and Strategy Committee ▪ Approved by TBS Board of Directors 	<ul style="list-style-type: none"> ▪ Added NCCD information ▪ Aligned to latest TBS Complaints Handling Policy and Procedures version ▪ Changed review to every 2 yrs (ISQ recommended) ▪ Version control ▪ Formatting
3.0	September 2022	<ul style="list-style-type: none"> ▪ Endorsed by TBS Governance, Compliance and Strategy Committee ▪ Approved by TBS Board of Directors 	<ul style="list-style-type: none"> ▪ Reviewed against ISQ template ▪ Updated terminology aligning to School operations and policies / procedures ▪ Formatting and grammar ▪ Version control