



RIVERMOUNT COLLEGE

Realising the Potential Within

8.01.02 STUDENT 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 (including prospective) 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.

Discrimination of school employees with disabilities is not addressed in this policy. The Anti-Discrimination Policy addresses school employees with disabilities and discrimination on other grounds.

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 Services Act 2006 \(Qld\)](#)
[Disability Standards for Education 2005 \(Cth\), including Guidance Notes](#)
[Australian Education Act 2013](#)
[Education \(Accreditation of Non-State Schools\) Act 2017 \(Qld\)](#)
[Education \(Accreditation of Non-State Schools\) Regulation 2017 \(Qld\)](#)
[Education \(General Provisions\) Act 2006 \(Qld\)](#)
[Privacy Act 1988 \(Cth\)](#)

8.0 Legal and Compliance	Policy: 8.01.02 Disability Discrimination	Version: E Original Release Date: August 2013	Page 1 of 9
Reviewed by Compliance Officer: March 2025	Approved by Executive Committee: 19 March 2025	Approved by Board of Director: May 2025	Next Review: 2026 <i>(annual review cycle)</i>

- 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

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 Standards for Education 2005 (Cth)* (the Disability Standards). The objects of the Disability 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.

This policy outlines written processes for how Rivermount College will identify students with a disability, and how the College devises educational programs specific to the educational needs of students with a disability. These processes comply with the *Anti-Discrimination Act 1991 (Qld)* and the Standards under the *Disability Discrimination Act 1992 (Cth)*¹.

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.

¹ Education (Accreditation of Non-State Schools) Regulation 2017 (Qld), s11

8.0 Legal and Compliance	Policy: 8.01.02 Disability Discrimination	Version: E Original Release Date: August 2013	Page 2 of 9
Reviewed by Compliance Officer: March 2025	Approved by Executive Committee: 19 March 2025	Approved by Board of Director: May 2025	Next Review: 2026 <i>(annual review cycle)</i>

Consistent with the DDA, Rivermount College does not have to comply with a requirement of the Disability 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, 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, supportive 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.

The discrimination laws also protect the rights of students who have an associate with a disability. Where this policy refers to discrimination of students, it should also be read to include discrimination of a student who has an associate with a disability.

8.0 Legal and Compliance	Policy: 8.01.02 Disability Discrimination	Version: E Original Release Date: August 2013	Page 3 of 9
Reviewed by Compliance Officer: March 2025	Approved by Executive Committee: 19 March 2025	Approved by Board of Director: May 2025	Next Review: 2026 <i>(annual review cycle)</i>

In accordance with relevant law, Rivermount College is committed to protecting students with a disability from both direct and indirect discrimination on the basis of disability while engaging in their education, including but not limited to the areas of:

- enrolment;
- participation in curricular and co-curricular activities and use of facilities and services;
- curriculum development, accreditation and delivery;
- student support services; and
- prevention of harassment and victimisation².

Rivermount College may at times still be required to directly comply with other specific laws which may mean that the College is exempt from having contravened a discrimination law in some circumstances. In limited circumstances, there are also certain public health requirements which schools must comply with which may require a school to isolate, or discriminate against, a student with a disability to protect the health and welfare of the student with the disability or others.

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*.

DEFINITIONS

Adjustment: A measure or action (or a group of measures or actions) taken by a school that has the effect of assisting a student with a disability:

- a) in relation to an admission or enrolment — to apply for the admission or enrolment; and
- b) in relation to a course or program — to participate in the course or program; and
- c) in relation to facilities or services — to use the facilities or services;
- d) on the same basis as a student without a disability, and includes an aid, a facility, or a service that the student requires because of his or her disability.³

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.⁴

Direct Discrimination: A school directly discriminates against a student on the ground of their disability, if because of the disability, the student is treated, or is proposed to be treated, less

² Disability Standards for Education 2005 (Cth)

³ Disability Standards for Education (Cth), s3.3

⁴ Disability Discrimination Act 1992 (Cth), s4

8.0 Legal and Compliance	Policy: 8.01.02 Disability Discrimination	Version: E Original Release Date: August 2013	Page 4 of 9
Reviewed by Compliance Officer: March 2025	Approved by Executive Committee: 19 March 2025	Approved by Board of Director: May 2025	Next Review: 2026 <i>(annual review cycle)</i>

favourably than they would be treated without the disability in circumstances that are not materially different.

A school also directly discriminates against a student on the ground of their disability if:

- a) reasonable adjustments are not made, or proposed to be made, for the student; and
- b) the failure to make the reasonable adjustments has, or would have, the effect that the student, because of the disability, is treated less favourably than a person without the disability would be treated in circumstances that are not materially different.

Disability: The term ‘disability’ in this document includes physical, intellectual, psychiatric, sensory, neurological and learning disabilities and is used to encompass both of the legal meanings of ‘disability’ and ‘impairment’, being differently defined in State and Commonwealth legislation as follows -

Disability Discrimination Act 1992 (Cth) - ‘disability’ in relation to a person, means:

- a) total or partial loss of the person’s bodily or mental functions; or
- b) total or partial loss of a part of the body; or
- c) the presence in the body of organisms causing disease or illness; or
- d) the presence in the body of organisms capable of causing disease or illness; or
- e) the malfunction, malformation or disfigurement of a part of the person’s body; or
- f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; 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.

A ‘disability’ includes past, present and future disabilities as well as imputed disabilities. A disability otherwise covered by the definition includes behaviour that is a symptom or manifestation of the disability.⁵

Anti-discrimination Act 1991 (Qld) - The term ‘disability’ is not used in this Act. The term ‘impairment’ is used, being an attribute for which discrimination is prohibited. Under this Act, ‘impairment’ in relation to a person is defined to mean:

- a) the total or partial loss of the person’s bodily functions, including the loss of a part of the person’s body; or
- b) the malfunction, malformation or disfigurement of a part of the person’s body; or
- c) a condition or malfunction that results in the person learning more slowly than a person without the condition or malfunction; or
- d) a condition, illness or disease that impairs a person’s thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour; or
- e) the presence in the body of organisms capable of causing illness or disease; or
- f) reliance on a guide, hearing or assistance dog, wheelchair or other remedial device;
- g) whether or not arising from an illness, disease or injury or from a condition subsisting at birth, and includes an impairment that—
- h) presently exists; or
- i) previously existed but no longer exists.⁶

⁵ Disability Discrimination Act 1992 (Cth), s4

⁶ Anti-Discrimination Act 1991 (Qld), Schedule 1

8.0 Legal and Compliance	Policy: 8.01.02 Disability Discrimination	Version: E Original Release Date: August 2013	Page 5 of 9
Reviewed by Compliance Officer: March 2025	Approved by Executive Committee: 19 March 2025	Approved by Board of Director: May 2025	Next Review: 2026 <i>(annual review cycle)</i>

Harassment: Under the Disability Standards for Education 2005 (Cth), harassment means an action taken in relation to a student with disability that is reasonably likely to humiliate, offend, intimidate or distress the student. Harassment of students with disability by school employees is unlawful under the *Disability Discrimination Act (1992) (Cth)*. The *Anti-Discrimination Act 1991 (Qld)* only prescribes sexual harassment as unlawful.

Indirect Discrimination: A school indirectly discriminates against a student on the grounds of their disability if:

- a) the school requires, or proposes to require, the student to comply with a requirement or condition; and
- b) because of the disability, the student does not or would not comply, or is not able or would not be able to comply, with the requirement or condition; and
- c) the requirement or condition has, or is likely to have, the effect of disadvantaging persons with the disability.
- d) A school also indirectly discriminates against a student on the ground of their disability if:
 - e) the school requires, or proposes to require, the student to comply with a requirement or condition; and
 - f) because of the disability, the student would comply, or would be able to comply, with the requirement or condition only if the school made reasonable adjustments for the student, but the school does not do so or proposes not to do so; and
 - g) the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the disability.

Unjustifiable hardship: The term unjustifiable hardship is defined differently in the Commonwealth and State legislation as follows –

Anti-Discrimination Act 1991 (Qld) - It can be lawful to discriminate on the basis of impairment where special services or facilities are needed for a student with an impairment, and supplying these would impose an unjustifiable hardship on the school. Factors that are relevant include the nature of the special service or facility, cost of supplying it, the number of people to benefit, the financial circumstances of the organisation, the disruption that the supplying of those services or facilities might cause and the nature of any benefit or detriment to all people concerned.

Disability Discrimination Act 1992 (Cth) - In determining whether a hardship that would be imposed on a school would be an **unjustifiable hardship**, all relevant circumstances of the particular case must be taken into account, including the following:

- a) the nature of the benefit or detriment likely to accrue to, or to be suffered by, any person concerned, including the community; and
- b) the effect of the disability of any person concerned; and
- c) the financial circumstances, and the estimated amount of expenditure required to be made, by the school; and
- d) the availability of financial and other assistance to the school.

8.0 Legal and Compliance	Policy: 8.01.02 Disability Discrimination	Version: E Original Release Date: August 2013	Page 6 of 9
Reviewed by Compliance Officer: March 2025	Approved by Executive Committee: 19 March 2025	Approved by Board of Director: May 2025	Next Review: 2026 <i>(annual review cycle)</i>

Victimisation: Under the *Disability Discrimination Act (1992) (Cth)*, it is unlawful for a person to commit an act of victimisation against another person. The offence is made out in various circumstances where a person subjects, or threatens to subject, another person to detriment on the ground of various matters, for example, that they have made an allegation, raised a complaint or brought proceedings for disability discrimination. The offence differs under the *Anti-Discrimination Act (1991) (Qld)*.

RESPONSIBILITIES

Specific staff responsibilities related to the Disability Standards include:

Director of Community Relations

The Director of Community Relations is responsible for the enrolment process and 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.

Head of Curriculum

The Head of Curriculum is responsible for curriculum development, accreditation and delivery and 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 as a student without a disability, and without experiencing discrimination.

Head of School

The Head of 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 College, and use the facilities and support services provided by it, on the same basis as a student without a disability, and without experiencing discrimination.

Head of Learning Support

The Head of Learning Support is responsible for:

- ensuring teachers and teacher aides have appropriate professional development in relation to the Disability Standards and reasonable adjustments.
- overseeing the adjustment process throughout a student's enrolment, including:
 - consultation with the student (and/or their associates);
 - consultation with other relevant specialists;
 - consideration of whether an adjustment is necessary;
 - consideration of whether the adjustment may need to be changed over the period of a student's enrolment;
 - consideration of the need to ensure that the College maintains the academic requirements of the course or program, and other requirements or components that are inherent in or essential to its nature;
 - if an adjustment is necessary, identification of the particular reasonable adjustment;

8.0 Legal and Compliance	Policy: 8.01.02 Disability Discrimination	Version: E Original Release Date: August 2013	Page 7 of 9
Reviewed by Compliance Officer: March 2025	Approved by Executive Committee: 19 March 2025	Approved by Board of Director: May 2025	Next Review: 2026 <i>(annual review cycle)</i>

- consideration of whether there is any other reasonable adjustment that would be less disruptive and intrusive and no less beneficial for the student;
- identification of situations where an adjustment may impose an unjustifiable hardship on the College and referral to the Executive Management Team for consideration; and
- the development, ongoing monitoring and review of related documentation including Complex Case Plans, Student Support Summaries and Individual Curriculum Plans.

Teacher Responsibilities

Teachers are responsible for:

- identifying students who may need adjustments to access the educational program
- gathering evidence to support a referral for these students, to Learning Support
- communicating the need to make adjustments to parents / carers / guardians and the students themselves
- recording differentiation for students in the class for which they are responsible.
- working with the Head of Learning Support to develop and implement Complex Case Plans, Student Support Summaries and Individual Curriculum Plans.
- Delivering adjustments to students who require support in their class, as part of ~~quality differentiated~~ teaching practice.
- planning for the effective use of Teacher Aides to support the implementation of reasonable adjustments.
- participating in a practice of review, reflection and evaluation of the success of adjustments in achieving individualised educational goals.

Teacher Aide Responsibilities

Teacher Aides are responsible for:

- implementing adjustments by assisting teachers.
- providing timely feedback to the teacher or Head of Learning Support on the implementation of adjustments.

Parent/Carer Responsibilities

Parents and Carers (or other associates) of students enrolled at the College should:

- provide the College with all relevant information about their child's learning needs during the enrolment process;
- provide the student's classroom teachers with up-to-date relevant information about their child's learning needs including current reports and assessments from medical and other allied health professionals;
- raise any concerns about their child's learning or behaviour with the classroom teacher in a timely manner; and
- participate in consultation with the Head of Learning Support around the development and review of Complex Case Plans, Student Support Summaries or other support plans.

8.0 Legal and Compliance	Policy: 8.01.02 Disability Discrimination	Version: E Original Release Date: August 2013	Page 8 of 9
Reviewed by Compliance Officer: March 2025	Approved by Executive Committee: 19 March 2025	Approved by Board of Director: May 2025	Next Review: 2026 <i>(annual review cycle)</i>

Staff and Student Responsibilities

All students and staff 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.

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 *Student 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.

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.

Dispute resolution and 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*.

COMPLIANCE AND MONITORING

The College will monitor the Complaint Register to identify any patterns in discriminatory behaviour and implement appropriate improvement measures.

8.0 Legal and Compliance	Policy: 8.01.02 Disability Discrimination	Version: E Original Release Date: August 2013	Page 9 of 9
Reviewed by Compliance Officer: March 2025	Approved by Executive Committee: 19 March 2025	Approved by Board of Director: May 2025	Next Review: 2026 <i>(annual review cycle)</i>