



Policy Name	Equal Opportunity, Discrimination & Harassment Policy
Related Policies and Legislation	Complaints Policy Enrolment Policy & Priorities Code of Conducts <i>Affirmation Action Act 1986</i> <i>Equal Opportunity Act WA 1984</i> <i>Human Rights & Equal Opportunity Commission Act 1986</i> <i>Occupational Safety and Health Act 1997</i> <i>Sex Discrimination Act 1984</i> <i>Workplace Relations Act 1996</i>
Policy Category	Student Wellbeing & Safety Staff Wellbeing & Safety School Community Wellbeing & Safety
Relevant Audience	All Treetops Community
Date of Issue / Last Revision	Replacement/merge of other policies 10 June 2021
Date Set for Review	June 2024
Person/s Responsible for Review	Treetops Administration

Equal Opportunity, Discrimination and Harassment Policy

Treetops provides inclusive and equitable work and learning environments, services and management practices free of unlawful discrimination and harassment. This includes the prevention and effective management of discrimination and harassment.

Treetops Montessori School will not tolerate discrimination and harassment and takes allegations of discrimination and harassment seriously. In the event that *any* member of the school community feels that they are the victim of discrimination or harassment they should follow the procedure outlined in the relevant School Complaints Policy.

Definitions:

Direct discrimination is when a person is treated less favourably than another person, in the same or similar circumstances, on one or more of the grounds and in one of the areas of public life covered by the *Equal Opportunity Act 1984*.

Indirect discrimination occurs when an apparently neutral rule, policy, practice or procedure has a negative effect on a substantially higher proportion of people with a particular attribute or characteristic compared to people without the attribute/characteristic, and the rule is unreasonable in the circumstances.

Diversity is a term used to acknowledge differences between people in the community and where work practices are adapted to create an inclusive environment in which those differences are valued.

Equal opportunity is the process by which all existing and potential employees are treated fairly and equitably, and based only on their particular skills and attributes in regard to their capacity to perform a job.

Grievance is an issue, concern, or complaint raised by an employee that relates to actions or behaviour of another employee, a part of the organisation, a policy or a decision.

An impairment (disability) is a current, past or assumed physical, intellectual or mental disability. Specific definitions are available in section 4 of the: *Equal Opportunity Act 1984* under impairment; and the *Disability Discrimination Act 1992* under disability.

Racial harassment is unlawful under the *Equal Opportunity Act* when a person threatens, abuses, insults or taunts another person because of his or her race, and that other person is disadvantaged, or has reasonable grounds for believing that he or she will be disadvantaged, by taking objection. Racial harassment is unlawful in the areas of employment, education, and accommodation.

Sex discrimination occurs when a person is treated less fairly than another person because of their sex (or sexual orientation), marital status, or because they are pregnant or potentially pregnant. It also includes being dismissed from employment because you have family responsibilities.

Sexual harassment can be summarised as unwelcome sexual conduct, remarks, or innuendo aimed at an individual or a group of people that creates an uncomfortable environment for the recipient. A person sexually harasses another person if:

- the act is unwelcome;
- it is reasonable in the circumstances that the person who was harassed felt offended, humiliated or intimidated;
- the person being harassed believed that resistance would in any way lead to disadvantage in his or her employment.

Sexual harassment can take a variety of forms and may involve physical contact, verbal remarks or non-verbal conduct of a sexual nature. Examples taken from a booklet produced by the Human Rights and Equal Opportunity Commission entitled "*Sexual Harassment and Educational Institutions – A Guide to the Federal Sex Discrimination Act*" include, but not limited to:

- Uninvited touching, kisses or embraces;
- Smutty jokes or comments, sexually explicit conversation;
- Making promises or threats in return for sexual favours;
- Displays of sexually graphic material including posters, pin-ups, cartoons, graffiti or messages left on notice boards, desks or lockers;
- Repeated invitations to go out, especially after prior refusal;
- 'Flashing' or sexual gestures;
- Sex based insults, taunts, or name-calling;
- Staring or leering at a person or at parts of their body;
- Unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them;

- Touching or fiddling with a person’s clothing e.g. Flicking bra straps;
- Requests for sex;
- Persistent questions or insinuations about a person’s private life;
- Offensive phone calls or letters;
- Stalking;
- Offensive e-mail messages or computer screen savers.

Sexual harassment can be initiated in a school in a number of ways, including:

- Staff – staff harassment;
- Staff – student harassment;
- Student – staff harassment;
- Student – student harassment;
- Staff – parent harassment;
- Parent – staff harassment.

Many victims of sexual harassment are not appreciative of the attention they receive and are uncomfortable about complaining. The reasons for not complaining are many and varied and may include:

- A fear of adverse treatment by peers and those senior to them;
- A belief that others will think ‘he/she asked for it’;
- A belief that informing is unprofessional;
- A limited knowledge on the grievance procedures;
- Unaware that the behaviours or acts are inappropriate.

The school needs to ensure that the process for reporting sexual harassment is sensitive to these matters.

Relevant Acts:

Relevant sections of both Acts	Sex Discrimination Act 1984	Equal Opportunity Act WA 1984
Sex discrimination	5	8
Marital Status discrimination	6	9
Pregnancy discrimination	7	10
Family Responsibilities discrimination	7A	35B
Reasonable Test	7B	
Special measures intended to achieve equality	7D	31
Discrimination in Employment	14	11
Discrimination in Education	21	18
Application Forms etc.	27	23
Sexual Harassment in Employment	28B	24
Sexual Harassment in Education	28F	25
Exemptions	30-47	27-35
Vicarious Liability	105, 106	160-161

Equal Opportunity Act 1984

[https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_37090.pdf/\\$FILE/Equal%20Opportunity%20Act%201984%20-%20%5B07-d0-00%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_37090.pdf/$FILE/Equal%20Opportunity%20Act%201984%20-%20%5B07-d0-00%5D.pdf?OpenElement)

Sexual Discrimination Act 1984

<https://www.legislation.gov.au/Details/C2014C00002>

Vicarious Liability

Under the Equal Opportunity Act, a person can be held liable for acts of unlawful discrimination and harassment done by an employee or agent, if it can be shown that the person did not take all reasonable steps to prevent the employee or agent from doing the unlawful acts.