

## **EQUAL OPPORTUNITY POLICY**

### **1. EQUAL OPPORTUNITY**

Equal opportunity is a positive way of describing the absence of discrimination and harassment. People are provided with equal opportunity if they are not discriminated against or harassed because of irrelevant characteristics such as:

- |  |  |
|--|--|
| 1. Age   | 8. Pregnancy   |
| 2. Association with Child:                       | 9. Physical and intellectual impairment              |
| 3. Caring Responsibilities                       | 10. Race   |
| 4. Chosen Gender                                 | 11. Religious appearance or dress (in work or study) |
| 5. Disability                                    | 12. Sex  |
| 6. Mental Illness                                | 13. Sexuality  |
| 7. Marital Status or Domestic Partnership status | 14. Spouse's or Partner's Identity                   |

*(Refer Schedule A – Grounds for Discrimination)*

*Discrimination laws also cover: sexual harassment, victimisation and whistleblowing.*

The following grounds of discrimination in employment are covered by Federal discrimination laws:

- |                        |                       |
|------------------------|-----------------------|
| 1. Age                 | 9. Nationality        |
| 2. Colour              | 10. Political opinion |
| 3. Criminal record     | 11. Race              |
| 4. Disability          | 12. Religion          |
| 5. Impairment          | 13. Sex               |
| 6. Marital status      | 14. Sexual preference |
| 7. Medical record      | 15. Social origin     |
| 8. National extraction | 16. Trade union       |

Anti-discrimination and equal opportunity laws are designed to address certain kinds of unfair treatment.

Equal opportunity laws also allow special initiatives designed to overcome the results of long-term discrimination suffered by certain groups.

Equal opportunity is concerned with fair treatment. Fair treatment means:

- Treating people as individuals with different skills and abilities, without making judgments based on stereotypes, or on personal characteristics (grounds for discrimination) that are irrelevant to a person's capacity to do the job.
- Ensuring a work environment that allows all employees to work to their full potential, and that is free from all forms of discrimination and harassment, including sexual harassment.
- Making sure work decisions are based on the merit principle. That is, the applicant who best meets the needs of the job is the one selected, and the worker who best meets the needs of the job is the one retained.

### **2. STATEMENT OF COMMITMENT**

The management of Adelaide Training and Employment Centre Inc. commits to fair treatment for clients, students and employees in our policies, procedures and practices in:

- employment- recruiting selecting, terms and conditions, training, promotion and transfer, termination methods and reasons for dismissal or retrenchment
- providing goods and services
- offering or providing education

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- advertising
- conferral of qualifications
- education
- superannuation

Discrimination, sexual harassment and victimisation will not be tolerated.

As a service provider Adelaide Training and Employment Centre Inc. will ensure that there is no discrimination:

- When people are applying for the service;
- In the way the service is delivered.

In addition, harassment (that is, annoying or pestering) of any type will not be tolerated.

### 3. THE LAW

Adelaide Training and Employment Centre Inc. must comply with its obligations under the

- *Australian Human Rights Commission Act 1986*
- *Age Discrimination Act 2004 (Cth)*
- *Disability Discrimination Act 1992*
- *Race Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Work Health and Safety Act 2012*

Further details for the grounds for discrimination can be found under the South Australian Equal Opportunity Act 1984.

The following personal characteristics are also covered by Commonwealth laws: religion, political opinion, medical record, irrelevant criminal record, social origin, trade union activity.

Discrimination on any of the grounds listed is unlawful if it occurs in any of the following areas of public life:

- Employment (which includes all aspects of employment, and all types of employees);
- Provision of Goods or Services (which includes all dealing with businesses, trades, professions, and governments);
- Education (at all levels);
- Accommodation (of any sort, and while seeking it or being provided with it);
- Clubs and Associations (in the sorts of membership and the sorts of benefits offered);
- Conferral of qualifications that are needed for employment;
- Sale of land;
- Advertising that indicates an intention to break the law.
- Victimisation, and Sexual Harassment are made unlawful under the Equal Opportunity Act.

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The Equal Opportunity Act also makes it unlawful to treat people unfairly because they are **whistleblowers**.

**Whistleblowing**: It is unlawful to treat people unfairly because they are whistleblowers.

Blowing the whistle is revealing information which is in the public interest. It may be information about a person who has:

- risked public health, safety or the environment
- acted illegally
- wasted public money
- misused public resources.

The Whistleblowers Protection Act makes it against the law to victimise people for disclosing such information or to take legal action against people who blow the whistle in good faith.

**Victimisation** means treating someone unfairly because they have acted on the rights given them by equal opportunity law, or because they have supported someone else who acted on those rights.

### 4. SEXUAL HARASSMENT

**Sexual harassment** is unlawful under the South Australian Equal Opportunity Act 1984. Adelaide Training and Employment Centre Inc. must also comply with obligations under the Equal Opportunity for Women in the Workplace Act 1999. Adelaide Training and Employment Centre Inc. regards sexual harassment as a serious and important issue.

All employees of Adelaide Training and Employment Centre Inc. have the right to be treated with respect and dignity, which should be accorded to all individuals. In keeping with the achievement of this goal Adelaide Training and Employment Centre Inc. is committed to providing an environment that is free from sexual harassment.

#### **Definition**

Section 87(11) of the South Australian Equal Opportunity Act says that a person subjects another to sexual harassment if they do any of the following in such a manner, or in such circumstances that the other person feels offended, humiliated or intimidated:

- a) they subject the other person to an unsolicited and intentional act of physical intimacy.
- b) they demand or request (directly or by implication) sexual favours from the other person.
- c) on more than one occasion, they make a remark pertaining to the other person, being a remark that has sexual connotations.

and it is reasonable in the circumstances that the other person should feel offended, humiliated or intimidated by that conduct.

#### **What is Sexual Harassment?**

Sexual harassment is unwelcome attention of a sexual nature. It can include, among other things:

- leering
- pinching or prodding
- touching or holding
- continually asking someone out after they have said "NO"
- telling smutty jokes in the presence of others
- repeatedly asking question about another's personal life or sexual habits
- demanding sexual favours in return for fair treatment at work
- trying to force a person to have sex.

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It is the perception of the behaviour by the person being harassed that decides what is sexual harassment, not the intention of the person being accused of harassment. Just because you did not intend, by your behaviour, to sexually harass an individual does not mean that harassment has not occurred.

Student/client-staff relationships must be kept on a professional level at all times. All behaviour of a sexual nature is unacceptable within this relationship and close friendships are discouraged.

It is not sexual harassment to develop friendships (sexual or otherwise) with other staff members in the workplace, as long as both of the people involved welcome that friendship.

### **Management liability and responsibility**

By law, all employers must have taken such steps as may be reasonably necessary to create and maintain a work environment that is free from sexual harassment.

### **Dealing with Complaints**

Adelaide Training and Employment Centre Inc. will treat all complaints of sexual harassment seriously and will deal with them promptly, impartially and confidentially in accordance with the relevant policy:

Client Complaints Resolution Procedure (SUP-PRO-DOC-010.1), or the Employee Grievance Process (SUP-PRO-DOC-010.2).

Management will support those parties involved in complaints of alleged sexual harassment and ensure the complaint is thoroughly investigated and the appropriate action taken.

## **5. DISCRIMINATION**

Unlawful discrimination means treating someone differently and less favourably because of one of the grounds spelled out in law (refer Schedule A). Additionally, the following personal characteristics are grounds for discrimination under Commonwealth laws are: religion, political opinion, medical record, irrelevant criminal record, social origin, trade union activity

Discrimination need not be DIRECT or open. It can be INDIRECT and harder to detect because it is built into the structure of an organisation, or into policies or practices or 'the way things are done'.

INDIRECT DISCRIMINATION happens when there is a requirement that at first sight seems to treat everyone equally, but which in fact has an unfavourable effect on one group of people.

For example, to say that only people over 180cms tall could apply for a job would have an unfavourable effect on women and on some ethnic groups and would be unlawful Indirect Discrimination on the grounds of sex and race UNLESS it could be proven that the job could only be done by someone over 180cms tall.

## **6. RIGHTS AND RESPONSIBILITIES**

The Equal Opportunity Act 1984 gives rights and responsibilities to employees, employers and clients.

Adelaide Training and Employment Centre Inc. must also comply with its obligations under Equal Opportunity for Women in the Workplace Act 1999.

Employees have the right to work in an environment free of discrimination and harassment.

Employees have the responsibility not to discriminate against or harass other employees, or clients/students.

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Employers have the responsibility to ensure that the workplace and the services given to clients/students are free of discrimination and harassment. Employers - and managers - have a legal responsibility to take all reasonable steps to make sure this happens. This Policy is one of the steps taken by Adelaide Training and Employment Centre Inc.

All employees will be made aware of this Policy and will be expected to adhere to it. All managers and supervisors will be expected to implement it.

You can phone, write, or call in to

**Equal Opportunity Commission of SA**

30 Wakefield Street

Adelaide 5000

Phone: (08) 8207 1977. Country toll free line: 1800 188 163

Website: [www.eoc.sa.gov.au](http://www.eoc.sa.gov.au)

or to

**Australian Human Rights Commission**

Level 3, 175 Pitt Street

Sydney NSW 2000

Telephone: (02) 9284 9600 Complaints Infoline: 1300 656 419

General enquiries and publications: 1300 369 711

### 7. ADELAIDE TRAINING AND EMPLOYMENT CENTRE INC.'S RESPONSIBILITY

The Chief Executive Officer of Adelaide Training and Employment Centre Inc., has ultimate responsibility for Equal Opportunity.

Day-to-day responsibility has been delegated to the Human Resources Manager.

Any complaints will be dealt with confidentially, quickly, seriously, and in an unbiased manner.

In addition, any person has the right at any time to contact the Equal Opportunity Commission for information or advice, or to lodge a complaint of discrimination.

The Management of Adelaide Training and Employment Centre Inc. accepts that the absence of discrimination and harassment leads to a more stable, more contented and therefore more productive workforce; and that the needs of clients will only be met in a satisfactory manner if service is provided without discrimination and harassment.

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### SCHEDULE A – GROUNDS FOR DISCRIMINATION

Grounds	Explanation
<b>Age</b>	Age discrimination is treating people unfairly because of their age. It applies to any age. Indirect age discrimination is treatment which appears to be equal but is unfair on certain people because of their age. To be unlawful it must be unreasonable
<b>On association with a child</b>	Association with a child discrimination occurs when a person is treated unfairly in customer service because they have a child with them or need to feed a child (including breast and bottle-feeding). It also occurs where a person is treated unfavourably in renting accommodation, because they will be sharing the accommodation with a child. It is also unlawful for a school, college, TAFE or university to treat a student unfavourably in her education because she is breastfeeding. South Australian law also covers <a href="#">access to premises</a> for people with disability
<b>Caring responsibilities</b>	Caring responsibilities discrimination is treating people unfairly because they have a responsibility to care for a dependent child or for an immediate family member who is in need of care and support. Immediate family members include: <ul style="list-style-type: none"> <li>• a spouse or domestic partner (including exes)</li> <li>• parents, grandparents, siblings, adult children or grandchildren</li> <li>• corresponding relatives of one's spouse or domestic partner (in-laws).</li> </ul> An Aboriginal or Torres Strait Islander person also has caring responsibilities if he or she has responsibilities to care for and support any person to whom they are related under applicable kinship rules. It is unlawful to treat a person unfairly because he or she has caring responsibilities (direct discrimination) or to set requirements that are especially difficult for carers to meet and are unreasonable (indirect discrimination). It is also unlawful to treat someone unfairly because of assumptions made about carers, e.g., that they will be late for work or that their mind will not be on the job.
<b>Chosen gender</b>	Chosen gender discrimination is treating people unfairly because they are living as a member of the sex opposite to what others might perceive to be their biological sex. This includes transgender people and people with intersex conditions. The person is entitled to be treated as a member of the sex that they identify as. Chosen gender discrimination includes treating the person less favourably than a person who is not of a chosen gender, setting a requirement that is harder for that person to meet than it would be for others not of a chosen gender, and also requiring the person to dress or act as a member of the sex with which they do not identify
<b>Disability</b>	Disability discrimination is treating people unfairly because of their disability. A disability includes a physical or mental illness, a learning or intellectual disability, a genetic predisposition to develop a particular illness and the state of having or carrying an infection, whether or not it is symptomatic. It also includes a disability that a person had in the past or may develop in the future.
<b>Marital status or domestic partnership status</b>	Marital status discrimination is treating people unfairly because they are single, married, divorced, separated, widowed, or living together with a partner.
<b>Pregnancy</b>	Pregnancy discrimination is treating women unfairly because they are or may become pregnant. Women have the right to work while pregnant and to be treated the same as other workers unless there are good medical reasons for different treatment.
<b>Race</b>	Race discrimination is treating people unfairly because of their race, which includes their colour, country of birth, ancestry, or nationality. It is also racial discrimination to treat people unfairly because of the race of their relatives, friends or workmates.
<b>Religious dress (in work or study)</b>	Religious dress or appearance discrimination is treating people unfairly because they wear clothes or adornments that are required by or symbolic of their religion. The protection applies at work, when applying for a job, and also when studying. It does not apply in other situations usually covered by equal opportunity law, such as in the supply of goods or the provision of services. It does not apply at a religious school where the student wants to wear dress or adornments of a different religion. Discrimination includes treating the person less favourably than others because of the person's dress and also includes asking them to alter their appearance or remove the religious dress.
<b>Sex</b>	Sex discrimination is treating people unfairly because they are either male or female. Indirect sex discrimination is treatment which appears to be equal but is unfair on certain people because of their sex. To be unlawful it must be unreasonable.
<b>Sexuality</b>	Sexuality discrimination is treating people unfairly because they are gay, lesbian, bisexual or straight. It also includes making assumptions about someone's sexuality.
<b>Spouses identity</b>	Spouse or partner's identity discrimination is treating people unfairly because of who their spouse or domestic partner is. It also covers ex-spouses and ex-partners. This is different from marital status discrimination. A person who is treated unfairly because they are divorced or because they are living in a same-sex relationship experiences marital status discrimination. A person who is treated unfairly because their spouse or partner is unpopular experiences discrimination on the ground of their spouse's identity. There are some situations where it is lawful to take account of who a person's spouse is. These are where it is reasonably necessary to treat the person differently to preserve confidentiality, to avoid a conflict of interest, to avoid nepotism or to protect anyone's health or safety.