



Penryn

Preparatory | College | Penreach

STAFF ANTI DISCRIMINATION POLICY

STATEMENT OF INCLUSIVITY

As a Methodist affiliated school, we recognise that we have a diverse group of staff and scholars and we embrace and value that diversity. We are cognisant and respectful of South Africa's particular context, with its history of exclusion, legalised racial segregation and discrimination, and the continual effect this had had on its citizens.

We believe that all people are created in the image of God and therefore should be treated with dignity and respect and we are duly bound to be inclusive and mindful of diversity in all our policies, programmes, classrooms and interactions.

We, therefore, respect and affirm all people regardless of their race, colour, age, belief, religion, conscience, culture, language, nationality, disability, ethnic or school origin, birth, sex, gender, gender identity, sexual orientation, marital status, pregnancy, and socioeconomic status.

We strive to create an environment of inclusivity through these principles. We respect and affirm the dignity of each member of our community.

We are committed to the ongoing education of our scholars and staff as part of the process of developing and maintaining a community that provides an affirming academic environment.

We will continually challenge ourselves, and others, in an environment of mutual concern and respect for the fundamental dignity of all individuals.



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A beacon of educational excellence since 1991



The Methodist Church of
Southern Africa



COMMITMENT TO THE CONSTITUTION

Penryn fully commits itself to promoting all fundamental rights and freedoms of every person as required by the Constitution, the Employment Equity Act (EEA) and the Promotion of Equality and Prevention of Unfair Discrimination Act.

In recognition of the constitutional commitment to the achievement of equity, the School fully commits itself to protecting all individuals within our school from direct and indirect unfair discrimination. As a result, we are committed to taking appropriate action against instances of unfair discrimination.

1. OBJECTIVES

The objectives of the policy and these procedures are:

- 1.1. To inculcate the values of diversity and inclusivity, and to recognise the fundamental dignity of all individuals.
- 1.2. To implement policy and action to eliminate unfair discrimination in the institution as a whole.
- 1.3. To ensure that appropriate and accessible procedures exist for scholars to report and address discrimination.

2. DEFINITIONS

- 2.1. The staff comprise:
 - Senior Management of School (Executive Head; College and Prep Head, Deputy Heads, Heads of Department and the Chaplain);
 - Teaching staff;
 - Administrative and Operational staff;
 - Interns and coaches;
 whether they are fixed term, permanent, full time or part-time employees.
- 2.2. For the purpose of this policy 'complainant' means any person or group within our school community who alleges any contravention of this policy and who institutes proceedings in terms of this policy
- 2.3. For the purpose of the policy 'racism' is:
 - 2.3.1. Prejudice, unfair discrimination, or antagonism directed against someone of a different race; or
 - 2.3.2. The belief that all members of each race possess characteristics, abilities or qualities specific to that race especially so as to distinguish it as inferior or superior to another race or races.
- 2.4. For the purposes of this policy 'unfair discrimination' means any act or omission including a policy, law, rule, practice, condition or situation which directly or indirectly
 - 2.4.1. Imposes burdens, obligations or disadvantage on or
 - 2.4.2. Withholds benefits, opportunities or advantages from any person on one or more of the prohibited grounds.
 - 2.4.3. As an independent, Christian, Methodist affiliated school, the Constitution of the Republic of South Africa grants the rights for Penryn to uphold this Christian identity and ethos in its practice and policies (fair discrimination).

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² There is a similar but separate staff policy in accordance to the ISASA requirements and the Employment Equity Act 55 of 1998

- 2.5. For the purpose of the policy 'harassment' means unwanted conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and which is related to:
- 2.5.1. sex, gender, or sexual orientation or
 - 2.5.2. a person's membership or presumed membership of a group identified by one or more of the prohibited grounds or a characteristic associated with such a group
- 2.6. For the purpose of this policy 'prohibited grounds' is discrimination on the basis of:
- 2.6.1. race, colour, age, belief, religion, conscience, culture, language, nationality, disability, ethnic or social origin, birth, sex, gender, gender identity, sexual orientation, marital status, pregnancy and socio economic status, or
 - 2.6.2. any other ground where discrimination based on that other ground;
 - 2.6.2.1. causes or perpetuates systematic disadvantage
 - 2.6.2.2. undermines human dignity, or
 - 2.6.2.3. adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a ground in paragraph 2.5.1.
- 2.7. For the purpose of this policy 'respondent' means any person against whom proceedings are instituted in terms of this policy.

3. INFORMATION AND EDUCATION

Penryn is first and foremost an educational institution. Therefore, we have a duty to ensure that:

- 3.1. The School's formal and informal curricula reflect and promote the values of inclusivity, diversity and human dignity.
- 3.2. All staff are educated on fundamental constitutional rights, racial discrimination, sexual discrimination, homophobic discrimination and the relevant Penryn policies on unfair discrimination.
- 3.3. All orientation/induction of new staff (at all levels) must include education on fundamental constitutional rights, racial discrimination, sexual discrimination, homophobic discrimination, and the relevant Penryn policies on unfair discrimination.
- 3.4. All academic staff are required to promote equality and sensitivity to diversity in the specific courses where relevant.
- 3.5. All staff members and tutors are required to promote equality and equity in their respective houses/departments.
- 3.6. Administration and support services are required to promote and support equality as well as equity on campus.
- 3.7. The School will develop and publish a set of guidelines to scholars and staff on promoting equality and equity and responding to unfair discrimination.
- 3.8. All formal documentation and other policies will recognise and refer to this policy where necessary.

4. EXAMPLES OF UNFAIR DISCRIMINATION

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- 4.1. The School prohibits any behaviour that unfairly discriminates against any individual or group
- 4.2. The contravention of 4.1 may lead to formal disciplinary action.
- 4.3. Unfair discrimination may compromise, but is not limited to any of the following forms of discrimination:
 - 4.3.1. Direct unfair discrimination – an overt act of discrimination that is not reasonable or justifiable
 - For example
 - Hate speech i.e. communication including remarks and gestures that impair the human dignity of other persons is a form of harassment that constitutes direct unfair discrimination
 - Derogatory remarks concerning a person's race, ethnicity, colour, religion or nationality are considered as serious forms of unfair discrimination as they continue to promote racial discrimination.
 - 4.3.2. Indirect unfair discrimination i.e. a distinction, exclusion, restriction or preference that on the surface appears neutral but in application unfairly discriminates against individuals or groups. For example:
 - Insisting that potential academic staff have experience of teaching at an IEB school before they will be considered for employment, may exclude persons from previously disadvantaged backgrounds.

Other examples of unfair discrimination could include¹:

- Name calling, derogatory comments about any person, physical abuse, abuse of personal property, graffiti or chalking of slogans which are offensive to others on religious, racial, sexual orientation or gender grounds
- Wearing of racist insignia, declining to participate or share for overt reasons pertaining to race, gender, class, religion or perceived or actual sexual orientation.
- Offensive physical gestures or body language, excluding other individuals from activities on the grounds of race, class, religion or sexual orientation.
- Telling jokes that are offensive to members of a particular race, gender, sex, age, class, sexual orientation, language or religious group.
- Imitating accents, negative (unfair discriminatory/offensive) comments about individuals or groups pertaining to appearance, clothes, food, accent or dialect, language, social status, financial status, physical ability, intellectual ability, culture, religion, country of origin, family, sexual orientation or any other form of action, behaviour or treatment related to prohibited grounds.

5. GUIDING PRINCIPLES

- 5.1. The School commits itself to providing an environment in which the dignity of all is respected. Victims of unfair discrimination should not feel that their grievances are ignored or trivialised, or fear reprisals.
- 5.2. All staff have a role to play in creating and maintaining an environment in which unfair discrimination is unacceptable. They should ensure their conduct does not cause offence and they should discourage unacceptable behaviour on the part of others.
- 5.3. Management is required to take appropriate action in accordance with this policy when instances of unfair discrimination at the School are brought to its attention.

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- 5.4. Allegations of unfair discrimination will be viewed extremely seriously and investigated rigorously and promptly. If substantiated, the individual found guilty of such behaviour faces serious consequences.
- 5.5. Unsubstantiated, frivolous or malicious allegations will also be viewed in an extremely serious light and the person making such allegations may also face disciplinary action.

6. APPLICATION OF THE POLICY

This policy and these procedures apply to all Penryn staff²

7. PROCEDURES

- 7.1.1. These procedures will apply in instances when there are allegations of unfair discrimination as outlined in Section 4 of this document.
- 7.1.2. This policy document is recognised as serving alongside the Grievance Procedure and Disciplinary Code. Where appropriate the procedures in the Disciplinary Code will apply.
- 7.1.3. These procedures aim to resolve any complaints/reports of unfair discrimination in a sensitive, efficient and effective way. Procedures commence with the first conversation a complainant initiates with an advisor and the particular steps taken thereafter will depend on the severity or seriousness of the matter reported.
- 7.1.4. The School recognises that it is first and foremost an educational institution and that in all circumstances we should be mindful of this role. The age (i.e. maturity level) of the complainant (s) and respondent (s) as well as the following criteria will be kept in mind when the severity of the incident is assessed:
- Was the behaviour hurtful?
 - Was the behaviour intentional or deliberate?
 - Has the behaviour been persistent?
 - Has the behaviour continued in spite of warnings to the respondent to desist?

7.1 LEVEL 1: CONFIDENTIAL ADVICE AND ASSISTANCE

7.1.1. Allegations of behaviour motivated by racism, homophobic, sexism, or other forms of unfair discrimination are sensitive issues and a complainant may feel unable to approach the perpetrator or turn to friends or peers for support. Complainants may therefore approach the Chaplain, School Psychologist, the Head of School or Deputies for confidential advice or alternatively a complainant can post any report of discrimination on the reporting app (currently the Guardian App) which all staff have access to on their mobile communication devices.

7.1.2. All of the above staff:

- a) have the appropriate skills and experiences and are given adequate resources to provide support and advice on a confidential basis;
- b) will assist the complainant in clarifying whether the offending behaviour may indeed constitute unfair discrimination;
- c) will discuss ways in which the problem might be resolved;
- d) will listen and provide supportive advice to the complainant, whatever course of action is chosen.

7.1.3. The purpose of Level 1 action is to:

- a) identify the extent of perceived harm

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- b) identify whether the alleged unfair discrimination falls within the ambit of the definition;
- c) assess the extent to which the alleged unfair discrimination breaches the standards of conduct;
- d) provide a confidential, private and non-threatening advisory to the complainant, without prejudice to ensure she/he is enabled to assess the situation and the options objectively but with full cognisance of the intrinsic right to non-discriminatory school environment.
- e) Assist the complainant to make a rational and non-threatened personal decision on the preferred way forward to restore equity.

If the Executive Head or Head of School is de facto compromised in any matter of alleged unfair discrimination, the matter must be referred to the Chair of Council.

7.2. MEDIATION

7.2.1. Intermediate intervention can be sought if the complainant or confidante believes that a discussion or action that involves the alleged perpetrator can potentially resolve a matter

7.2.2. The purpose of Level 2 action is to:

- 7.2.2.1. Assess whether, subject to the above, there is a basis for the protagonists to meet with the view to resolve the matter within their own cognisance, with the assistance of a mediator:
- 7.2.2.2. If within the reasonable reach of mediation, to establish the scope and structure for such a process, including a mutually acceptable mediating resource who must be a senior manager;
- 7.2.2.3. Establish alternatively whether the nature and extent of the breach places the matter beyond mediation, thereby formulating the basis for formal disciplinary action.

7.2.3. The Internal Mediation process in matters of unfair discrimination in the workplace

- 7.2.3.1. The process must remain informal and confidential, but certain steps and structure must be observed, in the event of failure of the mediation.
- 7.2.3.2. On condition that the complainant agrees, the senior manager will offer the alleged perpetrator the option of a mediated meeting, without prejudice, and at earliest convenience
- 7.2.3.3. The senior manager must, in consultation with the HR Officer, set up and continue with the mediated meeting in a manner appropriate to the content of the matter and the interests and personalities of the protagonists.
- 7.2.3.4. Ensure that the right to representivity from within the school community is adhered to.
- 7.2.3.5. Ensure that the process remains focussed on a mutually acceptable insight and concurrence between the parties, and not on fault or liability.
- 7.2.3.6. Ensure that only the outcome and agreed actions arising from that process are recorded, and are agreed to by both parties.
- 7.2.3.7. If either party refuses an offer of mediation at Level 2, or if the mediation fails to find an outcome acceptable to both parties, the process may immediately escalate to Level 3.

7.2.4. If the matter can be resolved to the satisfaction of both parties at this stage, the process will be terminated.

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- 7.2.5. If the matter remains unresolved, the matter may be referred to the Executive Head, who on reasonable consideration of the situation, may invoke Level 3.
- 7.2.6. In the event s/he elects not to refer the matter to Level 3, s/he must provide written reasons to the complainant.

7.3. LEVEL 3: DISCIPLINARY PROCESS IN MATTERS OF UNFAIR DISCRIMINATION

- 7.3.1. If the matter is pursued to Level 3 by the Executive Head, it will result in a disciplinary process, by which the matter must be investigated on the basis of valid and reasonable evidence, and on the basis of prima facie confirmatory evidence, a disciplinary hearing must be initiated.
- 7.3.2. In this event, the provisions of Penryn Disciplinary Code and Procedure will apply.
- 7.3.3. The disciplinary Code and Procedure will make specific provision for the sensitivities relevant to this form of conflict.

7.4. PROTECTED DISCLOSURES

- 7.4.1 The school recognizes the rights afforded to staff in relation to the Protected Disclosures Act (26 of 2000, amended). The School will respect and protect the right of a staff member to disclose matters of this nature to an external third party with the view to exposing unlawful conduct or with the view to taking reasonable actions in the failure of the school to provide reasonable protection to alleged victims of unfair discrimination, per definition in this Policy.

- 7.4.2. For the purposes of this Policy, an external third party means:

- The media, formal and informal
- The Department of Education, Department of Labour and any other Department of the country
- The private education sector regulatory authorities

- 7.4.3. Such protection is conditional on:

- a) The allegations of unfair discrimination being based on reasonable beliefs and/or objective facts.
- b) Reasonable steps having first been taken internally to alert the school to the alleged unfair discrimination, and to provide reasonable opportunity to the school to respond to recognise and eliminate the alleged unfair discrimination.

7.5. MANAGEMENT OF HUMAN DIGNITY

- 7.5.1. It is recorded that the processes applied in this Policy assume that the dignity and protection of all parties to a dispute of this nature are protected, in terms of the Constitutional protections afforded to both the alleged victim and alleged perpetrators of harm.
- 7.5.2. In this regard, regardless of the outcome of the above process the school will offer to the parties' relevant support and assistance in order to restore a fair and equitable school environment. Such assistance may include further counselling, or any other relevant intervention which may assist to restore the status quo.

8. CONFIDENTIALITY

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- 8.1. The School will make every effort to ensure that complaints about unfair discrimination are handled in a manner that keeps the identities of the persons involved confidential, unless required by the law.
- 8.2. The School must endeavour to ensure confidentiality at the disciplinary hearing.

9. PROVISION FOR REVIEW OF POLICY AND PROCEDURES

The policy and procedures may be reviewed at least every three years, but may be reviewed at any time if necessary, and appropriate changes made if necessary.

Amendments: June 2021
August 2021

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