



WESTERFORD HIGH SCHOOL DIVERSITY AND INCLUSIVITY POLICY

1. Introduction to the policy

- 1.1 The School recognises, values and promotes diversity, inclusion and belonging in all ways and aims to encourage positive personal relationships in an environment where individuals feel free to be themselves and are treated with dignity and respect.
- 1.2 This policy seeks to ensure that all, regardless of their race, gender, sexual orientation, socio-economic status, religion or any other prohibited grounds¹, feel safe and comfortable at Westerford. In doing so the policy aims to instil an inclusive climate in the School.
- 1.3 This policy aims to eliminate all forms of unfair discrimination and to encourage open discussions amongst all members of the community. The community includes all current pupils and members of staff of Westerford, including grounds staff, cleaning staff, casual staff, administrative staff and teaching staff. This would be done by holding discussions for parents through the Parent Network Group (PNG), engaging in ongoing education with staff and pupils, among other things. The aim is to help to create an environment in which all members of the community thrive.
- 1.4 The Life Orientation syllabus at the School must include, at an appropriate stage in the experience of the pupils at the School, education in both the form and content of this policy, and the objectives which underlie its adoption.

2. Objectives of the Policy:

This policy seeks:

- 2.1 to foster an environment where everyone associated with the School is treated with courtesy, dignity and respect;
- 2.2 to provide a mechanism for the reporting of any kind of unfairly discriminatory behaviour, conscious or unconscious, and then to ensure that an effective process is followed to resolve these complaints in a fair, timeous and appropriately confidential manner.
- 2.3 to raise the awareness and understanding of the members of the Westerford community, as outlined above, with regard to the impact that their behaviour and actions may have on others;
- 2.4 to make every individual aware of their rights and responsibilities as they are outlined in the South African Constitution;
- 2.5 to give any individual an equal opportunity for employment or election to office in any position at the school, regardless of their race, gender, sexual orientation, socio-economic status, religion, and/or any other prohibited grounds¹; but with due regard to the imperative to redress past discrimination, and;
- 2.6 to prevent the victimisation or harassment of individuals who have laid a complaint under this policy, and/or who serve to support the complainant by acting as witnesses of the allegedly unfair discriminatory behaviour.

¹ See definition of "prohibited grounds" in Section 1 of the Promotion of Equality and Prevention of Unfair Discrimination Act No.4 2000.



3. Expectations of the members of the Westerford community:

The School expects all those to whom this policy applies:

- 3.1 to treat one another with respect;
- 3.2 to recognise, appreciate and actively promote diversity and inclusion in the School;
- 3.3 to listen to one another;
- 3.4 to afford everyone the equal right to dignity;
- 3.5 to educate themselves with regard to various types of discrimination; and
- 3.6 to treat one another as human beings of equal value.

4. Definitions

In this policy, unless specified otherwise, the following words and phrases bear the meanings specified:

- 4.1 'Complainant' means any person who alleges any contravention of this policy and who institutes proceedings in terms of the policy;
- 4.2 'Discrimination' means any act or omission, including a policy, law, rule, practice, condition or situation, which directly or indirectly *and unfairly*:
 - 4.2.1 imposes burdens, obligations or disadvantages on; or
 - 4.2.2 withholds benefits, opportunities or advantages from;any person on one or more of the prohibited grounds;
- 4.3 'Prohibited grounds' are:
 - 4.3.1 race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; or
 - 4.3.2 any other ground where discrimination based on that other ground:
 - 4.3.2.1 causes or perpetuates systemic disadvantage;
 - 4.3.2.2 undermines human dignity; or
 - 4.3.2.3 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 4.3.1;
- 4.4 'Equality' includes the full and equal enjoyment of rights and freedoms as contemplated in the Constitution and includes equality in law and in fact, and also equality of outcomes;
- 4.5 'Pregnancy' includes any condition related to pregnancy, intended pregnancy, potential pregnancy or termination of pregnancy; and
- 4.6 'Socio-economic status' includes a social or economic condition or perceived condition of a person who is disadvantaged by poverty, low employment status, or lack of, or low-level educational qualifications.



5. Application of this Policy

- 5.1 This policy applies to all current pupils and members of staff of the Westerford community, including grounds staff, cleaning staff, casual staff, administrative staff, teaching staff and office bearers.
- 5.2 This policy applies to them whilst they are on the school campus, at school events, representing the School in any capacity, and supporting the School at events on or off the campus.
- 5.3 This policy extends to social media engagement and to any other forms of media or communication, irrespective of whether the perpetrators are recognisable as members of the School. The sharing of information or communications will also be dealt with under this policy.

6. Types of Discrimination

There are **four** categories of discrimination according to the Equality Act:

6.1 Direct discrimination

When an individual is treated less favourably on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth, or any other prohibited grounds as outlined by the South African Constitution.

6.2 Indirect discrimination

When practices and policies in fact affect a certain group of individuals more than others, and when such practices and policies seem to be neutral but, in fact, have a disproportionate effect on individuals from different groups.

6.3 Harassment

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 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 group.

6.4 Hate speech

The publishing, propagating, advocating or communicating of words based on one or more of the prohibited grounds, against any person or group of persons, that could reasonably be construed to demonstrate a clear intention to:

- 6.4.1 be hurtful;
- 6.4.2 be harmful or to incite harm;
- 6.4.3 promote or propagate hatred.



7. Forms of Unfair Discrimination

- 7.1 Unfair discrimination includes, but is not limited to, one or more of the following, whether in the form of direct or indirect conduct or as expressed on any media platforms:
- 7.1.1 oral abuse and threats;
 - 7.1.2 written abuse in whatever form it appears;
 - 7.1.3 psychological conduct;
 - 7.1.4 physical actions;
 - 7.1.5 cyberbullying; or
 - 7.1.6 provocative behaviour.
- 7.2 In cases of hate speech and harassment, the determination of fairness does not apply.²

8. Independent Diversity and Inclusivity Committee

- 8.1 This committee is to decide on whether a complaint warrants further investigation by the EIDIC or not.
- 8.2 It is imperative that the Independent Diversity and Inclusivity Committees be diverse, and, wherever possible, that there is at least one representative drawn from whichever group is being discriminated against.
- 8.3 Establishment of the Independent Diversity and Inclusivity Committees
- 8.3.1 The Principal must establish an Independent Diversity and Inclusivity Committee (IDIC) which must be both diverse and inclusive in its composition. The IDIC has both a permanent and an expanded membership.
 - 8.3.2 The permanent IDIC (PIDIC) must include:
 - 8.3.2.1 the Chairperson (nominated by members of the SGB Transformation Portfolio, and with a 75% majority vote, who may be drawn from outside the School);
 - 8.3.2.2 the Deputy responsible for discipline;
 - 8.3.2.3 a Grade Head; and
 - 8.3.2.4 one prefect from the Discipline Portfolio.
 - 8.3.3 An expanded IDIC (EIDIC) is convened when the PIDIC decides that any complaint (lodged as provided for below) warrants further investigation and decision. The composition of this EIDIC varies according to the nature of the complaint, provided that diversity of membership must be the objective. The EIDIC consists of the membership of the PIDIC and must also include one additional member from each of the following groups:
 - 8.3.3.1 a member of the SGB;
 - 8.3.3.2 a pupil in the grade of the complainant; and
 - 8.3.3.3 an expert in the field within which the complaint falls, from outside of the School.

² See Section 15 of the Promotion of Equality and Prevention of Unfair Discrimination Act No.4 2000.



9. The responsibilities and process of the IDICs:

Both the PIDIC and the EIDIC must at all times strive for both procedural and substantive fairness in their deliberations and decision-making.

9.1 Within this general imperative, the members must:

- 9.1.1 ensure that both the complainant and the alleged perpetrator are dealt with in a respectful way;
- 9.1.2 deal with any incidents timeously. This means that the PIDIC must inform the complainant of its intended course of proceeding within 72 hours of receiving the complaint; and
- 9.1.3 ensure that, where necessary, appropriate sanctions are imposed on the perpetrator.
- 9.1.4 In exceptional circumstances, the PIDIC may require seven days to reach a decision on whether to refer the matter to an EIDIC, but in such a case the PIDIC must notify the complainant of this necessity.

9.2 Investigations

If the PIDIC deems it necessary to investigate the complaint more fully, it must convene an EIDIC to conduct the investigation.

9.2.1 After an investigation of the relevant facts and circumstances, the EIDIC must conduct a disciplinary hearing.

9.3 The PIDIC must respond to the complainant, reporting on the conclusions reached by the investigations, if possible within one working week, unless the allegation requires more extensive investigation.

9.4 The complainant may choose to receive a 'formal' or an 'informal' outcome of the complaint. It is recognised that there are times when the complainant may have been hurt or offended by the actions, behaviour or comments of another, but may not *want* a formal outcome to the complaint.

9.4.1 The option of an informal outcome in no way takes away from the seriousness of the disciplinary action. It provides the scope for dealing with the subtleties of unfair discrimination while normalising the reporting of complaints, thereby facilitating a less threatening method for an individual to come forward and report an incident where they have been hurt or offended.

9.5 The complainant and the alleged perpetrator are entitled to the presence of another member of the current School community who represents or supports each of them. A legal practitioner may be admitted to the proceedings where the circumstances necessitate this.

9.6 The desired outcome of a disciplinary procedure under this policy is restorative justice. This means that, wherever possible, there is an informal, amicable, respectful, and equitable resolution of the incident. This resolution must take into account the seriousness of the infringement and must ideally be fully supported and accepted by both individuals or groups involved. However, the pursuit of such an outcome should not impose undue pressure on any of the parties to express such support: if a comfortably-agreed outcome cannot be achieved, other means of addressing the complaint must be followed, at the discretion of the EIDIC.

Through mediation and discussions both parties should reach a point where they are confident that they can continue in the School environment without fear of intimidation, harassment, or retribution.

9.7 Each case brought to the PIDIC must be dealt with as required by the context and nature of the complaint, as well as taking into account the nature of the response sought by the complainant.

9.8 The PIDIC must ensure that the complainant and/or the perpetrator are given appropriate emotional support or counselling should the complainant and/or the perpetrator want this.



- 9.9 Meticulous record-keeping of the hearing and any relevant documentation must be kept.
- 9.10 Should a complaint come from an anonymous source it must be taken seriously and investigated as far as possible. However, it must be emphasised that it may not be possible to reach a satisfactory outcome for an anonymous complainant. Therefore, complainants are encouraged to identify themselves.
- 9.11 A complainant may withdraw their complaint at any stage of the process. In such a case the school should investigate the reason for the withdrawal and take appropriate measures, including counselling.
- 9.12 Should the PIDIC decide that a complaint has been made falsely or with malicious intent, it may decide to discipline or sanction the complainant.
- 9.13 An appeal of the decision of the PIDIC by either the complainant or the perpetrator, must be made to an ad hoc committee of the SGB, appointed by the Executive (or Transformation Committee, i.e. an existing disciplinary committee on the SGB while still maintaining diversity amongst the members) Committee of the SGB.

10. How to report an incident of unfair discrimination:

- 10.1 Complainants are urged to follow one of the following two avenues for reporting an allegation of unfair discrimination:
 - 10.1.1 The incident may be reported to anyone to whom the complainant feels comfortable to speak. In this case, the complaint should be reported by this person to any member of the PIDIC within 24 hours of their receiving the complaint.
 - 10.1.2 The complaint may be e-mailed to this address justice@westerford.co.za and will be accessible to the members of the Executive of the School and then referred on to the PIDIC.
- 10.2 Information to be included in the complaint form:
 - 10.2.1 What happened, when it happened, who the alleged perpetrator is, who witnessed it, how the complainant felt about what happened as well as what sanction the complainant would like imposed.
 - 10.2.2 Once the incident has been reported in one of the two ways mentioned above, the complainant must fill out the standardised form below – Discrimination Complaint Form - in as much detail as possible. This form will be made available on the Common Drive for all to access.
- 10.3 The PIDIC has limited capacity to deal with complaints that are made anonymously.

11. Possible sanctions for an individual infringing on the provisions of this policy:

The EIDIC may impose/recommend one or more of the following sanctions on those who, after due process, are found to have infringed any of the provisions of this policy:

- 11.1 A written apology by the perpetrator to the complainant alone, or circulated more widely, as appropriate, in the discretion of the PIDIC.
- 11.2 Any appropriate form of restorative justice.
- 11.3 Community service.



- 11.4 Enrolment in, and full attendance at, a course educating the perpetrator in whichever category the discrimination occurred.
- 11.5 Counselling from within the School.
- 11.6 Counselling from outside the School.
- 11.7 Suspension.
- 11.8 Termination of employment where the perpetrator is an employee.
- 11.9 In the case of an employee of the School being the perpetrator, the normal rules and regulations related to employment practice per the *Employment of Educators Act 76 of 1998* will apply.
- 11.10 Reporting the incident to the police station (this may be a legal obligation for adults or pupils depending on the nature of the complaint).
- 11.11 In addition, in the case of a **pupil** being the perpetrator, one or more of the following sanctions may be imposed instead of or in addition to the sanctions listed above:
 - 11.11.1 detention including Saturday detentions;
 - 11.11.2 internal suspension during breaks for up to two weeks;
 - 11.11.3 full internal suspension (class and breaks) for up to two days;
 - 11.11.4 full internal suspension up to a week (to be confirmed by the Principal); and/or
 - 11.11.5 recommendation for expulsion to the SGB and WCED.
- 11.12 In the case of a **pupil** perpetrator, the parents/guardian – who would have been in attendance in support of their child during the investigation process - must be informed of the outcome of the hearing via a phone call by the Chairperson of the EIDIC, and through written correspondence which details the nature of the offence, the decision reached by the EIDIC, including – where applicable – details of sanctions imposed.

12. Possible sanctions for an individual who falsely accuses someone without any evidence of the reported actions being unfairly discriminatory:

If any person is found after due process to have accused another falsely of the alleged infringement of this policy, they may be required to:

- 12.1 Enrol in, and fully attend, a course educating the accuser in whichever sphere they have made such a false accusation; and/or
- 12.2 Undergo counselling from within the School or from outside it; and/or
- 12.3 Receive another appropriate sanction dependent on the severity of the offence drawn from the list above in clause 11.



13. Other measures to promote equality

In carrying out their duties and responsibilities under this policy, the SGB (School Governing Body), SMT (Senior Management Team) and Principal must:

- 13.1 audit *all* the School's other policies and practices periodically with a view to eliminating all discriminatory aspects;
- 13.2 monitor and, where required, develop progressive policies and initiate codes of practice in order to eliminate unfair discrimination;
- 13.3 investigate and adopt viable action plans for the promotion and achievement of equality and prevention of unfair discrimination; and
- 13.4 give priority to the elimination of unfair discrimination and the promotion of equality.

Adopted by the School Governing Body of Westerford High School at _____

on _____.

Signed:

Chairperson of the SGB

Principal of Westerford High School



CONFIDENTIAL DISCRIMINATION COMPLAINT FORM	
Name of Complainant/s	
Date of Complaint	
Name of Complainant's/s' Representative (if any)	
Name of the alleged perpetrator/s (If known)	
Please indicate whether you would like a 'formal' or 'informal' process	
Details of the complaint	
Please be as specific as possible with regard to: What happened? Where it happened? When it happened, day, date and time? Who was present and witnessed the incident?	
Desired Outcome	
What sanctions or consequences would you as the complainant like to see with regard to this complaint? Bear in mind that this is a guide for the committee and may not be the official sanction.	
Signature of Complainant:	Date signed:
Signature of Complainant's representative (if any):	Date signed:



Sources

St. John's College, South Africa, Dignity and Anti-Discrimination Policy (May 2018)

St. Peter's College, Australia, Equal Opportunity and Anti-Discrimination Policy (Approved May 2010, Revised January 2017)

Promotion of Equality and Prevention of Unfair Discrimination Act No.4 2000

Kehiloe Ntsekhe, Independent Consultant and parent at Westerford

Solange Rosa, Director of the Bertha Centre for Social Innovation and Entrepreneurship at the Graduate School of Business, University of Cape Town and parent at Westerford

Hugh Corder, Professor Emeritus of Public Law at the University of Cape Town and parent at Westerford

Alison Gray, Deputy Principal at Westerford High School