



## Tracking Your Rights: Education

The *Universal Declaration of Human Rights* states that:  
Everyone has the right to education. Education...shall promote understanding, tolerance and friendship among all nations, racial or religious groups. (Article 26)

### What does the *Anti-Discrimination Act 1991* say about education?

The Act applies to education at:

- a school (government or private)
- a college or university
- an institution providing training or instruction
- employer provided training or instruction.

### Enrolling as a student

When enrolling at a school or in a course, the Act says that an educational authority must not discriminate:

- in failing to accept your application for admission as a student
- in processing your application so as to disadvantage you
- in using criteria or making arrangements for deciding who should be offered a place so as to disadvantage you
- in offering terms for admission which disadvantage you.

### Enrolled students

Once you are an enrolled student, an educational authority must not discriminate against you by:

- varying the terms of your enrolment
- denying or limiting access to any benefit arising from the enrolment that is supplied by the authority
- excluding you
- treating you unfavourably in any way in connection with your education.

### What is discrimination?

Direct discrimination happens when you are treated worse than someone else because of your: race, age, family responsibilities, parental status, relationship status, pregnancy, breastfeeding, impairment (a disability), religious belief or activity, sex (male/female), gender identity, sexuality, lawful sexual activity (as a sex worker), trade union activity, political belief or activity, or association with, or relation to, a person identified on the basis of any of the above attributes.

**Sex discrimination:** Louanne enrolled in a TAFE course in car maintenance. She was the only woman in the class and the instructor constantly criticised her work, put her down in front of the class and said that women belong 'in the kitchen, not in the workshop.' She feels very discouraged and thinks she will drop the course.

### Race discrimination

Cathy is at primary school and would like to learn to play the violin. She has been assessed as having the aptitude, but needs to borrow a school instrument so that she can practice at home. The music co-ordinator said that she is not prepared to loan Cathy a school instrument, because Aboriginal students always lose or wreck the instruments.

### Impairment discrimination

Josh is a bright student and has a severe visual impairment. He is making subject selections for year 11 and wants to do legal studies. The year co-ordinator told him that he cannot do the subject he has selected. His view is that catering for Josh's impairment will take up too much of the teacher's time. Josh has a screen reader which can read text to him from his computer and has achieved good grades to date.

### Sexuality discrimination

Tom is a young, openly gay man. He enrolled in a bar course run by a private company and wants to work in the hospitality industry. In class, the trainer made disparaging remarks about gays and referred to 'poofter bars'. Tom felt that he wasn't getting any of the hands on help from the trainer that he gave to other students. At the end of the course Tom asked the trainer for a reference, but the trainer refused to give him one. All the other students who made a request received a positive reference which could help their job prospects.

### Pregnancy discrimination

Meg attends high school and is in year 11. She found that she is pregnant, but wants to complete her schooling. When the school heard that Meg is pregnant, the principal asked her to leave school 'for the sake of the school's reputation.'

### What is indirect discrimination?

Sometimes a rule or practice seems to be the same for all people. However if it disadvantages a particular group of people more than others, in a way that is not reasonable, it may be indirect discrimination.

### Impairment discrimination

Kevin has quadriplegia as the result of a car accident and uses a manual wheelchair to get around. He has just completed year 12 and is looking forward to graduating with his mates. Because of difficulties with accessibility at the venue chosen for the graduation ceremony, Kevin is unable to graduate alongside his fellow students. He cannot walk up the stairs onto the stage with the other students.

### Students who need special services or facilities because of an impairment

An educational authority must not discriminate against students or prospective students, because they have an impairment. The authority should take all reasonable steps to accommodate the student's impairment.

Marcia complained to the school because her child, who has been assessed as having attention deficit disorder, was excluded from the school choir after forgetting to attend practice. The complaint was resolved with an agreement to introduce a communication book so that the child and her parents would have easy access to reminders about important school events.

Michael has a learning disability (dyslexia) and was refused admission to a technical college to gain a trade qualification. His guidance officer said that with a small amount of extra support from the college, he would certainly be able to cope with the course.

### Unjustifiable hardship

Failure to provide a student with a special service or facility may not be unlawful if it causes the educational authority unjustifiable hardship. The educational authority must consider all the circumstances of each case when deciding whether the supply of special services or facilities to accommodate a student's impairment, would cause them unjustifiable hardship.

Gemma has a number of impairments and her mother wants her to have as normal a life as possible, including attending the local primary school which her older sister attends. The school said that it cannot accept the enrolment, because Gemma would need a full time aide or carer to work with her, and the school is not funded for such a position. The school is a small independent school with a total enrolment of 150 students.

### What is vilification?

Vilification is publicly inciting others to hate, have serious contempt for, or severely ridicule people because of their race, religion, sexuality or gender identity. Vilification is unlawful.

Local high school rugby league matches are played on Saturdays and attract a good following of parents and supporters. One team has a number of Aboriginal and Torres Strait Islander players and is the 'away' team. Parents from the home team are watching the game and start calling out racist abuse about the away team. They encourage the home team players to 'Go get the black bastard. Hit that ape. Bash him.'

If the incitement involves threats of physical harm to people or their property, it is a criminal offence.

### What is sexual harassment?

Sexual harassment is unwelcome sexual behaviour directed at you, which makes you feel offended, humiliated or intimidated, and in the circumstances, it is reasonable to feel that way. Both males and females can sexually harass and be harassed. It has nothing to do with mutual attraction and friendship between people. Sexual harassment can happen between students or between staff and students.

It includes the following behaviour:

- subjecting you to an unsolicited act of physical intimacy (touching, patting, pinching, brushing up against you in a sexual way)
- requesting sexual favours from you (sexual propositions)
- making remarks with sexual connotations about you (suggestive comments or questions about your appearance, body or private life)
- being subjected to any other unwelcome conduct of a sexual nature which is directed at you (insults or taunts based on your sex; indecent exposure; sexually explicit phone calls, text messages and emails)

Hayley approached the chaplain at her high school because she did not know who else to turn to. She said that certain boys call her (and other girls) names such as 'slut', 'dog' and 'slag'. They also make jokes and comments loud enough for her to hear them, about the size of her breasts.

Simon is a first year university student. His female tutor keeps asking him to go out with her. He has told her he has a girlfriend and that he is not interested. She says that she might be in a position to do him a favour with his grades, if he does her a 'favour'. Simon knows that she means sexual favours and has taken to skipping tutorials to avoid the tutor.

Jamilee is a first year teacher at a private boys' school. She went to see the principal because of the behaviour of some of the students who make comments with sexual innuendoes to her in class. She believes the same boys have left obscene notes on her car windscreen, pornography in her in tray and made obscene phone calls to her home.



### Other important/useful information

The Act allows exemptions in some situations which could otherwise be discrimination. Here are some that apply to education.

- **Single sex:** An educational institution can be set up for all girls or all boys.
- **Religion:** An educational institution can be set up for students of a particular religion.
- **Impairment:** An educational institution can be set up for students who have a particular impairment.
- **Minimum age:** An educational institution can set a minimum age for students.
- **Welfare / equal opportunity measures:** An educational authority can implement welfare measures or equal opportunity measures for people for whose benefit the Act was designed.

The provision of a teacher's aid specifically to assist and support Aboriginal or Torres Strait Islander students is an example of a welfare measure.

A teaching scholarship available to only Aboriginal or Torres Strait Islander students is an example of an equal opportunity measure.

### Bullying

Students have the right to learn in a safe and supportive environment that values diversity - an environment free from bullying, harassment, discrimination and violence.

Bullying is repetitive behaviour that is offensive, intimidating or humiliating and degrades or insults you.

Some forms of bullying are covered by the *Anti-Discrimination Act 1991*. A complaint may be made to the Anti-Discrimination Commission Queensland about bullying in the provision of education, if the bullying is because of your: race, age, family responsibilities, parental status, relationship status, pregnancy, breastfeeding, impairment, religious belief or activity, sex (male/female), gender identity, sexuality, lawful sexual activity (as a sex worker), trade union activity, political belief or activity, or association with, or relation to, a person identified on the basis of any of the above attributes.

**Impairment:** Tim's mother is concerned that since starting high school he's been making excuses not to go to school. He used to like school and was always keen to get there. One day she found him in tears and he said that he was having a rough time at school. Other boys call him 'spazo', 'cretan' and make fun of the way he speaks. Even though he has told his form teacher about it, no action has been taken. Tim has a cleft palate.

**Sex:** Andrea is doing an IT (information technology) course at university. As the only girl in the class she is constantly subjected to belittling and insulting sex based comments, constant sexist jokes and sarcasm. Even the male lecturer seems on side with the boys. He only asks her to do menial tasks and is patronising. She knows she got into the course because of her own ability, but now thinks that because of the constant bullying, she'll have to go into some other field.

If the bullying is not covered by the Act, you will need to contact a school teacher, guidance officer, the school principal, university administration, union or guild for information on their policies and procedures.

Many students also have part-time or casual jobs. Bullying at work is sometimes called workplace harassment. Employers are obliged to provide safe places of work. If the workplace harassment is because of an attribute as outlined above, you can make a complaint to the Anti-Discrimination Commission Queensland.

If it is not because of an attribute, contact your union, or Fair and Safe Work, Workplace Health & Safety Information Line for more information. Also, see the *Tracking Your Rights 'Work'* chapter.

### Discipline at school

Laws that apply to the general community also apply in schools. In addition to these laws, schools have rules prohibiting certain objects at school, such as illegal drugs, alcohol, tobacco and weapons. Schools generally have codes of conduct setting out what behaviour is expected of students and procedures for discipline, suspension and expulsion. As long as the school policies on discipline are applied fairly and equitably to all students, this has nothing to do with discrimination.

### Age of complainants

If you wish to make a complaint to the Anti-Discrimination Commission Queensland and you are over 18 years old you can make it in your own right. If you are under 18 you have a number of choices:

- Your parent(s) or guardian can make the complaint on your behalf.
- You can make the complaint in your own right if you are 16 years old or over.
- If you are under 16 years old, depending on all the circumstances, you may be able to make the complaint yourself. Alternatively, the Commission may ask if you would like to authorise your parent, guardian or another adult to act on your behalf.



### Parents or guardians on behalf of a child

For young children, parents or guardians may bring a complaint of behalf of their child. It should be remembered that the complaint is the child's complaint.

### Contact the ADCQ for more information

- Phone on 1300 130 670 (or TTY 1300 130 680) from anywhere in Queensland for the price of a local call.
- ADCQ has Aboriginal and Torres Strait Islander staff and you can ask to speak with one of these officers.
- Send an email to [info@adcq.qld.gov.au](mailto:info@adcq.qld.gov.au)
- Visit the website [www.adcq.qld.gov.au](http://www.adcq.qld.gov.au)

ADCQ offices are located at:

Brisbane – level 17, 53 Albert St, Brisbane City.  
Rockhampton – level 1 James Larcombe Place, 209 Bolsover Street  
Townsville – 155 to 157 Denham Street  
Cairns – McLeod Chambers, 78 Spence Street

### Other agencies

Education Queensland - 3237 0111

Indigenous education

<http://deta.qld.gov.au/indigenous/>

Inclusive education

<http://education.qld.gov.au/studentsservices/inclusive/index.html>

Bullying

<http://education.qld.gov.au/studentsservices/protection/community/bullying.html>

Racism. No Way! – This site aims to assist school communities and education systems to recognise and address racism in the learning environment. It has classroom activities and a resource library.

<http://www.racismnoway.com.au/>

Bullying No Way (Australian educational authorities' website)

<http://www.bullyingnoway.com.au/>

Qld Studies Authority - Indigenous perspectives

<http://www.qsa.qld.edu.au/577.html>

National Children's & Youth law Centre – Lawstuff website – Know your rights at school page

<http://www.lawstuff.org.au/>

Queensland Parents for People with a Disability Inc

<http://www.qppd.org/>

(07) 3875 2101 or 1800 805 184.