



**EDMUND RICE EDUCATION
AUSTRALIA**

Student Inclusion Policy

Guidelines for EREA

July 2016

Edmund Rice Education Australia (EREA) Student Inclusion Policy Guidelines

Policy Statement

Edmund Rice Education Australia (EREA) schools will provide equity of access and participation, within the limits of their capacity and subject to relevant legislation, to those who seek a Catholic education in the Edmund Rice tradition.

Context

The policy guidelines contained in this document will assist schools and entities to have consistent approaches to student inclusion which reflect the EREA Charter and are underpinned by EREA core values.

Commitment to the policy is evidenced in school enrolment policies, school strategic priorities, operational procedures and support structures.

The EREA Executive Director delegates responsibility for the implementation of the Student Inclusion Policy to school Principals.

Guidelines for Student Inclusion

A commitment to this policy is expressed through:

- recognising the traditional ownership and cultural heritage of Indigenous peoples of Australia, and encouraging active participation and engagement in and with the school community;
- being responsive to the economic situation of families and designing school programs to empower all to participate with dignity and confidence;
- promoting social inclusion and viewing diversity as beneficial to a liberating education;
- recognising and welcoming the inclusion of all persons from various backgrounds, ethnicities and cultures into our school communities, and recognising the contribution and diversity these people bring to our schools;
- ensuring students with special needs occupy a valued place in the community;
- welcoming, encouraging and supporting students of varying levels of ability;
- being sensitive, equitable and reasonable when dealing with inclusion of students who identify as different genders;
- ensuring all students have equitable access to teaching and learning programs, pastoral care and co-curricular activities;
- adopting a flexible approach to fee structures, resource provision, curriculum development and pedagogy;
- recognising and ensuring appropriate staff professional development; and
- catering for students' spiritual, physical, social, emotional and intellectual needs, recognising the importance of the relationship between students' social and emotional wellbeing and their receptivity to learning.

The Law

EREA aligns Student Inclusion with commitment to The Charter. EREA also recognises its obligation to comply with Commonwealth and State legislation prohibiting discrimination for educational institutions.

(i) Age Discrimination

Under the *Age Discrimination Act 2004* (Cth) (**Age Act**), Section 26 sets out that it will be unlawful for an educational institution to discriminate on the basis of age, by refusing applications for enrolment.

However, this section is subject to an exemption which allows schools to lawfully exclude students who are above a particular age; based on the schools qualifying age bracket.

One example where lawful exclusion might occur is when a 47 year old male, enrolls in year 7 class.

In such circumstances, which are not unheard of, a school should consider:

- (a) the impact on staff;
- (b) the impact on younger students;
- (c) the potential educational benefit / adverse outcome to person;
- (d) the capacity to fulfil duty of care; and
- (e) the impact that the inclusion of the student may have on the wider school community,

before deciding to exclude the student.

(ii) Religious Discrimination

Despite the stringent Commonwealth anti-discrimination laws, a school established by a particular religious denomination is legally permitted to implement an enrolment policy which gives preference to members of that religious denomination. Generally, this will not constitute a breach of discrimination principles, provided that this exercise of preference is reasonable.

Given that EREA schools may offer preference to students of the same denomination it is important to ensure that any exercise of preference for students be strictly in accordance with the law.

State specific legislation should be considered as required.

(iii) Racial Discrimination

It is unlawful for a person or an organisation to do any act involving a distinction, exclusion, restriction or preference based on race, language, nationality, culture, and ethnicity (*Racial Discrimination Act 1975*, Section 9).

(iv) Gender Discrimination

In Australia, it is unlawful to discriminate against persons on the basis of sex, sexual orientation, gender identity, pregnancy, and marital status in the areas of work, accommodation and significantly education. (*Sex Discrimination Act 1984* (Cth), Section 21).

The position on gender equality for schools is a complex issue. There are exemptions for educational institutions which allow the institution to discriminate in the provision of schooling services. One example where such discrimination might be lawful is in the case of an all-boys school. In these instances, the school may reasonably refuse enrolment to a student if they 'identify' as one gender, but are biologically the opposite gender. This is, for obvious reasons, a very sensitive topic and must be given due consideration. (*Sex Discrimination Act 1984* (Cth), Sections 32, 34, 38).

(v) Disability Discrimination

The Disability Standards for Education (the Education Standards) formulated under the *Disability Discrimination Act 1992 (Disability Act)*. The Education Standards provide a framework to ensure that students with disability are able to access and participate in education on the same basis as other students.

The Education Standards came into effect on 18 August 2005. The **Disability Act** makes it unlawful to contravene a disability standard, and compliance with a disability standard is taken to be compliance with the Act. The Education Standards apply to government and non-government providers in all education sectors and are defined specifically:

- a) Schools must make reasonable adjustments to allow for the inclusion of students with disabilities;
- b) Students with disabilities and other medical conditions must be treated with respect and human dignity;
- c) Schools must take reasonable steps to ensure prospective students with disabilities who seek enrolment are considered on the same basis as others;
- d) Schools must take reasonable steps to ensure disabled students are able to participate in courses and programs provided by the school; and
- e) Schools must provide adequate support services as may be required.

A note on Immunisation status

We note that schools have a non-delegable duty of care to their students. As such, schools are required to request and retain the immunisation status of each child prior to enrolment. This is consistent with the *Australian Immunisation Register Act 2015 (Cth)*. Most States and Territories have enacted various forms of public health legislation which deal with the immunisation of children who attend schools. Some States have imposed the strict condition that children must be vaccinated to attend childcare facilities.

Whilst it is not unlawful to attend a school without being 'up-to-date' on your immunisation status, a school may, in limited circumstances, direct a child not to attend school for a period of time, or until such a time as the child is deemed no longer to be a risk to the health and safety of the other students.

NB. This topic is sensitive and complex.

Monitoring and Reporting

Schools ensure their policies and procedures are inclusive and promote equity of access and participation. The schools' expression of their commitment to Student Inclusion is captured as part of the School Renewal process and is communicated to the Executive Director in the School Renewal Report.

Compliance with the Disability Standards for Education under the DDA is also monitored as part of State Registration and Accreditation processes. In the event that schools might be found to be in breach of the Standards, it appears in the Registration report which the Principal makes available to the Director of Regional Support (DRS), who in turn informs the Executive Director.

The DRS monitors how schools are responding to any recommendations arising from Registration and Accreditation and School Renewal reports.