



# Tanglin Gippsland Equal Opportunity and Respectful Workplace Policy

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## 1 Overview

- 1.1 Tanglin Gippsland has a legal and ethical obligation to take all reasonable and proportionate steps to prevent, as far as possible, unlawful discrimination, harassment (including sexual harassment), bullying, vilification and victimisation.
- 1.2 It is the right of all members of the community to have a positive, supportive, secure and safe working and learning environment where individuals are treated fairly and with respect, and where unlawful discrimination, harassment, bullying, vilification and victimisation are not tolerated.
- 1.3 Further to item 1.2 above, it is therefore the obligation and responsibility of all community members to respect the legal rights of others and to treat each other fairly and with respect.
- 1.4 Tanglin aims to:
  - foster an environment where all members of the community are treated with dignity, courtesy and respect;
  - promote appropriate standards of conduct at all times;
  - implement training and awareness-raising strategies to ensure that everyone knows their rights and responsibilities;
  - ensure all relevant staff complete training as required;
  - encourage, where necessary, the reporting of inappropriate behaviour; and
  - provide an effective procedure for resolving complaints in a sensitive, fair and timely manner and as confidentially as possible.
- 1.5 This policy provides general information and reflects Tanglin’s position in relation to equal opportunity, unlawful discrimination, harassment, bullying, vilification, victimisation, the provision of a respectful learning and working environment, and related matters.
- 1.6 All members of the community are expected to comply with this and other related policies and to actively discourage unlawful and inappropriate behaviour in all aspects of life at Tanglin.

## 2 Definitions

- 2.1 The *community* includes staff, students, parents, volunteers, contractors, agents and suppliers.
- 2.2 *Reasonable steps*, depending on the issue and circumstances, may include some or all of the following: Assessing risks, implementing controls, conducting training, developing policies and procedures, establishing and managing appropriate reporting, investigation and resolution processes, and monitoring workplace culture.
- 2.3 *Protected attribute* (or simply *attribute*) refers to any one of the protected attributes as defined in the Equal Opportunity Act 2010 or in other legislation (refer item 3.1.2), and include: (1) age; (2) disability or impairment; (3) race, colour, descent or national or ethnic origin; (4) religious belief or activity; (5) sex; (6) gender identity; (7) transgender or transsexual status; (8) lawful sexual activity/sexual orientation; (9) family, marital, parental or carer status; (10) physical features; (11) political opinion, belief or activity; (12) industrial activity or membership of an industrial association; (13) pregnancy or potential pregnancy; (14) breastfeeding; (15) medical

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record; (16) irrelevant criminal record; (17) employment activity; and (18) personal association with a person who is identified by reference to any of the above.

- 2.4 *Discrimination* means treating a person with an identified attribute or personal characteristic less favourably than a person who does not have the attribute or characteristic. Discrimination can be either direct or indirect. Direct discrimination occurs if a person treats, or proposes to treat, a person with a protected attribute covered by an equal opportunity law unfavourably because of that attribute regardless of whether the person is aware of the discrimination or considers the treatment to be unfavourable. Indirect discrimination occurs where a person imposes, or proposes to impose, a requirement, condition or practice that has or is likely to have the effect of disadvantaging people with a protected attribute, and that is not reasonable.
- 2.5 *Harassment* is a form of discrimination and occurs when a person is subjected to unwelcome, uninvited behaviour that the person finds offensive, humiliating, embarrassing or intimidating. It can take many forms and may include physical contact, verbal comments, jokes and gestures, and other behaviour that creates an uncomfortable or hostile environment. Unacceptable behaviour includes, but is not restricted to: (1) the display of offensive materials that are sexually explicit or based on disability or race; (2) visiting and/or displaying internet sites containing offensive materials that are sexually explicit or based on disability or race; (3) electronic messages that are sexually offensive or offensive in relation to race or disability; (4) derogatory comments about any particular protected attribute or about a person or a group on the basis of race or gender; (5) intimidation or verbal abuse oriented at a person with a disability or using aids or with different capabilities, or at the person’s carer; (6) practical jokes based on a person’s disability or on a person’s or group’s race; (7) isolation, segregation or humiliation of a person with a disability or a person or group based on race or any other protected attribute; and (8) derogatory comments or jokes about a person or group on the basis of their personal characteristics.
- 2.6 *Sexual harassment* is a specific form of harassment and is defined as any unwanted or unwelcome verbal, written, or physical conduct of a sexual nature, or made on the grounds of sex (sex-based harassment), where a reasonable person would have anticipated the possibility that the person harassed would feel offended, humiliated or intimidated. It includes conduct directed at a person, or that a person is exposed to in the workplace environment, that offends, humiliates or intimidates a person by reason of; their sex: a characteristic that appertains generally to persons of the sex of the person: or a characteristic that is generally imputed to persons of the sex of the person... In addition to the examples in item 2.4 above, unacceptable behaviour includes, but is not restricted to: (1) unwelcome comments or questions about a person’s sex life or appearance; (2) persistent requests for dates; (3) assuming or expecting an action based on gender characterisation (for example expecting a woman to clean or take minutes on the basis of their sex) (4) unnecessary familiarity such as deliberately touching or fondling (5) creating activities or environments that are unreasonably unwelcoming to one sex (for example networking/team building activities exclusive to one sex or in environments with lack of facilities to meet reasonable needs of one sex) All references to harassment in this and other policies should be assumed to include sexual harassment and sex-based harassment.
- 2.7 *Bullying* is an ongoing and deliberate misuse of power in relationships through repeated verbal, physical and/or social behaviour that intends to cause physical, social and/or psychological

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harm. It can involve an individual or a group misusing their power, or perceived power, over one or more persons who feel unable to stop it from happening.

- 2.8 *Workplace bullying* is against the law, creates a risk to health and safety, and may involve using a system of work as a means of victimising, humiliating, undermining or threatening.
- 2.9 *Bullying* does not include: (1) fair and reasonable management action such as management direction or implementation of policy (including setting goals and deadlines, performance management, injury management, allocation of work, disciplinary action and a decision not to promote); (2) mutual conflict situations (where there is an argument or disagreement but not an imbalance or misuse of power); (3) social rejection or dislike (unless involving deliberate and repeated attempts to cause distress, exclude or create dislike for others); (4) single-episode or random acts; and (5) occasions where bullying is genuinely perceived but is not actual.
- 2.10 *Cyber bullying* is a form of bullying and involves a person being targeted by another through the use of digital technology, mobile communication devices or through the internet (including social networking websites, chat rooms and email), for the purpose of harassment, stalking, threats, conveying sexual innuendo, communicating false pretences, forward someone else’s private communication, posting humiliating messages or pictures, or other forms of harmful behaviour.
- 2.11 *Repeated behaviour* refers to the persistent nature of the behaviour and can involve a range of behaviours over a period of time.
- 2.12 *Vilification* is behaviour, through words or action, that incites hatred, contempt or ridicule of another person, generally because of their race or religious belief.
- 2.13 *Victimisation* can include actions toward a person such as changes to employment status, threats, prejudices, penalties and intimidation, due to the reason of that person making a complaint, proposing to make a complaint, or providing information in relation to alleged unlawful conduct covered by this policy.
- 2.14 *Workplace* extends beyond physical boundaries and set times of work, and includes staff meetings, camps, conferences, excursions, on-line communication, end-of-year functions and other work-related activities.

### 3 Details

#### 3.1 Legislation

3.1.1 State and federal bullying, anti-discrimination and harassment (including sexual harassment) laws prohibit bullying, discrimination, harassment and victimisation, Bullying, unlawful discrimination or harassment, vilification and victimisation will not be tolerated under any circumstances, and disciplinary action will be taken against any member of the community who breaches this and other relevant policies.

3.1.2 Tanglin acknowledges diversity within the campus community, and that such diversity is protected under state and federal legislation prohibiting discrimination and harassment based on protected attributes. Discrimination and harassment are unlawful under a range of state and federal legislation including:

- Equal Opportunity Act 2010 (Vic.)
- Racial and Religious Tolerance Act 2001 (Vic.)
- Age Discrimination Act 2004 (Cth.)

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- Disability Discrimination Act 1992 (Cth.)
- Disability Discrimination and Other Human Rights Legislation Amendment Act 2009 (Cth.)
- Racial Discrimination Act 1975 (Cth.)
- Racial Vilification Act 1996 (Cth.)
- Sex Discrimination Act 1984 (Cth.)
- Fair Work Act 2009 (Cth.)
- Human Rights and Equal Opportunity Commission Act 1986 (Cth.)
- Equal Opportunity for Women in the Workplace Act 1999 (Cth.)
- Occupational Health and Safety Act 2004 (Vic)
- Respect at Work Bill 2022 (Cth.)

### 3.2 Exceptions

3.2.1 There are exceptions that may apply in some situations contained within legislation. For example, the requirements of a particular job may make some personal differences relevant for the ability to perform a job, so that it may be reasonable to take them into account in making decisions which affect people’s employment.

3.2.1 Further and subject to item 3.2.1 above, all offers of employment, and other employment matters, shall be decided on individual merit after considering relevant matters, and without unlawfully discriminating based on personal differences.

### 3.3 General

3.3.1 Tanglin shall seek not to discriminate unfairly or unjustly against any member of the community or the wider public. Tanglin shall not unfairly or unjustly discriminate based on sex, pregnancy, race, disability, employment activity, physical features, political activity or beliefs, age or caring responsibilities in relation to:

- determining who should be offered employment;
- the terms or conditions on which employment is offered;
- the terms or conditions of employment;
- denying or limiting access to opportunities for promotion, transfer or training, or to other benefits connected with employment;
- dismissing a staff member;
- refusing or failing to accept an application for admission as a student;
- the terms or conditions on which it offers to admit the person as a student;
- the terms or conditions on which it provides a student with training or education;
- denying or limiting access to a benefit provided by Tanglin Gippsland;
- expelling a student;
- refusing or failing to supply goods or perform services;

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- the terms or conditions on which, or the way, goods are supplied or services are performed; or
- subjecting a staff member or student to other detriment.

3.3.2 Staff members should report all incidents of discrimination, harassment, bullying, vilification, or victimisation involving students that they may witness within the classroom or Tanglin grounds, or in other campus-related contexts, to the Head of Campus

3.3.3 Staff members have a responsibility to actively discourage, report and address discrimination, harassment, bullying, vilification and victimisation.

3.3.4 Students should be educated about what is acceptable and appropriate behaviour, and above all to respect and care for others. They should also be helped to understand what they can and should do when faced with discrimination, harassment, bullying, vilification or victimisation.

### 3.4 Reasonable Adjustments

3.4.1 Tanglin will comply with the Disability Discrimination Act 1992 (Cth.) and Disability Discrimination and Other Human Rights Legislation Amendment Act 2009 (Cth.).

3.4.2 Consistent with item 3.4.1, where staff members, or those offered employment, have disabilities or impairments, reasonable adjustments shall be made for such persons to perform the genuine and reasonable requirements of employment unless such persons could not adequately perform such requirements even after adjustments have been made.

### 3.5 Complaints: General

3.5.1 Tanglin is committed to ensuring that all members of the community are treated with dignity, courtesy and respect within a learning and working environment that is free from unlawful discrimination, harassment, bullying and vilification. It is therefore desirable that any person with a concern or complaint does not ignore the situation, and that they provide Tanglin with an opportunity to resolve the matter using procedures outlined in the Complaints Policy.

3.5.2 Tanglin will deal with concerns and complaints as confidentially as is reasonably possible. Tanglin must properly investigate any allegation of discrimination, harassment, bullying or vilification, as it has a legal obligation to ensure that all reasonable precautions are taken to prevent such behaviour.

3.5.3 State and federal legislation provides protection against victimisation. Tanglin recognises that reasonable steps should be taken to ensure that complainants and those involved in the complaint process do not suffer further disadvantage, retaliation or threats. Tanglin will not tolerate victimisation, where an individual is threatened with, or subjected to, any detriment because of lodging a complaint of discrimination, harassment, bullying or vilification.

3.5.4 Inaccurate, misleading, malicious or false accusations have negative consequences for those concerned, interpersonal relationships and the morale of the community. Where it is found that a complaint has been made in bad faith to cause distress to one or more persons, or as a practical joke, disciplinary measures will be taken. Tanglin considers such behaviour intolerable and an unacceptable misuse of school policy.

3.5.5 Confidentiality protects everyone and minimises the risk of defamation. Tanglin’s complaint management protocols require confidential management of all complaints.

3.5.6 All documentation in relation to complaints of discrimination, harassment, bullying or vilification, whether dealt with informally or formally, must be taken in a strictly factual and professional manner, kept to a minimum, and stored in accordance with the following protocol:

- Central, secure and confidential file by the Head of Campus or their delegate

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- Accessed, if required, on a strictly 'needs' basis (for example, in relation to further complaints or evidence in any subsequent legal proceedings)
- Destroyed after a period of seven years or more at the discretion of the Head of Campus

### 3.6 Complaints: Staff

3.6.1 It is essential that an effective procedure for resolving complaints in a sensitive, fair and timely manner is provided and accessible for all staff members. Wherever possible, complaints should be resolved informally and internally. However, assistance shall be provided at the discretion of Tanglin where other avenues need to be investigated and pursued.

3.6.2 Trained Contact Officers (whose names shall be clearly communicated to staff members and/or displayed) shall be available as an important point of contact for staff members who have a complaint in relation to matters covered by this policy.

3.6.3 Where a staff member has a concern or complaint in relation to matters addressed in this policy, reference should be made to the Dispute Resolution (Workplace) Policy for information in relation to appropriate procedures to be followed.

### 3.7 Consequences

3.7.1 Where a complaint is substantiated, all aspects of the case must be considered when making recommendations for appropriate outcomes or remedies. These may include the severity and frequency of the behaviour; the weight of evidence; the impact on the complainant; and prior behaviour of, or documented warnings to, the perpetrator.

3.7.2 Where a complaint is substantiated, a successful outcome can be that the behaviour stops and more respectful behaviour put in place. Where it is found that breaches of policy or the law have occurred, remedies may range from an apology through to disciplinary action, depending upon the circumstances.

3.7.3 It is important to ensure that members of the community can continue to participate fully in the environment with minimum interruption to the working and learning environment. Outcomes or remedies may also include measures to ensure both the complainant and the respondent receives individual and personal counselling to ensure their safety and wellbeing.

3.7.4 Consequences of proven instances of discrimination, harassment, bullying, vilification or victimisation for staff and other members of the community could include action ranging from counselling to summary dismissal. The complaints made will in no way generate adverse job consequences for the one who complains.

3.7.5 Consequences for adults other than staff members, including volunteers, contractors, agents and suppliers, may include dismissal from their roles or contracts with Tanglin Gippsland.

3.7.6 Depending on circumstances, individuals may also be held legally liable for their prohibited conduct, or conduct that aided another person's prohibited conduct, and face individual legal consequences.

## 4 Related Tanglin Gippsland Policies

- Workplace Dispute Resolution Policy
- Occupational Health and Safety Policy
- Complaints and Grievances Policy

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- Bullying and Harassment Prevention Policy
- Student Discipline and Behaviour Policy

## 5 Policy Review

- 5.1 This policy is approved by the Tanglin Australia Board and will be reviewed at least every two years by Tanglin’s Leadership Team. Leadership Team consists of the Tanglin Gippsland Head of Campus, Head of Learning and Head of Pastoral Care.
- 5.2 Any significant changes to this policy must be approved by the Board.

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