

POLICY ON RACISM AND OTHER FORMS OF UNFAIR DISCRIMINATION for APPLICANTS AND PUPILS



ST ANDREW'S COLLEGE



ST ANDREW'S PREPARATORY
SCHOOL

STATEMENT of INCLUSIVITY

As an Anglican school, we recognise that we have a diverse group of staff and pupils, 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 has had on all 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 duty bound to be inclusive and mindful of diversity in all our policies, processes, programmes, classrooms, and interactions.

We, therefore, affirm all people regardless of their 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 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 staff as a 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.

COMMITMENT to the CONSTITUTION

The School fully commits itself to promoting all fundamental rights and freedoms of every person, commencing at the admissions stage, as required by the Constitution¹, the Employment Equity Act (EEA)² and the Promotion of Equality and Prevention of Unfair Discrimination Act³.

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.

OBJECTIVES

The objectives of this policy and these procedures are:

1. To inculcate the values of diversity and inclusivity, and to recognise the fundamental dignity of all individuals regardless of difference;
2. To implement policy and action to eliminate unfair discrimination in the institution as a whole;
3. To ensure that appropriate and accessible procedures exist to report and address discrimination.

DEFINITIONS⁴

1. 'The Staff' comprise:
 - a) Senior Management of School (Headmaster; Second Master, Deputy Heads, House Masters and the Chaplain)
 - b) Teaching staff
 - c) Admissions, Administrative and Operational staff
 - d) Student tutors, interns and coaches (whether they are fixed-term, permanent, full-time or part-time employees).
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.
3. For the purpose of this policy 'racism' is:
 - a) prejudice, unfair discrimination, or antagonism directed against someone of a different race based on the belief that one's own race is superior; or
 - b) the belief that all members of each race possess characteristics, abilities, or qualities

¹ The Constitution of the Republic of South Africa, 1996

² Act 55 of 1998

³ Act 4 of 2000

⁴ As per Act 4 of 2000

specific to that race, especially so as to distinguish it as inferior or superior to another race or races.

4. For the purpose of this policy 'unfair discrimination' means any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly
 - a) imposes burdens, obligations or disadvantage on; or
 - b) withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds.
5. For the purpose of this 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:
 - a) sex, gender or sexual orientation; or
 - b) 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.
6. For the purpose of this policy 'prohibited grounds' is discrimination on the basis of:
 - a) 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 socioeconomic status; or
 - b) any other ground where discrimination based on that other ground:
 - i) causes or perpetuates systemic disadvantage;
 - ii) undermines human dignity; or
 - iii) 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 (a).
7. For the purpose of this policy 'respondent' means any person against whom proceedings are instituted in terms of this policy.

INFORMATION AND EDUCATION

St Andrew's College is first and foremost an educational institution. We have a duty to ensure that: -

- The School's formal and informal curricula reflect and promote the values of inclusivity, diversity and human dignity.
- All boys are educated on fundamental constitutional rights, racial discrimination, sexual discrimination, homophobic discrimination and the relevant St Andrew's College policies on unfair discrimination.
- All orientation/induction of new boys must include education on fundamental constitutional rights, racial discrimination, sexual discrimination, homophobic discrimination and the relevant St Andrew's College policies on unfair discrimination.
- All academic staff are required to promote equality and sensitivity to diversity in their specific courses where relevant.
- All staff members are required to promote equality and equity in their respective

houses/departments.

- Marketing, admissions, administration and support services are required to promote and support equality as well as equity.
- The School will develop and publish a set of guidelines to staff on promoting equality and equity and responding to unfair discrimination.
- All formal documentation and other policies will recognise and refer to this policy where necessary.

EXAMPLES OF UNFAIR DISCRIMINATION

1. The School prohibits any behaviour that unfairly discriminates against any individual or group.
2. The contravention of (1) may lead to formal disciplinary action.
3. Unfair discrimination may comprise, but is not limited to, any of the following forms of discrimination:

a) Direct Unfair Discrimination - i.e. an overt act of discrimination that is not reasonable or justifiable.

For example:

- Non-admission of a pupil into the School purely on the basis of his race.
- 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.

b) 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:

- If the school applies a policy, rule or way of doing things that unintentionally puts you and other people like you at an unfair disadvantage compared with others.

Other examples of unfair discrimination could include:

- 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 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 any of
 - 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.

GUIDING PRINCIPLES⁵

The School will not discriminate on the basis of race in the admissions process.

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.

All boys have a role to play in creating and maintaining an environment in which unfair discrimination is unacceptable. They should ensure that their conduct does not cause offence and they should discourage unacceptable behaviour on the part of others.

All staff are required to take appropriate action in accordance with this policy when instances of unfair discrimination at the School are brought to its attention.

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

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.

APPLICATION OF THE POLICY

This policy and these procedures apply to all families who have applied for admission of their sons into St Andrew's College, and to all the boys and staff of St Andrew's College.

PROCEDURES

These procedures will apply in instances when there are allegations of unfair discrimination as outlined in this document.

This policy document is recognised as serving alongside the Disciplinary Code and Procedures in existence, and where appropriate the procedures in the Disciplinary Code will apply.

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.

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 individual to desist?

LEVEL 1: CONFIDENTIAL ADVICE AND ASSISTANCE

Allegations of behaviour motivated by racism, homophobia, 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 a Housemaster, Chaplain, School Psychologist or the Headmaster, for confidential advice.

All of the above:

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

The purpose of Level 1 action is to:

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

These discussions will be confidential. The identity of the alleged perpetrator need not be revealed at this stage.

If the matter can be resolved to the satisfaction of the complainant at this stage, it will be concluded. The complainant may also choose for the matter to simply be noted. In all cases a short note must be made of the interaction by the confidant(e).

If the matter remains unresolved, the complainant or confidant(e) may choose to proceed to a Restorative Intervention or, on the advice of the Head, it could be referred directly to the Disciplinary Committee.

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

LEVEL 2: RESTORATIVE INTERVENTION

Restorative Intervention can be sought if the complainant or confidant(e) believes that a discussion or action that involves the alleged perpetrator can potentially resolve a matter.

If a meeting with the alleged perpetrator seems appropriate he / she will be invited to the meeting and will be provided with a description of the complaint. The alleged perpetrator may accept or decline the invitation. A Restorative Intervention can only proceed if both parties agree to participate. If the alleged perpetrator refuses to attend, the matter will be escalated to the Disciplinary Committee for further investigation.

If the alleged perpetrator accepts the invitation the Restorative Intervention meeting will, as a matter of necessity involve a senior teacher or the School Psychologist, the complainant and/ or the confidant(e), the alleged perpetrator and a representative of their choosing from within the School community.

Such meeting(s) will be confidential and a record will only be kept of the mutually agreed upon outcome. However, this record may be used in later disciplinary processes (aggravating circumstances relating to sanction) should there be a repeat offense.

If the matter is resolved to the satisfaction of both parties at this stage it will be concluded.

If the matter remains unresolved, the complainant and/ or the confidant(e) may choose to refer it to the Headmaster for further investigation and action.

In the event he elects not to refer the matter to Level 3, he must provide written reasons to the complainant.

LEVEL 3: FORMAL COMPLAINT

A complaint may be escalated directly to the Headmaster without instigating Restorative Intervention, if the severity and circumstances warrant this. Alternatively, a complaint would be referred to the Headmaster if an alleged perpetrator refuses to participate in a Restorative Intervention meeting, or if a complaint remains unresolved after a Restorative Intervention.

Once a complaint is referred to the Headmaster, Disciplinary Procedures will be followed, as per the St Andrew's College Disciplinary Code.

The disciplinary Code and Procedure will make specific provision for the sensitivities relevant to this form of conflict.

PROTECTED DISCLOSURES

The school recognises the rights afforded to pupils in relation to the Protected Disclosures Act (26 of 2000, amended). The School will respect and protect the right of a pupil 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.

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

- The media, formal and informal
- The DOE, DOL and any other Department of State.
- The Private Education Sector regulatory authorities

Such protection is conditional on:

- The allegations of unfair discrimination being based on reasonable belief and/or objective facts.
- 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.

MANAGEMENT OF HUMAN DIGNITY

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.

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.

CONFIDENTIALITY

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.

The School must endeavour to ensure confidentiality at the disciplinary hearing.

PROVISION FOR REVIEW OF POLICY AND PROCEDURES

The policy and procedures may be reviewed every three years and appropriate changes made if necessary.

Updated July 2023

Approved by Council July 2023

Next Review July 2024