



# Equal Opportunity Act 1984

(South Australia)

# What does the Equal Opportunity Act do?

- Promotes equality of opportunity by prohibiting direct or indirect discrimination against a person on the grounds of;
  - gender & sexuality
  - marital status
  - pregnancy & breastfeeding
  - race, colour, descent or ethnic origin
  - disability
  - age
  - religious appearance or dress
  - caring responsibilities of a family member
  - association with a child
- Establishes the [Equal Opportunity Commission](#) to review & reconcile complaints

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- The University adopts the principles of both the South Australian Equal Opportunity Act 1984 & the Commonwealth Equal Opportunity Act 1995
    - The Acts are effectively the same
  - The Act prohibits discrimination by the University & its employees
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The Act prohibits direct discrimination :

- Obvious discrimination that;
  - causes a person to feel humiliated, embarrassed, ridiculed, denigrated or segregated
  - denies a person access to or refused serviceor
  - causes a person to lose an opportunity or income

The Act prohibits indirect discrimination :

- Less obvious discrimination that appears to be equal treatment but is unfair to certain people or groups of people who are;
    - unable or less able to comply with the ruleor
    - are disadvantaged because of it
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- Employers are not only responsible for their own behaviour but are jointly responsible for the behaviour of their staff;
    - in all work situations
    - during functions, seminars, conferences, office parties, business or field trips
  
  - The University is liable for acts of discrimination & harassment by its employees & agents
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# Unlawful Discrimination: Bullying

- The Act prohibits bullying behaviour which has the effect of intimidating, humiliating, or psychologically terrorising individual workers or groups of workers, for example;
  - sarcasm
  - threats or verbal abuse
  - unwarranted criticism
  - innuendo
  - ‘ganging up’ or deliberate exclusion
  - undermining or deliberately impeding a person’s work or spreading malicious gossip about a person that is not true

\* Staff can now be prosecuted for bullying offences under South Australian OHS&W legislation, Fair Work Act 2009 (Cth) as well as the Equal Opportunity Act 1984

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- The Act prohibits sexual harassment by customers, colleagues, patients, diners & students, for example;
    - graphic or sexually offensive emails
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- The Act prohibits discrimination on the grounds of sexuality, for example;
    - mimicking or making fun of a person's behaviour because you think they are bisexual
    - refusing to appoint or promote someone who is transsexual to a position involving contact with clients because you think the clients won't approve
    - refusing to allow a heterosexual to attend a Gay Pride event
    - refusing to provide services to students you suspect of being homosexual because you think they are likely to have AIDS
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- The Act prohibits discrimination against women because of pregnancy, future
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- The Act prohibits discrimination on the grounds of disability in most situations
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# Unlawful Discrimination: Exceptions

- The Act prohibits discrimination on the grounds of disability in most situations, BUT employees do not have to tolerate violence or aggression caused by an illness
- A disabled person must also still be able to perform the inherent requirements of the position
- An employer may make 'reasonable adjustments' to help the person do their job, for example;
  - Modifying the height of a desk to accommodate a wheel-chair
  - Offering flexible work hours to accommodate doctor or therapist appointments
  - Allowing for extra unpaid leave for medical treatment
  - Providing an employee with diabetes some private space for injecting insulin, such as a sick room or empty office
  - Improving the lighting at a workstation for an employee with low vision



# Unfavourable treatment: Identity of a spouse or partner

- The Act prohibits unfavourable treatment on the grounds of the identity of a persons spouse or partner, for example;
  - refusing to employ someone job because of who their spouse is or was
  - Except where there is a;
    - threat to confidentiality
    - conflict of interest
    - a risk to health or safety

# Unfavourable treatment: Personal Association

- The Act prohibits unfavourable treatment on the grounds of personal association & characteristics of a companion, for example;
  - You can not be treated unfairly if your friend has a disability, your colleague was not born in Australia, or your father is a politician
  - If you & your friends are refused entry to an event because of the race, disability or sexuality of one of you, that is considered discrimination against all of you





- The Act prohibits unfavourable treatment on the grounds of religious dress:
    - Staff are entitled to wear the dress & adornments of their religion to work
      - a hijab
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## Individual Consequences:

- Individuals could be liable for a claim of discrimination or harassment if they knew about it (or should have known about it) & did nothing to stop it or prevent it from happening again
  - Compensatory payments of up to \$5,000 for injury to feelings
  - Ancillary orders, such as;
    - compulsory Equal Opportunity training many <</MCID 17 >>BDC 0 Tw -7.781 0 To Eersmen
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# What can happen if I don't comply? (cont.)

## University Consequences:

- Compensatory payments or payment of damages for economic loss or loss of wages
- Ancillary orders, such as;
  - Adjustment of employment hours, pay or conditions
  - Allowing access to previously refused services, courses or accommodation
  - Changes to policies & procedures to prevent discrimination
- Negative publicity
  - Damage to the University's reputation
  - Attraction & retention of staff & students is compromised

# University obligations under the Act

- Do not engage in discrimination, harassment, bullying, vilification & victimisation
- Treat your co-workers fairly in all your dealings with them
- Behave in a manner consistent with University policies & procedures including;
  - [Fair Treatment Policy](#)
  - [Fair Treatment Guidelines for Staff](#)
  - [Code of Conduct](#)
- Listen & respond if asked to modify behaviour
- REMEMBER: You are representing the University and your behavior is a reflection of the University as an institution & all of its staff





# Obligations of Managers (cont.)

- Know how to handle inappropriate behaviours before they escalate
  - Encourage staff to come forward with problems or complaints
  - Treat complaints seriously, quickly & confidentially
  - Resolve misunderstandings in a non-adversarial manner
- Direct all serious complaints to [Gerald Buttfeld](#), Manager, Health Safety & Wellbeing
  - A complaint can to the EO Commission will only be considered if it is not resolved at University level first





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