Disability and Health Conditions Policy

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<tr>
<th>Responsible Officer</th>
<th>Deputy Vice-Chancellor (Students and Education)</th>
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<td>Approved by</td>
<td>Vice-Chancellor</td>
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<tr>
<td>Approved and commenced</td>
<td>December, 2014</td>
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<td>Review by</td>
<td>November, 2017</td>
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<table>
<thead>
<tr>
<th>Relevant Legislation, Ordinance, Rule and/or Governance Level Principle</th>
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<tbody>
<tr>
<td>Disability Discrimination Act 1992</td>
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<tr>
<td>Disability Standards for Education 2005</td>
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<td>Fair Work Act 2009</td>
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<td>Anti-Discrimination Act 1998 (Tas)</td>
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<td>Workplace Health &amp; Safety Act 2012 (Tas)</td>
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<td>Governance Level Principle 2 - Risk Management</td>
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<td>Governance Level Principle 6 - Occupational Health and Safety</td>
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<td>Governance Level Principle 11 - Employment</td>
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<tr>
<th>Responsible Organisational Unit</th>
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1 Objective

The objectives of the Disability and Health Conditions Policy are to:

- provide the framework to embed culture that is inclusive of disability/health conditions and to support adherence to legislative requirements, whereby:
  - University operational procedures articulate the disability/health condition related expectations, rights and responsibilities of all people participating in University life; and
  - University operational areas share legislative and corporate responsibility for the universal inclusion of students and staff with disability/health conditions.

2 Scope

This policy applies to the University community which encompasses all undergraduates, postgraduates, staff, Fellows, associates and visitors.

3 Policy Provisions

3.1 General Principles

The University accepts that it has a legal obligation to eliminate disability discrimination from its structures and practices in accordance with the Disability Discrimination Act 1992 (DDA).

In alignment with the University’s Inclusion, Diversity and Equity Principles, the University is committed to:

- enabling equal opportunity in education and employment for people with disability/health conditions; and
- a strategy of universal access, whereby all stakeholders share responsibility for inclusion of people with disability/health conditions.

3.2 Environment is Inclusive

The University will ensure that students and staff with disability/health conditions have the opportunity to fully participate in University life and realise their academic or employment potential.

The University seeks to ensure that all workplace and education facilities are accessible for people with disability/health conditions and is progressively developing the built environment to be universally accessible.

The University will ensure workplace culture and employment practices are inclusive for people with disability/health conditions.
The University will ensure compliance with the DDA and the principles of equal access, participation and opportunity through the provision of reasonable adjustments to workplace and education activities.

3.3 Information is Inclusive

Within a reasonable time frame, the University will make relevant information accessible as a user’s need is identified.

The University will make all enrolment and administrative processes accessible within a reasonable time frame.

3.4 Study is Inclusive

The University will ensure that courses are accessible and will develop curricula which are universally inclusive.

The University will ensure the provision of reasonable adjustments to teaching, learning and assessment, and academic support processes.

The University will ensure academic support processes are fair and reasonable.

The University will ensure individual students obtain equal access to study processes.

3.5 Disclosure

The University acknowledges that information provided to it about a person’s disability/health condition is personal and private and will respect the sensitivity of such information in accordance with the relevant privacy legislation.

The University recognises it is important that members of the University community disclose disability/health conditions in a timely manner where:

- it may affect their capacity in employment or education; and
- reasonable adjustments are necessary to undertake the requirements of the position or to meet the academic standards of a course of study.

3.6 Inherent Requirements

In keeping with the provisions of the DDA and the Fair Work Act (2009), it is not unlawful for the University to discriminate against a member of the University community on the grounds of disability/health conditions if, because of the disability/health conditions, the person would be unable to carry out the inherent requirements of the particular task even if the University made reasonable adjustments.
3.7 Unjustifiable Hardship

In determining reasonable accommodations, the concept of unjustifiable hardship, as defined by the DDA, identifies key criteria for consideration. These include determining the nature of benefit or detriment likely to be experienced, the estimated impact on financial circumstances and the effect of the disability/health condition.

3.8 Public Health and Safety

The University can discriminate if it is necessary in order to protect the health and/or safety of an individual with disability/health condition or another member of the University community.

3.9 Responsibilities

The implementation of this policy is the responsibility of all the University community. Some areas and positions within the University community have specific responsibilities that are outlined in the Disability and Health Conditions Procedures. All members of the University community, particularly those in a management or supervisory role, should ensure that they are familiar with their specific responsibilities.

If specific accommodations are required the affected member of the university community is responsible to discuss with their relevant supervisor/contact person. Responsibility will be shared for negotiating solutions.

4 Definitions and Acronyms

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<tr>
<th>Term/Acronym</th>
<th>Definition</th>
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<tr>
<td>DDA</td>
<td>Disability Discrimination Act 1992 (Cwlth)</td>
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<tr>
<td>Disability</td>
<td>The University applies the DDA (Part 1.4) definition of Disability, as follows: (a) total or partial loss of the person’s bodily or mental functions; or (b) total or partial loss of a part of the body; or (c) the presence in the body of organisms causing disease or illness; or (d) the presence in the body of organisms capable of causing disease or illness; or (e) the malfunction, malformation or disfigurement of a part of the person’s body; or (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or (g) a disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;</td>
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and includes a disability that:
(h) presently exists; or
(i) previously existed but no longer exists; or
(j) may exist in the future; or
(k) is imputed to a person.

**Disability Discrimination**

The University applies the DDA (Part 1.5) definition of Direct Discrimination, as follows:
A person (discriminator) discriminates against another person (aggrieved person) on the ground of a disability of the aggrieved person if, because of the aggrieved person’s disability, the discriminator treats or proposes to treat the aggrieved person less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person without the disability.

The University applies the DDA (Part 1.6) definition of Indirect Discrimination, as follows:
A person (discriminator) discriminates against another person (aggrieved person) on the ground of a disability of the aggrieved person if the discriminator requires the aggrieved person to comply with a requirement or condition:
(a) with which a substantially higher proportion of persons without the disability comply or are able to comply
(b) which is not reasonable having regard to the circumstances of the case
(c) with which the aggrieved person does not or is not able to comply.

**Health Condition**

Either a temporary or permanent condition that impacts significantly on a person’s health and wellbeing. May not be recognised formally as a disability but involves a period of incapacity or treatment eg pregnancy, broken bone, Diabetes.

**Inherent Requirements**

The mandatory, not negotiable, components specific to a position of employment or educational program to be undertaken by a person. A decision may be taken adverse to a person with a disability if the disability is likely to prevent the person from meeting the inherent requirements of a position of employment or of participation in an educational program.

**Implications of Disability/health condition**

The measurable effects of a person’s disability/health condition on participation in University life.

**Organisational Unit**

College, Faculty, School, Centre, University Institute, other University Entity, Division, Section or University Business Enterprise.

**Public Health and Safety**

A decision may be taken adverse to a person with disability/health condition if the implications of the disability/health condition make it necessary in order to protect the health and/or safety of the person with a disability/health condition and/or others.

**Reasonable Adjustments**

The alterations or modifications that are able to be provided so as to alleviate the implications of disability/health
condition, after due consideration is given to inherent requirements and academic integrity.

**Universal Access**
The inclusion of all features required to enable access for people with disability/health condition to University cultural and physical environment, information and study.

**University Community**
Encompasses all aspects of university life. This includes undergraduates, postgraduates, staff, visitors, associates, Fellows and any other recognised university representative.

**Unjustifiable Hardship**
In determining what constitutes unjustifiable hardship (DDA Part 1.11), all relevant circumstances of the particular case are to be taken into account including:
(a) the nature of the benefit or detriment likely to accrue or be suffered by any persons concerned
(b) the effect of the disability of a person concerned
(c) the financial circumstances and the estimated amount of expenditure required to be made by the person claiming unjustifiable hardship
(d) in the case of the provision of services, or the making available of facilities - an action plan given to the Human Rights and Equal Opportunity Commission under Section 64.

5 **Supporting Documentation**
- Disability/Health Condition Procedure
- Assessment Policy
- Privacy Policy
- Code of Conduct for Teaching and Learning
- Work Health and Safety Policy and Procedures
- Disability (Access to Premises – Buildings) Standards 2010
- Australian Vice-Chancellors’ Committee - Guidelines Relating to Students with Disability (May 2006)
- Inclusion, Diversity and Equity website

6 **Versioning**

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