

Religious Educational Institutions

The WA Government has introduced a bill to modernise Western Australia's Equal Opportunity Act so more Western Australians are better protected from discrimination, harassment and vilification. The changes will create safer and more inclusive communities.

Overview

The Bill will continue to allow for religious schools to maintain their religious character, even where actions would otherwise be discriminatory, in defined circumstances.

Broader protections from discrimination

The Bill will protect against discrimination on the basis of a broader range of attributes, as recommended by the Law Reform Commission. The expanded set of attributes are:

- **Belief and values:** religious conviction, political conviction, trade union activity
- **Personal identity and characteristics:** age, sex, sexual orientation, gender identity, innate variation in sex characteristics, race, physical features, disability
- **Family and caring roles:** family status, carer responsibility, pregnancy, breastfeeding
- **Personal relationships:** marital or relationship status, lawful sexual activity
- **Background and history:** irrelevant criminal history, spent convictions, irrelevant medical history
- **Personal circumstances:** having experienced family violence, accommodation status
- **Association:** personal association with a person with any of these attributes.

Exemptions for religious educational institutions

The Bill will allow religious schools to maintain their religious character, by permitting schools to take a person's religious conviction into account when deciding whether to hire an employee or admit a student, and in more limited circumstances after that point.

When deciding whether to hire a person, or admit a student

- A religious school will be able to discriminate where a **person's religious convictions relate to a different religion to that of the school**, where the school is conducted solely or mainly for persons of the school's religion.
- Note this exemption is broader than was recommended by the Law Reform Commission, in recognition of the importance of allowing schools to build a community of faith.

For employees

A religious school may discriminate against an employee where:

- conformity with the doctrines of the institution's religion is an **inherent requirement of the employment**;
- the employee cannot meet the inherent requirement because of their **own religious conviction**; and
- the discrimination is **reasonable and proportionate**.

For existing students

A religious school may discriminate against a student where the discrimination:

- is on the basis of **student's religious conviction**; and
- **conforms to the doctrines** of the religion; and
- is **reasonably necessary** to avoid injury to the religious susceptibilities of adherents; and
- is **reasonable and proportionate**.

Exemptions for all schools

Sex

It will not be unlawful for a school to discriminate on the basis of sex when admitting students to a same-sex school, or when providing same-sex student accommodation.

Lawful sexual activity

It will not be unlawful for a school to discriminate on the basis of a person's lawful sexual activity if their employment involves the care or education of children, and the discrimination is **reasonably necessary in the circumstances**, including to protect the **physical, psychological or emotional wellbeing** of children.

Criminal history

It will not be unlawful for discriminate on the basis of a person's criminal history if the discrimination involves the care or education of, or provision of services to, children, and the discrimination is **reasonably necessary in the circumstances**, including to protect the **physical, psychological or emotional wellbeing** of children

Obligation to make reasonable adjustments

The Bill will introduce an obligation on employers and educational institutions to make reasonable adjustments for a person with a disability, or who is pregnant, breastfeeding or has carer responsibilities.

Whether an adjustment is 'reasonable' is assessed against a variety of factors, including the impact on the person with a disability or carer responsibility, and the financial circumstances of the employer or educational institution.

Limited exemptions

Employees

Employers will have to make reasonable adjustments so a person can carry out the work required, unless the person would be unable to carry out the inherent requirements of the work even with adjustments.

It will not be unlawful to discriminate against a person with disability by imposing reasonable conditions on the carrying out of work by that person.

Students

Schools will have to make reasonable adjustments so that a student can participate in or derive a substantial benefit from the education program.

However, reasonable adjustments may not be required where an educational institution can prove that a person would be unable to participate in or derive a substantial benefit from the program, if those adjustments were made.

Duty to take steps to eliminate unlawful conduct

Certain organisations, including schools and employers, will have a **positive duty** to take **reasonable and proportionate steps** to eliminate discrimination, harassment, vilification and victimisation as far as practicable. This will require schools to take reasonable and proportionate steps to eliminate discrimination and vilification on the basis of religious conviction, along with other protected attributes.

A person cannot make a complaint to the Equal Opportunity Commissioner for a failure to comply with this duty, but the Commissioner may conduct an investigation into suspected non-compliance and prepare a report of their findings.

Complaints

Complaints will be made to the Equal Opportunities Commissioner who seeks to resolve matters by conciliation. Unresolved matters may be referred to the State Administrative Tribunal.

For more information visit: [WA.gov.au/equalopportunitybill2026](https://www.wa.gov.au/equalopportunitybill2026)