

# Harassment, Bullying and Discrimination Policy

## Section 1 - Definitions

(1) For the purpose of this Policy:

a. Harassment

i. Harassment is defined as behaviour that is directed at an individual or group of staff or students which, because of its severity and/or persistence, is likely to create a hostile or intimidating environment and detrimentally affect an individual's participation in employment or education. Harassment is determined by reference to the nature and consequences of the behaviour, not the intent of the initiator, and occurs in circumstances where a reasonable person would have expected the behaviour to be offensive, humiliating or intimidating.

b. Sexual Harassment

i. Sexual Harassment is any behaviour of a sexual nature, which is unwelcome. It may involve a single incident or a series of incidents. The [Commonwealth Sex Discrimination Act 1984](#) and the [NSW Anti-Discrimination Act 1977](#) declare sexual harassment to be unlawful. The University has a responsibility to protect all staff and students from sexual harassment. Sexual Harassment may include:

- physical contact - e.g. touching; patting; pinching; kissing or embracing someone; sexual assault and rape;
- verbal comments - e.g. innuendo; smutty jokes; suggestive comments about someone's appearance or body; persistently inviting someone out; questions about a person's private life; requests for sexual favours; and
- nonverbal actions - e.g. leers; stares; displays of sexually explicit material; offensive body and hand movements; suggestive letters and drawings, including email; indecent exposure, stalking.

ii. When identifying sexual harassment, the intent of the person whose behaviour caused offence is largely immaterial, as it is the effect of their behaviour that is relevant. If behaviour is unwelcome and is sexually oriented, and occurs in circumstances where a reasonable person would have anticipated the possibility that a person would have been offended, humiliated or intimidated by the conduct, then it is sexual harassment.

iii. Sexual harassment is not behaviour which is based on mutual attraction, friendship or respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment.

c. Bullying

i. Bullying is defined as any on-going anti-social or unreasonable behaviour that offends, degrades, intimidates or humiliates a person, and has the potential to create a risk to health, safety and wellbeing. Overt or covert bullying refers to activities that create an environment of fear through acts such as:

- cruelty, belittlement or degradation;
- public reprimand or behaviour intended to punish, such as isolation and exclusion from workplace activities;
- ridicule, insult or sarcasm;
- trivialisation of views and opinions, or unsubstantiated allegations of misconduct; and/or
- physical violence such as pushing, shoving or throwing of objects.

#### d. Discrimination

- i. Discrimination occurs when a person is treated less favourably than another person because of certain attributes. Under federal and state laws, it is against the law to discriminate against people or to harass them, in various areas of public life because of their:
  - race, including colour, ethno-religious background or nationality,
  - sex or pregnancy,
  - transgender,
  - marital status,
  - disability,
  - carers' responsibilities,
  - homosexuality, or
  - age.
- ii. It is also against the law to treat people unfairly, or harass them, because of the age, disability, carers' responsibilities, homosexuality, marital status, race, sex or transgender of any relative, friend or colleague.
- iii. Direct discrimination is where someone is treated less favourably because of their sex, age, race, disability, pregnancy or any of the other grounds covered by anti-discrimination legislation. Indirect discrimination occurs when a requirement (or rule) that is the same for everyone has an effect or result that is, or is likely to, disadvantage students or staff because of their sex, race, disability etc. For example, a decision to insist that all students complete an examination in a set time, may indirectly discriminate against a student with a vision impairment.

## Section 2 - Policy Statement

### Part A - Policy Declaration

(2) The Harassment, Bullying and Discrimination Policy sets out the relevant definitions, underpinning principles and the University's commitment to eliminating harassment, bullying and unlawful discrimination across the University.

### Part B - Policy Description

#### Objectives

(3) The Harassment, Bullying and Discrimination Policy aims to create an environment free from harassment, bullying and unlawful discrimination leading to a productive and positive workplace and educational setting. To achieve this objective the University will:

- a. implement effective procedures to manage complaints based on the principles of natural justice,
- b. provide training and awareness raising programs for all staff, and
- c. promote and expect appropriate standards of conduct at all times.

#### Scope

(4) The University does not condone harassment, bullying or unlawful discrimination and values diversity in employment and education. This policy applies to all officers, employees and students of the University, as well as contractors or individuals who enter into particular relationships with the University such as Visiting Fellows and Adjunct Appointees. Breaches of this policy will be treated as misconduct or serious misconduct and dealt with under the relevant staff and student policies.

(5) This policy applies in any University context, including conferences, work functions, office Christmas parties and business or field trips.

## Section 3 - Content and Implementation

(6) Harassment or bullying of or unlawful discrimination against staff or students by any member of the University community is unacceptable and contrary to the educational and human resource policies of the University.

Harassment, bullying and unlawful discrimination may:

- a. create an intimidating hostile, offensive or distressing work or study environment;
- b. adversely affect the performance of individual staff or students;
- c. adversely affect a person's admission into a program or progress within a program;
- d. adversely affect an individual's recruitment, level of appointment, promotion and progression opportunities;
- e. adversely affect an individual's access to and/or participation in the range of educational opportunities, support services, social and recreational facilities provided by the University;
- f. adversely reflect on the integrity and standing of the University; and/or
- g. increase the risk of the University as an employer and an educational institution to be exposed as being vicariously liable.

(7) The University expects all members of staff, students, contractors and individuals who enter into particular relationships with the University, such as Visiting Fellows and Adjunct Appointees, to ensure that their behaviour meets appropriate standards and contributes to a productive workplace and learning environment.

### Principles, Obligations and Responsibilities

(8) Reports and complaints of harassment, bullying and unlawful discrimination will be treated seriously by the University and will be investigated promptly in a sensitive, thorough and confidential manner ensuring that complainants and witnesses are not victimised.

(9) The principles of natural justice apply and will guide the application of this policy and associated procedures. This means that before a decision is taken about them, staff and students have the right to be informed about the nature and content of the issue, have the right to be heard and have the right to have an unbiased decision maker.

(10) All managers have a leadership role in ensuring the Harassment, Bullying and Discrimination Policy is adhered to and in taking appropriate action in circumstances where they become aware of existing or possible harassment, bullying or unlawful discrimination.

(11) The complaint resolution process is carried out in good faith and complaints that are frivolous, vexatious, misconceived or lacking in substance will be rejected if a preliminary investigation of the facts indicates this.

### Resolution Options

(12) The University encourages staff and students to endeavour to resolve issues directly and informally through a process of discussion and conciliation where possible. This may involve seeking advice from a supervisor, trusted colleague, HR Services, the Manager, Equity and Diversity or Student Equity Officer. At any stage, strategies used to resolve a grievance may include, but need not be limited to, mediation, counselling or conciliation meetings between the parties.

(13) Staff or students may also refer their complaint to an external body, such as the Anti-Discrimination Board of NSW or the [Human Rights and Equal Opportunity Commission](#) at any time.

(14) In cases of assault or other criminal activity, staff or students should contact the Police.

## **Equity and Diversity Contacts**

(15) Equity and Diversity Contacts are located on each campus as a point of contact for staff and students about equity issues including possible discrimination or harassment complaints. Equity and Diversity Contacts are volunteer staff, appointed by the Deputy Vice Chancellor, who have undertaken training for their role.

(16) Equity and Diversity Contacts can:

- a. assist a staff member or student to clarify a situation;
- b. identify the nature of an enquiry/complaint and provide information on the scope of University policies and procedures and the possible options available to resolve a matter; and
- c. inform the person about the key principles underpinning the University's framework and, in particular, confidentiality, natural justice and rights of all parties.

(17) The Equity and Diversity Contact role does not include advocacy.

(18) A list of Equity and Diversity Contacts is available on the Equity and Diversity website.

## **Support**

(19) The University has an [Employee Assistance Program](#) , which provides free, confidential, off-campus counselling and advice. Details can be obtained from HR Services or the Equity and Diversity Office and are also available on the HR Services web site. Students may access the University's Student Counselling Service .

(20) The University will ensure that staff and students are informed of this policy and their related responsibilities, and that managers and other supervisory staff are aware of their particular responsibilities in the prevention and resolution of complaints of harassment, bullying and unlawful discrimination.

## **Section 4 - Procedures**

(21) Staff or students who believe they have been subjected to behaviour outlined in this policy should address these matters as follows:

- a. complaints made by staff about other staff or complaints made by students about staff are to be dealt with under the Grievance Policy for University Staff; and
- b. complaints made by students about other students or complaints made by staff about students are to be dealt with under the relevant University rules and policies relating to students.

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	13th August 2012
<b>Review Date</b>	13th April 2015
<b>Approval Authority</b>	Vice Chancellor
<b>Approval Date</b>	10th August 2012
<b>Expiry Date</b>	9th October 2012
<b>Head of Work Unit</b>	Kath Drew Director, Human Resources
<b>Enquiries Contact</b>	Kath Drew Director, Human Resources