

Harassment, Bullying and Discrimination Prevention Policy

Section 1 - Purpose and Scope

(1) The University is committed to ensuring all staff and students are treated fairly and with dignity and respect. An important part of this commitment is providing a University environment free from harassment, bullying and unlawful discrimination, thereby laying the foundation for a productive and positive workplace and educational setting.

(2) This policy sets down the relevant definitions, underpinning principles and the University's commitment to eliminating harassment, bullying and unlawful discrimination within the University, or in connection to the University.

Scope

(3) This policy applies to all employees and students of the University and to all other members of the University Community. 'University Community' includes employees, students, contractors, volunteers and visitors (including workers as defined in the relevant work, health and safety legislation) and individuals who enter into particular academic relationships with the University.

(4) Breaches of this policy will be treated seriously and dealt with under the relevant staff and student policies or legislation.

(5) This policy applies to any conduct that in the reasonable opinion of the University is connected to the University, including conduct that:

- a. occurs on, or in connection to, University land or other property owned, managed or occupied by the University or any agent of the University;
- b. takes place at or in connection to any University related function, conference or event;
- c. involves any form of contact or communication, whether initiated in person, by phone, fax, cameras, social networking or media, email, SMS communication or any other means; and
- d. occurs in connection with the employment or enrolment status of a student or staff member.

Section 2 - Unacceptable Behaviour

Harassment

(6) Harassment is unwelcome behaviour that intimidates, offends or humiliates an individual, or group of people, on the basis of race, colour, sex, age, sexual orientation, disability or other attribute protected by any state of federal anti-discrimination legislation.

(7) Harassment, including sexual 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.

(8) Harassment may be repeated or a one-off incident.

(9) Harassment includes but is not limited to:

- a. telling insulting jokes about particular racial groups;
- b. verbal abuse or comments that put down or stereotype certain groups;
- c. personal insults, comments, name calling or innuendo;
- d. offensive communications including digital communications such as Facebook, Twitter and e-mails; and
- e. making derogatory comments or taunts about a person's disability.

Sexual Harassment

(10) Sexual Harassment is one form of harassment.

(11) Sexual harassment is unwelcome, unwanted or uninvited behaviour of a sexual nature which makes a person feel offended, humiliated and/or intimidated and where that reaction is reasonable in the circumstances. Some forms of sexual harassment including sexual assault, indecent exposure, stalking and obscene communications may constitute a criminal offence.

(12) The Commonwealth Sex Discrimination Act 1984 and the NSW Anti-Discrimination Act 1977 declare sexual harassment to be unlawful.

(13) Sexual harassment includes but is not limited to:

- a. physical contact - e.g. touching, patting, pinching, kissing or embracing someone, deliberately brushing up against someone, sexual assault and rape;
- b. verbal comments - e.g. insults or taunts of a sexual nature, offensive jokes, suggestive comments about someone's appearance or body, persistently inviting someone out, intrusive questions about a person's private life, requests for sexual favours; and
- c. nonverbal actions - e.g. leers, stares, displays of sexually explicit material such as posters, magazines or screen savers, offensive body and hand movements, sending sexually explicit emails or text messages, suggestive letters and drawings, including email, indecent exposure, stalking, and inappropriate advances on social networking sites.

(14) 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. However, relationships may change and behaviour that was previously consensual and welcome, may become sexual harassment if it is non-consensual, unwelcome and not reciprocated.

Bullying

(15) Bullying is defined as repeated and unreasonable behaviour directed towards a person or a group of persons that creates a risk to health and safety.

(16) Unreasonable behaviour includes behaviour that is victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

(17) Bullying can be overt or covert. Examples of behaviour that may be considered to be bullying if they are repeated, unreasonable and create a risk to health and safety include:

- a. physical or verbal abuse;

- b. yelling, screaming or offensive language;
- c. unjustified criticism or complaints;
- d. intimidation;
- e. psychological harassment;
- f. deliberately excluding or isolating employees from workplace activities;
- g. withholding information that is vital for effective work performance;
- h. setting unreasonable timelines or constantly changing deadlines;
- i. setting tasks that are unreasonably below or beyond a person's skill level;
- j. denying access to information, supervision, consultation or resources such that it has a detriment to a worker;
- k. spreading misinformation or malicious rumours;
- l. changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker workers; and/or
- m. excessive scrutiny at work.

(18) Bullying does not include:

- a. a single incident of unreasonable behaviour;
- b. reasonable management action taken in a reasonable way, including but not limited to:
 - i. setting reasonable performance goals, standards and deadlines;
 - ii. rostering and allocating working hours where the requirements are reasonable;
 - iii. transferring an employee for operational reasons;
 - iv. deciding not to select a worker for promotion where a fair and transparent process has been followed;
 - v. informing a person about unsatisfactory performance when undertaken in a reasonable manner and/or in accordance with relevant policies and procedures;
 - vi. informing a person about inappropriate behaviour in an objective and confidential way;
 - vii. implementing organisational changes or restructuring; and
 - viii. disciplinary action where appropriate.

(19) Workplace conflict, including differences of opinion and disagreements, are generally not workplace bullying. People can have differences and disagreements without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, in some cases, conflict may escalate to the point where it becomes workplace bullying. It is therefore important that conflict is not ignored and, where possible, resolved to avoid escalation.

Discrimination

(20) Discrimination occurs when a person is treated less favourably than another person because of certain attributes (direct discrimination), or when a requirement that is the same for everyone has an unfair effect on some people because of a defined attribute (indirect discrimination). Under federal and state laws, it is against the law to discriminate against people, in various areas of public life because of their:

- a. race;
- b. colour;
- c. sex;
- d. sexual orientation, gender identity or intersex status;
- e. pregnancy;
- f. age;
- g. marital status;

- h. physical or mental disability;
- i. family or carers' responsibilities;
- j. religion;
- k. political opinion;
- l. national extraction;
- m. social origin; and/or
- n. any other attribute defined in state or federal legislation.

(21) 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 status of any relative, friend or colleague.

Vilification

(22) Vilification is a public act that could incite or encourage hatred, serious contempt or severe ridicule towards people because of their race, colour, national origin, sexual orientation, transgender status, religion, HIV/AIDS status or disability.

Section 3 - Policy Statement

(23) Harassment (including sexual harassment), bullying, vilification and unlawful discrimination by any member of the University Community is unacceptable and contrary to University policy. Harassment, bullying, vilification and unlawful discrimination may:

- a. create an intimidating hostile, offensive or distressing work or study environment;
- b. adversely affect the health and performance of a person or groups of employees;
- c. lead to increased absenteeism, reduced employee productivity and motivation;
- d. result in the loss of experienced and skilled employees through resignation;
- e. adversely affect a person's admission into a program or progress within a program;
- f. adversely affect a person's recruitment, level of appointment, promotion and progression opportunities;
- g. adversely affect a person's access to and/or participation in the range of educational opportunities, support services, social and recreational facilities provided by the University;
- h. adversely reflect on the integrity and standing of the University; and/or
- i. increase the risk of the University as an employer and an educational institution to be exposed as being vicariously liable.

(24) The University expects all members of the University Community to ensure that their behaviour meets appropriate standards and contributes to a productive workplace and learning environment.

Principle, Obligations and Responsibilities

(25) The Work Health and Safety Act 2011 imposes an obligation on all employees, students, contractors and visitors (including workers as defined in the relevant work health and safety legislation) to take reasonable care for their own health and safety, and to take reasonable care that their acts or omissions do not adversely affect the health and safety of others, including through incidents of harassment, bullying and unlawful discrimination.

(26) All members of the University Community have:

- a. a right to work or study in an environment free from bullying, harassment, vilification and discrimination;
- b. a responsibility to ensure their behaviour does not constitute, or encourage, bullying, harassment, vilification or

discrimination; and

- c. a right to make a complaint of bullying, harassment, vilification and discrimination, providing that the complaint is not vexatious or frivolous.

(27) Managers and Supervisors, including those who supervise students, have additional responsibilities including:

- a. ensuring the Harassment, Bullying and Discrimination Prevention Policy is adhered to;
- b. ensuring that acceptable standards of conduct are observed at all times, including a zero tolerance of any behaviour that may constitute bullying, harassment, vilification or discrimination;
- c. taking early corrective action to deal with behaviour that may be inappropriate, offensive or intimidating, even if a complaint has not been made;
- d. providing appropriate support and/or referral for staff or students or members of the community.

(28) The University strongly encourages the reporting of incidents of bullying, harassment and discrimination as a means of identifying and eliminating this behaviour from our work and learning environment.

Resolution Options

(29) If you feel that you have been bullied, harassed, vilified or discriminated against, you may consider:

- a. Talking to the person directly - Only if you feel able, safe and confident to do so, you can speak directly to the person involved and advise that their behaviour is unacceptable and must stop;
- b. Seeking advice and/or support - You can speak to your Supervisor or Manager, your lecturer or Course Coordinator, HR Services or Equity and Diversity Contacts. These staff will be able to assist you in exploring resolution options;
- c. Making a complaint - You can make a complaint and all reports and complaints of harassment, bullying, vilification and unlawful discrimination will be treated seriously and dealt with promptly, impartially and confidentially. Complaints will be handled in accordance with:
 - i. Complaint Policy — Staff: for complaints by staff, or student complaints alleging bullying, harassment or discrimination by a staff member;
 - ii. Complaint Policy — Students and Members of the Public: for all other complaints by students or members of the public.

(30) Complaints may also be referred to an external body, such as the Anti-Discrimination Board of NSW, the Australian Human Rights Commission or the Fair Work Commission.

(31) The University expects that any complaint of harassment, bullying or discrimination is made in good faith. The University may consider disciplinary action if a complaint is found to be frivolous or vexatious.

(32) In cases of assault, sexual assault or other behaviour that may constitute a crime, the University may be required to report the incident to police or other relevant authorities.

Equity and Diversity Contacts

(33) Equity and Diversity Contacts are located on each campus as a point of contact for employees and students about equity issues, including possible discrimination or harassment complaints.

(34) Equity and Diversity Contacts can:

- a. assist an employee 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 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.

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

Additional Support

(36) Support is available to employees through the Employee Assistance Program which provides free, confidential, off-campus counselling and advice.

(37) The University's Student Counselling Service and Student Advocacy Service provides support for students.

Status and Details

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Effective Date	20th April 2020
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Responsible Executive	Kim Franks Vice President (People and Culture)
Head of Work Unit	Kath Drew Director, Human Resources
Enquiries Contact	HR Services