

# Discrimination, Harassment, victimisation and bullying in compliance with the NSW Anti-Discrimination Act 1977

## How to deal with discrimination and harassment, victimisation or bullying:

Any person who is being discriminated against or harassed has the right to complain and take action.

It is unlawful to victimise a person who has lodged a complaint of unlawful discrimination or harassment.

If a student or an employee experiences a problem, he / she should:

- Complain about the behaviour. This can include telling the person (s) discriminating against him/her or harassing him/her that the situation is unacceptable.
- Report the matter to teacher or Principal / Academic Manger / Head of VET Department if the student feels that he/she is unable to speak to the person (s) himself/herself. In the case of an employee, report to the Principal / Academic Manger / Head of VET Department or Chief Executive Officer. Both the Principal / Academic Manager / Head of VET Department and Chief Executive Officer will make the best effort to resolve the matter within one week. The complaint will be attended to in a completely confidential way. Each complaint and appeal and its outcome is recorded. **See attached flow chart.**
- It is the College's objective to ensure that all students and employees enjoy an environment free from all forms of discrimination and harassment.

Discrimination and harassment are against the College's policy. They are also illegal under the NSW Anti-Discrimination Act 1977, and will not be tolerated by the College and its management. Our policy is to help set proper standards of behaviour at the College.

## WHAT IS DISCRIMINATION?

Discrimination on the grounds of nationality, sex, marital status, pregnancy, family responsibilities, ethno-religious origin, physical or intellectual disability (impairment), sexual preference, transgender or age is unlawful.

Discrimination occurs if:

- a person is treated unfairly or unequally because they belong to a particular group or category of people listed above; or
- a person is required to comply with a rule or condition that:

- is the same for everyone, but which has an unequal or disproportionate effect on a group of people listed above of which the person is a member; and
- is unreasonable in the circumstances.

### **WHAT IS HARASSMENT?**

In general, harassment is any form of behaviour that is not wanted and not asked for and that:

- humiliates someone (puts them down), or
- offends them, or
- intimidates them,

because of the person's nationality, sex, marital status, pregnancy, ethno-religious origin, physical or intellectual disability (impairment), sexual preference, transgender or age.

### **WHAT IS SEXUAL HARASSMENT?**

Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour that creates a hostile working environment.

Examples of sexual harassment include:

- uninvited touching;
- smutty jokes or comments;
- making promises or threats in return for sexual favours;
- displays of sexually graphic material including posters, pinups, cartoons, graffiti or messages left on notice boards, desks or common areas;
- insults, taunts, teasing or name-calling.

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

### **How can I stop harassment and discrimination occurring at my workplace?**

What we accept and do not accept in the workplace is the key to preventing discrimination and harassment at work. Employers and managers have a strong impact on workplace culture. For prevention to be effective an atmosphere of trust and open communication must be established.

The goal is to create a workplace where everyone is treated equally and with respect, individual differences are appreciated and it is accepted that everyone has the right to feel comfortable and safe at work. This sort of work environment will benefit everyone as employees will be highly motivated and the productivity of the business will be maximised.

Some ways this can be achieved include:

- declared management commitment to eliminating discrimination and harassment
- establishing whether discrimination or harassment has occurred in the workplace, for example, by surveying employees
- developing simple anti-discrimination and harassment policies and ensuring that all employees are familiar with them
- establishing an appropriate grievance/complaint handling mechanism for when someone has a complaint
- keeping appropriate records about complaints
- educating employees about their rights and responsibilities regarding discrimination and harassment
- providing an appropriate work environment
- ensuring that recruitment and promotion practices and training opportunities are based on merit.

### **How can the NSW Anti-Discrimination Board help?**

If the harassment appears to be against the law, the Board will first investigate it confidentially and impartially. This will be achieved by listening to what everyone has to say to see if what has been complained about appears to:

- have happened
- be against the law.

If an investigation reveals that the law may have been broken, the Board will try to conciliate the complaint. This means trying to help the person who made the complaint and the employer reach a private and confidential settlement.

Depending upon the circumstances, settlement could be one or more of the following:

- financial compensation
- appropriate action taken against the harasser/s
- the development of appropriate anti-harassment procedures and policies
- management and/or staff training programs to help ensure that the same thing does not happen again.

### **What happens if conciliation fails?**

If the complaint cannot be settled privately with the help of the Anti Discrimination Board, the person who complained may choose to go to the Administrative Decisions Tribunal of NSW. The Tribunal is a court. It provides legal judgement that must be followed. If a complaint goes to the Tribunal it will usually become public. This means the media will be able to report it. Those involved in cases before the Tribunal will generally be responsible for meeting the cost of their own legal representation and may have to pay the legal costs of the other person as well.

Other legal avenues available include:

- state or federal industrial commissions where the person being harassed has been forced to resign because of the harassment in the context of an unfair dismissal
- occupational health and safety laws which provide that it is the employer's
- responsibility to ensure that all employees work in a safe environment
- criminal law if the harassment amounts to assault
- defamation or other laws to take a private action.

## Discrimination, Harassment, Victimization and Bullying: What to Do!!

<b>Problems within the College</b>				
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😊 <b>Solved</b>	←	<b>Talk to:</b> Your teacher		
		↓		
		☹️ <b>Not solved</b>		
		↓		
😊 <b>Solved</b>	←	<b>Talk to:</b> Principal / Academic Manager / Head of VET Department		
		↓		
		☹️ <b>Not solved</b>		
		↓		
😊 <b>Solved</b>	←	<b>Talk to:</b> Registrar		
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		☹️ <b>Not solved</b>		
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😊 ← <b>Solved</b>	<b>Contact:</b> <b>Overseas Students Ombudsman</b> GPO Box 442, Canberra ACT 2601 - Ph: 1300 362 072 <b>City Office:</b> Level 24, 580 George Street, Sydney, 2000 Tel: (02) 9286 1000	<b>Contact:</b> <b>Anti-Discrimination Board</b>  PO Box A2122, Sydney South NSW 1235 <b>City Office:</b> Level 4, 175 Castlereagh Street, Sydney NSW 2000 Tel: (02) 9268 5555	<b>Contact:</b> <b>The Australian Human Rights Commission</b> GPO Box 5218, Sydney NSW 2001 <b>City Office:</b> Level 3, 175 Pitt Street, Sydney NSW 2000 Tel: (02) 9284 9600	→ 😊 <b>Solved</b>
		↓		
		☹️ <b>Not solved</b>		
		<b>Contact:</b> <b>The Administrative Decisions Tribunal of NSW</b> Level 10, John Maddison Tower, 86-90 Goulburn Street, Sydney NSW 2000 Tel: (02) 9377 5711		

**NOTE: STUDENTS HAVE THE RIGHT TO BE REPRESENTED BY A NOMINEE IF THE STUDENT SO CHOOSES. STUDENTS CAN OBTAIN HELP FROM REGISTERED COUNSELLORS. EACH APPEAL IS HEARD BY AN INDEPENDENT PERSON OR PANEL AS ABOVE, EACH COMPLAINT AND APPEAL AND ITS OUTCOME IS RECORDED IN WRITING.**