



# Discrimination and Harassment Policy and Procedure

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## 1 PURPOSE

- 1.1 Polytechnic Institute Australia ('PIA') is committed to providing a safe, flexible and respectful environment for staff and clients free from all forms of discrimination, bullying and sexual harassment. All staff and students of PIA are required to treat others with dignity, courtesy and respect.
- 1.2 By effectively implementing our staff and student discrimination and harassment policy, we will attract and retain talented staff and quality students, and create a positive environment for all.

## 2 SCOPE

- 2.1 This policy and procedure applies to:
  - board members;
  - committee members;
  - staff, including managers and supervisors; full-time, part-time, casual, temporary or permanent staff; job candidates; and visitors;
  - students and course applicants;
  - on-site, off-site or after hours work; college-related social functions; conferences; and
  - wherever and whenever staff or students may be as a result of their involvement with PIA.

## 3 POLICY STATEMENT

### Unacceptable Conduct

- 3.1 Discrimination, bullying and sexual harassment are unacceptable at PIA and are unlawful under the following legislation:
  - *Sex Discrimination Act 1984* (Cth)
  - *Racial Discrimination Act 1975* (Cth)
  - *Disability Discrimination Act 1992* (Cth)

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- *Age Discrimination Act 2004 (Cth)*
- *Australian Human Rights Commission Act 1986 (Cth)*.

3.2 Staff (including managers) or students found to have engaged in such conduct might be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including dismissal, exclusion, and/or referral to law enforcement agencies.

### Discrimination

3.3 Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race, or disability.

3.4 Discrimination can occur:

**Directly**, when a person or group is/are treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see section 3.5).

*For example, a worker is harassed and humiliated because of their race, or a worker is refused promotion because they are 'too old'.*

**Indirectly**, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see section 3.5).

*For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.*

3.5 Protected personal characteristics under Federal discrimination law include:

- a disability, disease or injury, including work-related injury;
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members;
- race, colour, descent, national origin, or ethnic background;
- age, whether young or old, or because of age in general;
- gender;
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union;
- religion;
- pregnancy and breastfeeding;
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual;
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship;
- political opinion;
- social origin;

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- medical record; and
  - an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.
- 3.6 It is also against the legislation listed in 3.1 to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

### Bullying

- 3.7 If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination.
- 3.8 Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices.
- 3.9 Under the legislation listed in 3.1, this behaviour does not have to be repeated to be discrimination – it may be a one-off event.
- 3.10 Behaviours that may constitute bullying include:
- sarcasm and other forms of demeaning language;
  - threats, abuse or shouting;
  - coercion;
  - isolation;
  - inappropriate blaming;
  - ganging up;
  - constant unconstructive criticism;
  - deliberately withholding information or equipment that a person needs to do their job or access their entitlements; and
  - unreasonable refusal of requests for leave, training or other benefits.
- 3.11 Bullying is unacceptable at PIA and may also be against occupational health and safety laws.

### Sexual Harassment

- 3.12 Sexual harassment is a specific and serious form of harassment. The Australian Human Rights Commission defines it as any unwanted or unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. The Anti-Discrimination Board of NSW defines sexual harassment as unwanted sexual advances, or unwelcome requests for sexual favours; or other unwelcome conduct of a sexual nature; and that a reasonable person would have expected you to be offended, humiliated or intimidated by this behaviour.
- 3.13 Sexual harassment can be explicit or implicit. It may be a single incident or it may occur over a period of time. However, in defining and identifying sexual harassment, it is the effect of the behaviour that is relevant, not the intent. It is the impact of the behaviour on the receiver that determines whether sexual harassment has occurred. Sexual harassment can be physical, spoken or written.

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3.14 Examples of behaviour that may constitute sexual harassment include:

- sexually suggestive behaviour, such as leering or staring;
- physical contact of a sexual nature, including touching, brushing, kissing;
- sexually suggestive or seductive comments, suggestions or jokes;
- displaying pornographic or obscene images or objects;
- requests for sex;
- sexually explicit posts on social networking sites;
- insults or taunts of a sexual nature;
- intrusive questions or statements about a person's sex life;
- sending sexually offensive emails or text messages;
- inappropriate advances on social networking sites;
- belittling comments about a person's anatomy or comments based on sex-role stereotypes;
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

3.15 Lack of explicit objection to inappropriate behaviour at the time it occurs does not indicate consent to the behaviour.

3.16 All staff, students and visitors have the same rights and responsibilities in relation to sexual harassment.

3.17 A single incident is enough to constitute sexual harassment – it need not be repeated.

3.18 All incidents of sexual harassment, no matter how large or small, or who is involved, require employers and managers to respond quickly and appropriately.

3.19 PIA recognises that comments and behaviour that do not offend one person may offend another. This policy requires all staff and students and visitors to respect other people's limits.

### Victimisation

3.20 Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation. Victimisation is against the law.

3.21 It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

3.22 Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

3.23 PIA has a zero tolerance approach to victimisation.

### Gossip

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- 3.24 It is unacceptable for staff at PIA to talk with other staff members, clients or suppliers about any complaint of discrimination or harassment.
- 3.25 Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

### Merit at PIA

- 3.26 All recruitment and job selection decisions at PIA will be based on merit; that is, the skills and abilities of the candidate as measured against the inherent requirements of the position, regardless of personal characteristics.
- 3.27 It is unacceptable and may be against the law to ask job candidates questions about their personal characteristics, or to in any other way seek information about those personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

## 4 PROCEDURES

- 4.1 PIA strongly encourages any students or members of staff who believe they have been discriminated against, bullied, sexually harassed or victimised to take appropriate action by following the *Student Grievance Handling Policy and Procedure* or the *Staff Grievance Handling Policy and Procedure*.
- 4.2 Students or staff who do not feel safe or confident to take such action may seek assistance from the Registrar for advice and support, or on action their behalf.

### Professional Counselling

- 4.3 Students and staff of PIA are able to access professional counselling from our contracted professional from Life Resolution. To access the professional counselling, contact the Registrar for a referral.
- 4.4 Professional counselling is confidential and nothing discussed with a counsellor will be communicated back to PIA.

## 5 RESPONSIBILITIES

### Staff Rights and Responsibilities

- 5.1 All staff are entitled to:
- recruitment and selection decisions based on merit that are not affected by irrelevant personal characteristics;
  - work free from discrimination, bullying and sexual harassment;
  - the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised; and
  - reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.

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5.2 All staff must:

- follow the standards of behaviour outlined in this policy;
- offer support to people who experience discrimination, bullying or sexual harassment, including providing information about how to make a complaint;
- avoid gossip and respect the confidentiality of complaint resolution procedures; and
- treat everyone with dignity, courtesy and respect.

### Additional Responsibilities of Managers and Supervisors

5.3 Managers and supervisors must also:

- model appropriate standards of behaviour;
- take steps to educate and make staff aware of their obligations under both this policy and the law;
- intervene quickly and appropriately when they become aware of inappropriate behaviour;
- act fairly to resolve issues and enforce behavioural standards, making sure relevant parties are heard;
- help staff resolve complaints informally where appropriate;
- refer formal complaints about breaches of this policy to the appropriate complaint handling officer for investigation;
- ensure staff who raise an issue or make a complaint are not victimised;
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made; and
- seriously consider requests for flexible work arrangements.

### Reporting

- 5.4 Where a case is presented to PIA in which an allegation of a breach in the law is made, the Registrar, with the consent of the victim, will lodge the matter with the relevant state authority.
- 5.5 All allegations of discrimination and harassment are reported to the Board of Directors.

## 6 DEFINITIONS

6.1 Terms not defined in this document may be in the PIA glossary.

### Terms and definitions

**Bullying:** Bullying is a form of discrimination which may include jokes, teasing, nicknames, emails, pictures, text messages, social isolation or ignoring people, or unfair work practices.

**Discrimination:** Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

**Sexual Harassment:** Sexual harassment is a specific and serious form of harassment which relates to any unwanted or unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated.

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**Victimisation:** Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation.

## 7 RELATED LEGISLATION AND DOCUMENTS

### Documents

Staff Grievance Handling Policy and Procedure  
Student Grievance Handling Policy and Procedure

Sex Discrimination Act 1984 (Cth)  
Racial Discrimination Act 1975 (Cth)  
Disability Discrimination Act 1992 (Cth)  
Age Discrimination Act 2004 (Cth)  
Australian Human Rights Commission Act 1986 (Cth)

### Higher Education Standards Framework

- 7.1 This policy and procedure complies with the Higher Education Standards Framework (Threshold Standards) 2015, Standard 2.3, which states:
4. A safe environment is promoted and fostered, including by advising students and staff on actions they can take to enhance safety and security on campus and online.
- 7.2 This policy and procedure also complies with the Higher Education Standards Framework (Threshold Standards) 2015, Standard 2.4, which states:
1. Current and prospective students have access to mechanisms that are capable of resolving grievances about any aspect of their experience with the higher education provider, its agents or related parties.

### National Code

- 7.3 The National Code of Practice for Providers of Education and Training to Overseas Students 2018 Standard 5 states that:
- 5.2 Registered providers must ensure students under 18 years of age are given age-and culturally-appropriate information on:
- 5.2.1 who to contact in emergency situations, including contact numbers of a nominated staff member and/or service provider to the registered provider
  - 5.2.2 seeking assistance and reporting any incident or allegation involving actual or alleged sexual, physical or other abuse.

## 8 FEEDBACK

- 8.1 PIA staff and students may provide feedback about this document by emailing [policy@pia.edu.au](mailto:policy@pia.edu.au).

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### 9 APPROVAL AND REVIEW DETAILS

Approval and Review	Details
Approval Authority	Executive Management Committee
Administrator	CEO

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