Discrimination and Harassment Policy

Section 1 - Background Information

(1) In line with the ACU Mission, Identity and Values, which expresses a fundamental value for the dignity of all human beings, this Policy seeks to facilitate an inclusive, safe, respectful and supportive working and learning environment with a clear statement of the University's expectations in respect of conduct that may constitute discrimination and harassment (including sex-based harassment) or a breach of the University's related policies.

(2) Separate University policies and procedures exist for workplace bullying (see the Workplace Bullying Policy and Procedure), staff sexual misconduct (sexual harassment and sexual assault) (see the Staff Sexual Misconduct Policy), and student sexual misconduct (sexual harassment and sexual assault) (see the Student Prevention and Response to Sexual Harm or Gender-Based Violence Procedure).

Section 2 - Policy Statement

(3) The University is committed to providing a safe and inclusive environment that is free from discrimination and harassment where staff and students are treated with dignity, courtesy and respect.

(4) All staff and students have a right to work and study in an environment free from discrimination and harassment.

(5) The University provides procedures by which all staff and students can have a complaint of discrimination and harassment addressed in a sensitive, fair, timely and confidential manner.

Section 3 - Policy Purpose

(6) The purpose of this Policy is to articulate the University's approach to addressing unlawful discrimination and harassment within the University community.

Section 4 - Application of the Policy

(7) This Policy applies to all staff members, students, visitors, volunteers and contractors engaged or appointed by the University while on campus or engaged in University related activity.

Section 5 - What is Unlawful Discrimination?

(8) Unlawful discrimination is defined under State and Federal legislation as treating someone or a group of people less favourably than another person or group because of a particular characteristic(s) e.g. race, sex, religion specified under anti-discrimination legislation. Unlawful discrimination can be either direct or indirect.

(9) Direct discrimination occurs when a person or group of persons is treated less favourably than another person or

group of persons because of their background or certain personal characteristics. Direct discrimination is unlawful under Federal discrimination laws if the discrimination is based on protected characteristics or grounds, listed in clause 13 of this Policy. Some limited exemptions and exceptions may apply.

(10) Examples of behaviours that may amount to direct discrimination include:

a. excluding someone from a job or course because of their family responsibilities;
b. not employing a woman because she is pregnant, or may become pregnant; and
c. a student not being invited to work on a research project because they are from a non-English speaking background and it is assumed people might have difficulty understanding them.

(11) Indirect discrimination occurs when there is an unreasonable rule or policy that is the same for everyone but has an unfair effect on people who share a particular attribute. Indirect discrimination is unlawful if the discrimination is based on protected characteristics or grounds, listed in clause 13 of this Policy. Certain attributes are protected by law, such as a person's race, sex, pregnancy. Some limited exemptions and exceptions may apply. Indirect discrimination is not unlawful when the rule or policy is reasonable, having regard to the circumstances of the case.

(12) Examples of behaviours that may amount to indirect discrimination include:

a. requiring all staff members to work hours that might be unfair to a person with carer's responsibilities (unless it can be shown that these hours are an essential condition);
b. a student not being able to undertake a subject because they have a disability and cannot access the lecture room where classes are being undertaken.

(13) Grounds for unlawful Discrimination and / or Harassment include:

a. Race
b. Sex
c. Breastfeeding
d. Pregnancy or potential pregnancy
e. Disability
f. Impairment
g. Age
h. Religion, religious belief or religious activity
i. Sexual orientation
j. Industrial, political or trade union activity
k. Gender identity
l. National extraction or social origin
m. Intersex status
n. Association with a child
o. Marital / relationship status
p. Carer / family responsibilities
q. Criminal record
r. Medical record

(14) Vilification, a public act which is capable of inciting hatred, serious contempt for, or severe ridicule of a person or group of persons on the grounds of race, religion, sexuality or gender identity, is also unlawful.

(15) The grounds for unlawful discrimination and harassment are explained in the relevant Federal and State

legislation, which is listed in clause 33.

Section 6 - What is Unlawful Harassment?

(16) Unlawful harassment is defined under Federal and State legislation, as any form of behaviour where a person is made to feel intimidated or humiliated because of a particular characteristic(s) (e.g. race or sex). These protected characteristics are set out in anti-discrimination and human rights legislation.

(17) Unlawful harassment can be verbal, written or physical, and has the intent or effect of creating an intimidating, hostile or offensive work and / or educational environment.

(18) Harassment can be a single incident, or repeated behaviour, and can occur even if the behaviour is not intended to offend. Silence does not mean that the behaviour is acceptable to the other person.

(19) Examples of behaviours that may amount to harassment include:

a. asking repeated intrusive questions about someone's personal life;
b. comments that put down or stereotype people;
c. insulting jokes about particular racial groups;
d. offensive communications including digital communications (Facebook, X, e-mails), written, images and telephone; and
e. derogatory or demeaning jokes intended to offend on the basis of stereotyped characteristics.

Section 7 - Behaviours that do not constitute Discrimination or Harassment

(20) The following behaviours do not constitute discrimination or harassment:

a. reasonable management practices, including performance management and discipline processes;
b. a lawful and reasonable instruction to carry out reasonable duties and instructions;
c. a direction to comply with University rules, regulations and policies; and
d. a poor assessment of a staff / student's work / assessment is not discriminatory, provided the criticism is reasonable and constructive.

(21) In some circumstances an expression of freedom of speech and/or intellectual freedom in accordance with Statute 13 - Freedom of Speech, Intellectual Freedom and Academic Freedom and clause 1.10 of the ACU Staff Enterprise Agreement may not constitute discrimination or harrassment, however in exercising this right, staff must not engage in harassment or unlawful discrimination as defined by Sections 5 and 6 of this policy.

Section 8 - Roles and Responsibilities

(22) The University has a responsibility to take all reasonable steps, consistent with its duty of care, to:

a. ensure the health, safety and wellbeing of staff members, students, visitors, volunteers and contractors;
b. support a working and learning environment that is free from discrimination and harassment;
c. ensure staff members, students, visitors, volunteers and contractors are informed of this; and
d. inform managers / supervisors of their responsibilities under this Policy through the implementation of training

and awareness raising strategies.

(23) Managers and Supervisors have a responsibility to:

a. make all reasonable efforts so that acceptable standards of conduct and behaviour are observed at all times within the workplace and / or classroom;
b. undertake timely corrective action to deal with behaviour that may be offensive or intimidating, even if a complaint has not been made, and
c. ensure complaints are addressed promptly, fairly, sensitively and in accordance with the Staff Complaints Management Policy and Research Complaints and Investigations Procedure and / or the Workplace Bullying Policy and Procedure.

(24) All staff members, students, visitors, volunteers and contractors have a responsibility to:

a. ensure that at all times their behaviour is consistent with the expectations outlined under this Policy and complete relevant training as required;
b. engage in good faith in the complaint management process to achieve resolution of the complaint;
c. ensure cooperation by remaining open to suggested options for resolution and engaging respectfully with those concerned as appropriate;
d. respect cultural and social differences among colleagues and students;
e. avoid vexatious and frivolous complaints and the vilification or victimisation of complainants; and
f. treat all members of the University community with dignity, courtesy and respect at all times.

(25) The role of the Discrimination and Harassment Advisors (for staff and students) and Student Advocacy Service (for students) is to:

a. clarify whether the alleged behaviour may constitute unlawful discrimination, unlawful harassment, bullying or victimisation;
b. provide information about ACU policies, procedures and processes;
c. advise the person of their rights and obligations under the University's policies and procedures and where information about the relevant legislation may be obtained;
d. advise the person of the options available to them;
e. encourage the complainant or respondent to seek support and provide referrals as appropriate; and
f. explore strategies to resolve the matter.

Section 9 - Making a Complaint of Discrimination and Harassment

(26) Staff members, students, visitors, volunteers or contractors are encouraged, in the first instance, to attempt to resolve complaints of discrimination and harassment informally and at the local level.

(27) The University's procedures for handling complaints are based on confidentiality, impartiality, procedural fairness, immunity from detrimental action and prompt resolution.

(28) The relevant procedures for the resolution of complaints are outlined in the Staff Complaints Management Policy (for complaints made by staff), the Student and Public Complaints Policy (for complaints made by students) and where relevant, the Protected Disclosures Policy.

Section 10 - Confidentiality and Victimisation

(29) The parties to a discrimination and / or harassment complaint are required, at all stages of this Policy, to maintain confidentiality in relation to the concern or complaint. The parties must not disclose, by any form of communication, either the fact or the substance of the matter to anyone other than, as relevant, the staff representative (as defined in the ACU Staff Enterprise Agreement 2026-2029 or an Australian qualified counsellor or relevant medical practitioner.

(30) A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in the resolution of a complaint.

Section 11 - Revisions made to this Policy

(31) From time to time the University may make changes to this Policy to improve the effectiveness of its operation.

Section 12 - Further Assistance

(32) Any staff member who requires assistance in understanding this Policy should first consult their nominated supervisor who is responsible for the implementation and operation of these arrangements in their work area. Should further information or advice be required staff should visit Service Central.

(33) Any student who requires assistance with this Policy should contact the Student Advocacy Service.

Section 13 - Additional Information

(34) For related legislation, policies, procedures and guidelines and any supporting resources please refer to the Associated Information tab.

Status and Details

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Effective Date	26th November 2024
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Approval Date	26th November 2024
Expiry Date	Not Applicable
Responsible Executive	Angelle Laurence Chief People Officer
Responsible Manager	Angelle Laurence Chief People Officer
Enquiries Contact	Bernardine Lynch ER and Safety Committees and Policy Officer People and Capability