

Anti-Discrimination and Freedom from Bullying and Harassment (Students) - Procedures



/explore/policies-and-procedures/anti-discrimination-and-freedom-from-bullying-and-harassment-students-procedures

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Definitions

Please refer to the University's Glossary of Terms for policies and procedures. Terms and definitions identified below are specific to these procedures and are critical to its effectiveness:

Bullying is repeated and unreasonable behaviour directed towards an individual or a group that creates a risk to health and safety.

Detailed below are examples of behaviours, whether intentional or unintentional, that may be regarded as bullying if they are repeated, unreasonable and create a risk to health and safety. This is not an exhaustive list – however, it does outline some of the more common types of behaviours. Examples include:

- Abusive, insulting or offensive language or comments
- Unjustified criticism or complaints
- Deliberately excluding someone from study-related activities
- Withholding information that is vital for effective study performance
- Denying access to information, supervision, consultation or resources to the detriment of a student
- Spreading misinformation or malicious rumours

Bullying, can be carried out in a variety of ways including through email and text messaging or social media channels, directly or indirectly.

Discrimination, as defined in the Anti-Discrimination Act 1991 (Qld), means to treat an individual less favourably because of an attribute listed in the Act, or to impose unreasonable terms or conditions for which individuals with a particular attribute are unable to comply. Attributes include:

- parental status
- pregnancy
- breastfeeding
- religious belief or activity
- political belief or activity
- relationship status
- sex
- lawful sexual activity
- gender identity
- sexuality
- age
- race, nationality or ethnic origin
- disability or impairment
- trade union activity
- family responsibilities
- association with, or relation to, a person identified on the basis of any of the above attributes.

APPROVAL AUTHORITY

Vice-Chancellor and President

RESPONSIBLE OFFICER

Vice-Chancellor and President

DESIGNATED OFFICER

Pro Vice-Chancellor (Students)

FIRST APPROVED

24 October 2017

LAST AMENDED

25 October 2017

EFFECTIVE START DATE

25 October 2017

REVIEW DATE

24 October 2022

STATUS

Active

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Discrimination can be either direct or indirect. Direct discrimination takes place when an individual is disadvantaged or treated less favourably than another person. Indirect discrimination happens when a practice or policy appears to be fair because it treats everyone the same way but actually disadvantages people from a particular group.

Harassment is any form of behaviour that is unwelcome, unsolicited, unreciprocated and usually (but not always) repeated. It is behaviour that is likely to offend, humiliate or intimidate. Harassment can be based on any of the attributes listed under the definition of discrimination and for example can include sexual, disability, racial, or gender based harassment. (For avoidance of doubt and for the purposes of these Procedures, where harassment is referenced, this will include sexual harassment unless the context would indicate otherwise.)

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

Reporting incidents: In the first instance, a student who has experienced discrimination bullying or harassment may report an incident and seek support from Student Wellbeing, while considering options for making a formal complaint. (See section 3 below)

Resolving Complaints: A student who has experienced discrimination bullying or harassment should seek to resolve a complaint in accordance with the University's Student Grievance Resolution – Procedures.

Sexual harassment means any unsolicited, unwelcome and unreciprocated behaviour, act or conduct of a sexual nature that offends, humiliates or intimidates other persons. It can be a single incident or a persistent pattern and can range from subtle behaviour to explicit demands for sexual activity or even criminal assault and including but not limited to the following examples:

- inappropriate jokes or comments with sexual connotations
- the display of offensive material (of a sexual nature)
- stares and leers or offensive hand or body gestures
- comments and questions about another person's sexual conduct and/or private relationships
- persistent unwelcome invitations
- requests for sexual favours
- offensive written, telephone or electronic mail or any other electronic means of communication (of a sexual nature)
- unnecessary close physical proximity including persistently following a person
- unwelcome physical contact such as brushing against or touching a person
- denigrating comments regarding a person's gender or sexual preference
- negative behaviours, e.g., intimidation or exclusions related to the sex of the recipient

In addition, and in accordance with the Anti-Discrimination Act 1991 (Qld), any other unwelcome conduct of a sexual nature in relation to a person, in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

Victimisation means threatening or subjecting someone to unfair treatment because they have made, or intend to make, a discrimination, bullying or harassment complaint. This also includes those who have supported another person in making a complaint, or acted as a witness in any investigation.

Vexatious Complaint is a complaint or number of complaints made with the specific intent to annoy, harass, embarrass or humiliate the respondent. Vexatious complaints may also be made with other ulterior motives.

1. Purpose of procedures

These procedures will:

- set out how the University will implement measures to protect and support students who report discrimination, bullying or harassment,
- link students who make a discrimination, bullying or harassment complaint to the University's Student Grievance Resolution – Governing Policy and associated procedures,
- detail how the University will use good practice to respond to reports and complaints of discrimination, bullying or harassment of students, and
- facilitate a student's continued access to University programs and activities.

2. Procedures scope and application

2.1 These procedures apply to all students of the University. However, the response by the University may vary depending upon whether the person being accused is:

- a student (see section 7)

- a staff member (see section 8)
- neither a student nor staff member (see section 9)

2.2 Where a student, who is also a staff member, chooses to report an incident of discrimination, bullying or harassment, they may report the incident to either Student Wellbeing or Human Resources.

2.3 All reports and/or complaints of discrimination, bullying or harassment will be taken seriously. However, there may be limits on the University's power to take action against the person who is accused, in circumstances beyond the University's direct control. (Refer to sections 7-9.)

3. Reporting discrimination, bullying and harassment

3.1 Students who have experienced discrimination, bullying or harassment may seek support and report the incident, with or without making a complaint, by contacting Student Wellbeing in the first instance.

3.2 When students make a report to a member of staff, the staff member should refer them to Student Wellbeing for support and to report the incident.

3.3 Students who are experiencing discrimination, bullying or harassment and who believe there is a threat to their immediate or ongoing safety are advised to call USC Security. USC Security will provide a copy of an incident report to the Pro Vice-Chancellor (Students) as soon as reasonably practicable.

3.4 Students may also report incidents of sexual harassment (including sexual assault) to:

- other specialist sexual assault support services by calling 1800 RESPECT (1800 737 732) and/or
- the police.

3.5 Students may also lodge a complaint of discrimination to:

- the Australian Human Rights Commission and/or
- the Anti-Discrimination Commission of Queensland.

3.6 The University will cooperate with any investigation conducted by the relevant Commission or authority. In some cases, the relevant authority may request the internal university processes to be exhausted before proceeding with an investigation of its own.

3.7 Students who choose to refer a complaint to external authorities will have the matter dealt with externally and may not have recourse to the University's Student Grievance Resolution Processes. However, a student may, at any time, seek to interrupt an internal University process and refer a complaint to an external authority during the process. They should notify the University of their decision in writing as soon as possible.

4. Supportive measures

4.1 The University provides supportive measures to protect the welfare and wellbeing of all involved parties and so that the rights and interests of all parties are balanced and fair. Implementation of supportive measures should not suggest that the University has determined the merits of a report.

4.2 The University will implement supportive measures for reporting students, as indicated, which are designed to address the student's safety, wellbeing and provide access to educational activities. Supportive measures are available regardless of whether or not:

- a complaint is made to the University and/or to police or an external body,
- the student participates in any investigation, and/or
- the University, police or external body conduct the investigation of the incident.

4.3 The University will also implement supportive measures for students who are witnesses or those who have supported another person in making a complaint, as appropriate.

4.4 Supportive measures may include:

- academic support services and accommodations, including the ability to reschedule exams and assignments, transfer course sections, or withdraw from courses without penalty,
- on-campus counselling services and/or assistance in connecting to community-based counselling services,
- assistance in connecting to community-based medical services and/or specialist support service, and
- assistance with referral to community supports or police to obtain personal protective orders.

4.5 Any supportive measures provided under these procedures will be kept confidential to the extent practicable.

5. Protective measures

5.1 The University may impose protective measures, which are typically required for safety reasons, following an appropriate risk assessment. Protective measure can only incorporate measures that are within the University's jurisdiction. Protective measures may also be those which will best protect an investigation and/or the reporting student/others from harm, whilst having the minimum possible impact on the accused staff member or student, pending the investigation. Implementation of protective measures should not suggest that the University has determined the merits of a complaint.

5.2 Protective measures may include:

- limiting an individual's access to certain University facilities or activities,
- changes in transportation arrangements, such as parking in a different location,
- provision of on-campus escorts,
- academic schedule modifications (typically to separate the reporting student and accused),
- work schedule or job assignment modifications.

5.3 Dependent on the specific circumstances including the nature of the protective measures to be implemented, the University may advise both parties (i.e. the reporting student and the accused) in writing, detailing:

- the exact nature of any protective measures imposed,
- the timeframe for the protective measures, including any review dates,
- consequences for not adhering to the protective measures.

5.4 Protective measures may also be appropriate for witnesses or other persons involved.

5.5 Any protective measures provided under these procedures will otherwise be kept confidential to the extent practicable.

5.6 Students under protective measures should report information concerning a violation of protective measures to the Pro Vice-Chancellor (Students) as soon as possible, and should dial 000 or USC Security in situations of immediate health or safety concern. Violations of protective measures may constitute misconduct and as such would be managed under applicable University procedures.

6. Responding to reports of discrimination, bullying or harassment

6.1 Student Wellbeing will meet with the reporting student as soon as reasonably possible. Student Wellbeing will take details of the incident, provide support to the reporting student and discuss with the reporting student what resolution they may be seeking.

Student Wellbeing will:

- discuss any immediate safety and medical issues relating to the report,
- arrange provision of relevant support services, including psychological or academic support,
- advise that they will provide the Pro Vice-Chancellor (Students) with a confidential report of the incident and arrangements made for ongoing support to the student,
- advise the student of the obligation for Student Wellbeing staff to report staff misconduct to the Director of Human Resources
- refer the reporting student to other University or local community support as required, and
- advise that if the accused's behaviour constitutes misconduct, the reporting student may be invited to appear as a witness or to provide a witness statement.

All attempts will be made to ensure the reporting student does not need to repeat their story to multiple staff members to ensure the least traumatic experience in reporting.

6.2 Although the University does not limit the time frame for reporting sexual harassment, to promote a timely and effective investigation, a student should report an incident within six months of its occurrence. Long delays between the incident and reporting may make it more difficult to gather relevant and reliable information.

6.3 Once the reporting student has decided how to proceed, the University will seek, whenever it is reasonably possible, to act in accordance with the reporting student's wishes. However, where it believes that there is an ongoing threat to a student's welfare and safety as a result of discrimination, bullying or harassment, the University reserves the right to investigate the incident even when the reporting student does not request any further action be taken.

6.4 Only in exceptional circumstances would the University report an alleged crime or notify a third party without prior student consent, for example, when a report is against a staff member, or if the information is necessary to protect the reporting student (or others) from harm or to prevent a further crime taking place. The University will advise the student of its decision to notify any third party in writing, as soon as possible and include the reasons for such action.

6.5 The University provides an opportunity for individuals to make an anonymous report of discrimination, bullying or harassment to the University by contacting the Pro Vice-Chancellor (Students). However, the University's ability to respond to an anonymous report may be limited.

7. Responding to complaints against a student

7.1 The University will adopt good practice when responding to complaints of discrimination, bullying or harassment. In accordance with the Student Grievance Resolution Policy and Procedures, the University will:

- take all allegations seriously and respond in a timely manner,
- apply the principles of natural justice and procedural fairness when dealing with all parties to the complaint,
- maintain the confidentiality of all parties to the complaint,
- seek to resolve a complaint at the earliest opportunity,
- ensure the complainant is not victimised for having made a complaint, and
- ensure all parties have access to counselling services.

7.2 When a complaint is submitted, the University will acknowledge receipt within 5 business days.

7.3 The matter will be referred to Student Wellbeing to ensure the reporting student has ongoing support and to confirm the details of the complaint.

7.4 Student Wellbeing will provide the Pro Vice-Chancellor (Students) with a report of an incident, including advice about ongoing support for the reporting student and the outcomes the reporting student is seeking.

7.5 Following receipt of the report from Student Wellbeing, the Pro Vice-Chancellor (Students) will arrange for mediation to resolve the matter in accordance with the reporting student's wishes. Alternatively, where mediation is not requested by the reporting student, the Pro Vice-Chancellor (Students) will determine who will manage or investigate the resolution of the complaint and the subsequent review process.

7.6 The Pro Vice-Chancellor (Students) will inform the reporting student of the resolution process and the outcome of any investigation, including whether the behaviour of the student accused of discrimination, bullying or harassment involves suspected misconduct.

8. Responding to complaints against a staff member

8.1 When a complaint is submitted, the University will acknowledge receipt within 5 business days.

8.2 When a complaint involves suspected misconduct by a staff member, the complaint will be forwarded to the Director, Human Resources by the Pro Vice-Chancellor (Students). The Director, Human Resources will address the matter in accordance with the Guidelines for the Resolution of Complaints (Staff).

8.3 The University will keep the reporting student informed about the progress of investigations. The Director, Human Resources will inform the Pro Vice-Chancellor (Students) who will advise the relevant student(s) of the outcome of the investigation including a decision not to investigate.

9. Responding to complaints a person who is neither a student nor staff member

9.1 When a complaint is submitted, the University will acknowledge receipt within 5 business days.

9.2 If the person accused of discrimination, bullying or harassment is neither a student nor a staff member, the University will provide ongoing support to the student and will support the student to make a complaint to the relevant external employer or organisation, where applicable.

9.3 If the person accused of discrimination, bullying or harassment is a contractor engaged to work on campus, the University will explore what actions are able to be taken, giving due consideration to any limitations imposed by contractual arrangements.

9.4 If discrimination, bullying or harassment occurs during a work integrated learning (WIL) placement or practicum, the University has no authority to take direct action against a person in an external workplace, but will work jointly with the placement organisation/employer to investigate the complaint and implement additional measures as appropriate.

9.5 The University will keep the reporting student informed about the progress of any investigations, where applicable. The Pro Vice-Chancellor (Students) will inform the reporting student of the outcome, including a decision not to investigate.

10. Responding to complaints pending criminal investigation

10.1 At times students may choose to report incidents of sexual harassment (including assault) to police in order to pursue criminal charges. Student Wellbeing will provide support to the student to make a report, including facilitating contact with the University's Police Liaison Officers (with student consent) and will ensure the student has psychological and academic support.

10.2 If a matter is being, or is likely to be, considered under a criminal process, the University may suspend any further investigatory or disciplinary action against the accused until the criminal process is at an end (i.e. when a decision is made not to charge the accused or not to pursue the prosecution or when a court reaches a determination). The University will continue to provide any necessary supportive and/or protective measures throughout this process. Once the criminal process is finalised, the University may reinstate the investigation process regardless of the outcome of the criminal investigation.

10.3 The University may take action under its Student Conduct – Governing Policy or Staff Code of Conduct – Governing Policy at the same time as a criminal process is underway, if the misconduct is based upon facts and matters which are different to those being dealt with under the criminal process.

11. Extension of reporting deadline:

11.1 The Pro Vice-Chancellor (Students) may extend the reporting deadline of six months if satisfied that there were exceptional and extenuating circumstances outlined by the reporting student in writing for the delay.

12. Recordkeeping and confidentiality

12.1 As per information security set out in the Information and Records Management – Procedures, allegations of sexual harassment and information about student misconduct and associated records are classified as ‘restricted’, which means the information is intended for use only by various named individuals.

12.2 De-identified reporting of sexual harassment reports, in terms of number and types of instances, and actions/outcomes, will be collated annually, and provided to the University Executive and any approved external agencies.

13. General

13.1 Victimisation of any person involved in a complaint is unacceptable and may constitute misconduct under the Student Conduct – Governing Policy or Staff Code of Conduct – Governing Policy.

13.2 A complaint found to be vexatious will be dismissed by the University. Making a vexatious complaint may constitute misconduct under the Student Conduct – Governing Policy or Staff Code of Conduct – Governing Policy.

END

RELATED DOCUMENTS

Acceptable Use of ICT Resources - Governing Policy
Acceptable Use of ICT Resources - Procedures
Anti-Discrimination and Freedom from Bullying and Harassment (Staff) - Governing Policy
Anti-Discrimination and Freedom from Bullying and Harassment (Students) - Governing Policy
Conflict of Interest - Governing Policy
Critical Incident Management - Governing Policy
Enterprise Risk Management - Governing Policy
Equity and Diversity - Governing Policy
Health, Safety and Wellbeing - Governing Policy
Incident Management - Procedures
Sexual Harassment Prevention (Students) - Governing Policy
Social Media - Operational Policy
Staff Code of Conduct - Governing Policy
Student Conduct - Governing Policy
Student General Misconduct - Procedures
Student Grievance Resolution - Governing Policy
Student Grievance Resolution - Procedures

LINKED DOCUMENTS

Anti-Discrimination and Freedom from Bullying and Harassment (Students) - Governing Policy

SUPERSEDED DOCUMENTS

Anti-Discrimination and Freedom from Harassment - Governing Policy

RELATED LEGISLATION / STANDARDS

Anti-Discrimination Act 1991 (Qld)
Work Health & Safety Act 2011
Age Discrimination Act 2004 (Cwlth)
Disability Discrimination Act 1992 (Cwlth)
Racial Discrimination Act 1975 (Cwlth)
Australian Human Rights Commission Act 1986 (Cwlth)
Fair Work Act 2009 (Cwlth)
Sex Discrimination Act 1984 (Cwlth)
USC Student Charter
Criminal Code 1899 (Qld)
Human Rights Act 2019 (Qld)