

DISCRIMINATION, BULLYING AND HARRASSMENT POLICY

Purpose

This Policy ensures that the EduNex Training training and assessment environment and the workplace are free from Discrimination, Bullying and Harassment with the aim to:

- Promote an environment which values diversity and is free from Discrimination, Bullying, Harassment, Victimisation and Vilification where all Employees and Students are treated with dignity, courtesy and respect
- Implement Procedures and awareness raising strategies to ensure that all Employees and Students know their rights and responsibilities in order to provide a safe and inclusive work, teaching and learning environment
- Provide opportunities for Employees and Students to resolve Complaints in a fair, timely and confidential manner
- Encourage the reporting of behaviour which breaches the Complaints Handling Policy and protect Complainants from Victimisation or reprisals when making a Complaint
- Ensure that the EduNex Training complies with its legal responsibilities in accordance with the relevant Acts.

Scope

This Policy applies to all persons involved in EduNex Training related activities including Employees, Students, Clients, Employers and Suppliers.

Policy

EduNex Training is actively committed to protecting the rights of both Students and Employees to achieve their full potential in an environment which values and affirms diversity and is free from Discrimination, Bullying, Harassment, Victimisation and Vilification. EduNex Training will take all reasonable steps and actions to ensure that Employees and Students will be treated fairly and with dignity and respect whilst working or studying at EduNex Training.

As outlined in the Employee Code of Conduct and the Student Code of Conduct Policy, EduNex Training Employees, Students, Clients and Suppliers are made aware that discrimination and harassment will not be tolerated under any circumstances. In the event that discrimination and harassment is found to have occurred, disciplinary action will be taken against any Student,

Employee or Contractor who breaches this Policy.¹ Suspected criminal behaviour will be reported to Police authorities immediately.

Students should expect fair and friendly behaviour from EduNex Training Staff members, and we apply Complaint handling procedures advocated by the Australian Human Rights and Equal Opportunity Commission (HREOC).

By implementing this Policy, EduNex Training strive to achieve the following objectives:²

- Create a working environment which is free from discrimination and harassment and where all employees, contractors and clients are treated with dignity, courtesy and respect;
- Implement training and awareness raising strategies to ensure that all parties know their rights and responsibilities;
- Provide an effective procedure for complaints based on the principles of natural justice;
- Treat all complaints in a sensitive, fair, timely and confidential manner;
- Guarantee protection from any victimisation or reprisals;
- Promote a productive and cohesive workplace;
- Encourage the reporting of behaviour which breaches this Discrimination and Harassment Policy; and
- Promote appropriate standards of conduct at all times.

¹ Good practice, good business: Eliminating discrimination and harassment from your workplace: Writing an effective anti-discrimination and harassment policy, page 1, © Human Rights and Equal Opportunity Commission.

² Good practice, good business: Eliminating discrimination and harassment from your workplace: Writing an effective anti-discrimination and harassment policy, page 2, © Human Rights and Equal Opportunity Commission.

Forms of Discrimination

The Anti-Discrimination Act 1991 prohibits Discrimination on the basis of the following attributes:

- Sex
- Relationship status
- Parental status
- Race
- Religious belief or activity
- Political belief or activity
- Impairment
- Trade union activity
- Lawful sexual activity
- Pregnancy
- Breastfeeding
- Family responsibilities
- Gender identity (the university also recognises gender expression and intersex status as extensions of the gender identity attribute)
- Sexuality
- Age
- Or an association with, or relation to, a person identified on the basis of any of the above attributes.

For an explanation of these terms, refer to the Explanation of Attributes Schedule.

Discrimination can either be direct or indirect.

- Direct Discrimination takes place when an individual is disadvantaged or treated less favourably than another person. An example of direct Discrimination is failing to employ someone because he or she is in a wheelchair.
- 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. An example of indirect Discrimination is requiring all people who apply for a certain job to pass a written grammar test, even though being able to write in English is not necessary for the job. This test might exclude more people whose first language is not English.

Forms of Harassment

Under Federal and State legislation, it is unlawful to harass someone based on any of the attributes specified under the anti-discrimination or human rights legislation. Below are some examples of behaviours that Harassment can take under particular attributes, however this is not an exhaustive list.

1 Sexual Harassment

Sexual Harassment occurs when a person is subjected to unwanted sexual conduct and which makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstances. Sexual Harassment can take various forms such as:

- unwelcome touching, hugging or kissing; staring or leering or suggestive comments; sending sexual material online or via email
- unwanted invitations to go out on dates or requests for sex; insults and taunts based on a person's sex
- behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

2 Disability Harassment

Under the Disability Discrimination Act 1992, it is unlawful to harass someone based on their disability or based upon a relative or associate having a disability. Their disability may be in the past, the present or the future. Examples include:

- making rude, abusive or insulting comments or using actions about a person's disability which are insulting or humiliating, such as suggestive pictures, jokes or computer screensavers
- making comments or using actions which create a hostile environment
- using overbearing or abusive behaviour with a person with a disability.

3 Racial Harassment

Racial Harassment is any behaviour which is reasonably likely to 'offend, insult, humiliate or intimidate' and can consist of behaviour which negatively comments on a person's race, colour, nationality, accent or ethnic origin. Examples include:

- racially oriented ridicule, e.g. derogatory reference to physical features, skin colour or cultural and religious observances or imitating someone's accent
- displaying or circulating racist cartoons or literature or writing racist graffiti
- isolation or segregation on the basis of race or ethnicity wearing racist symbols (such as badges) or clothing with racist slogans in public.

4 Sexuality

Harassment under the grounds of sexuality covers those who are heterosexual, lesbian, gay or bi-sexual. Vilification is also prohibited on the basis of sexuality or gender identity. Examples include:

- using derogatory language on the phone, in person or in online discussions to describe a person based on their sexuality or their sexual preference
- using posters in public places to abuse people because of their sexuality
- websites inciting hatred of people who are gay or lesbian, or deriding people on the basis of their sexuality in public meetings.

5 Gender-based Harassment

Gender-based Harassment is defined as a person who identifies as a member of the opposite sex by living or wanting to live as someone of that sex, or a person of indeterminate sex, who seeks to live as a member of a particular sex. It can include behaviour such as:

- telling someone to use a toilet that doesn't fit with that person's gender self-identity
- derogatory language such as referring to someone as "it", remarks, jokes or practical jokes
- Employees in the reception area of a business discussing a person and making derogatory comments and encouraging members of the public to join in.

6 Age-based Harassment

Age based Harassment consists of negative references resulting from stereotypes of what people are capable of doing at a particular age. It may include:

- derogatory remarks about a person's age, mental and physical capabilities and appearance
- patronising or humiliating someone because of their age
- isolation or segregation based on someone's age
- circulating ageist cartoons or literature, displaying offensive age-related material on walls, online or on computer screens.

7 Workplace Harassment

As described under the Work Health and Safety Act 2011 (Qld), Workplace Harassment may include:

- physical or verbal abuse
- excluding or isolating a person from normal work interaction, training and development or career opportunities, unreasonable "administrative sanctions" e.g., undue delay in processing applications for training, leave or payment of wages
- psychological Harassment such as unexplained job changes and meaningless tasks, assigning tasks beyond a person's skills, failure to give credit where due
- intimidation - for example using unwarranted threats of disciplinary action
- repeated threats of dismissal or other severe punishment for no reason

- giving a person an impossible job or deadline; sabotaging someone's work by deliberately withholding vital Information or resources; hiding documents or equipment, not passing on messages, or creating a situation of 'under-work' with a feeling of uselessness
- maliciously excluding or isolating a person from work activities
- unacceptable aggressive manner from the Supervisor
- insulting messages or gestures, such as leaving offensive messages on email or on the telephone
- inappropriate use of discussion boards and interactive chat rooms
- humiliating a person through gestures, by using sarcasm, belittling someone's opinion, patronising or intimidating remarks
- spreading misinformation or malicious rumours
- constant criticism or insults
- manipulating the impression of others to split the work group into taking sides
- displaying written or pictorial material which may degrade or offend certain Employees
- spreading gossip or false, malicious rumours about a person with an intent to cause that person harm.

Forms of 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. Victimisation is against the law.

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

EduNex Training has a zero-tolerance approach to victimisation

What Discrimination, Bullying and Harassment is not

EduNex Training Managers have responsibilities to manage and supervise their Employees, particularly with regard to unsatisfactory performance of duties. Trainers also have responsibilities to provide academic guidance and advice to Students. Such comment and advice may include critical statements and feedback along with monitoring and review of work and academic performance.

The act of correcting Employees and Students, pointing out areas for improvement, invoking performance counselling or misconduct procedures does not in itself constitute Bullying or Harassment. EduNex Training Managers and Trainers have a responsibility to establish and maintain a workplace free from Bullying and Harassment by offering constructive and legitimate advice and comment in a way that does not demean or humiliate either Employees or Students.

Legislative and Regulatory Responsibilities

EduNex Training is required to operate in accordance with the law. This means we comply with the requirements of legislative and regulatory requirements. The following legislation is a list of the Acts that EduNex Training has recognised it has compliance responsibilities to in regard to Discrimination and Harassment.

Copies of State and Federal Legislation can be found on the Internet at

<http://www.australia.gov.au/information-and-services/public-safety-and-law/legislation/states-and-territories> (State) and www.comlaw.gov.au (Federal).

Disability Discrimination Act 1992

Section 5 - Disability Discrimination

(1) For the purposes of this Act, a person (discriminator) discriminates against another person (aggrieved person) on the grounds of a disability of the aggrieved person if, because of the aggrieved person's disability, the discriminator treats or proposes to treat the aggrieved person less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person without the disability.

For the purposes of subsection (1), circumstances in which a person treats or would treat another person with a disability are not materially different because of the fact that different accommodation or services may be required by the person with a disability.

Sex Discrimination Act 1984

The objectives of this Act are:

- To give effect to certain provisions of the Convention on the Elimination of All Forms of Discrimination Against Women;
- To eliminate, so far as is possible, discrimination against persons on the ground of sex, marital status, pregnancy or potential pregnancy in the areas of work, accommodation, education, the provision of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Commonwealth laws and programs;
- To eliminate, so far as possible, discrimination involving dismissal of employees on the ground of family responsibilities;
- To eliminate, so far as is possible, discrimination involving sexual harassment in the workplace, in educational institutions and in other areas of public activity;
- To promote recognition and acceptance within the community of the principle of the equality of men and women.

Age Discrimination Act 2004

The objectives of this Act are:

- to eliminate, as far as possible, discrimination against persons on the ground of age in the areas of work, education, access to premises, the provision of goods, services and facilities, accommodation, the disposal of land, the administration of Commonwealth laws and programs and requests for information;

- To ensure, as far as practicable, that everyone has the same rights to equality before the law, regardless of age, as the rest of the community;
- To allow appropriate benefits and other assistance to be given to people of a certain age, particularly younger and older persons, in recognition of their particular circumstances;
- To promote recognition and acceptance within the community of the principle that people of all ages have the same fundamental rights;
- To respond to demographic change by:
 - removing barriers to older people participating in society, particularly in the workforce; and
 - changing negative stereotypes about older people.

Racial Discrimination Act 1975

This Act gives effect to Australia's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. Its major objectives are to:

- Promote equality before the law for all persons, regardless of their race, colour or national or ethnic origin, and
- Make discrimination against people on the basis of their race, colour, descent or national or ethnic origin unlawful.

Fair Work Act 2009

- The main objectives of this Act are to provide a balanced framework for cooperative and productive workplace relations that promote national economic prosperity and social inclusion for all Australians by:
- Providing workplace relations laws that are fair to working Australians, are flexible for businesses, promote productivity and economic growth for Australia's future economic prosperity and take into account Australia's international labour obligations;
- Ensuring a guaranteed safety net of fair, relevant and enforceable minimum terms and conditions through the National Employment Standards, modern awards and national minimum wage orders;
- Enabling fairness and representation at work and the prevention of discrimination by recognising the right to freedom of association and the right to be represented, protecting against unfair treatment and discrimination, providing accessible and effective procedures to resolve grievances and disputes and providing effective compliance mechanisms.

Equal Opportunity Act 2010

The objectives of the *Equal Opportunity Act 2010* are to encourage the identification and elimination of discrimination, sexual harassment and victimisation and their causes, and to promote and facilitate the progressive realisation of equality.

Under the Equal Opportunity Act 2010, it is against the law to discriminate against a person on the basis of:

- Age
- Breastfeeding
- Carer status
- Disability
- Employment activity
- Gender identity
- Industrial activity
- Lawful sexual activity
- Marital status
- Parental status
- Physical features
- Political belief or activity
- Pregnancy
- Race (including colour, nationality, ethnicity and ethnic origin)
- Religious belief or activity
- Sex
- Sexual orientation
- Expunged homosexual conviction
- Personal association with someone who has, or is assumed to have, any of these personal characteristics.
- It is also against the law to sexually harass someone.

Procedure

Complaints of Discrimination, Bullying and Harassment will be treated seriously by EduNex Training and will be managed promptly in a thorough and confidential manner. The principles of natural justice will apply and will guide the application of this process as outlined in the Complaints Handling Policy.

Students who feel that they have been discriminated against or harassed should report this information to a Staff member of EduNex Training that they feel they can trust. This will initiate a Complaint's handling procedure as per the Complaints Handling Policy which will be fair and transparent and will protect your rights as a Complainant.

Employees and Students are encouraged to report all instances of Discrimination, Bullying or Harassment behaviour, threats of violence and violent acts involving them through the use of this Policy and the associated resolution Procedures. By not addressing Discrimination, Bullying and Harassment, when and if it occurs, the problem cannot be resolved and other people may be subjected to conduct, which may be unlawful, which is not tolerated by EduNex Training on any level.

Alternatively, if a Student wishes to report an instance of discrimination or harassment to an agency external to EduNex Training, they are advised to contact the HREOC Complaints Info-line on 1300 656 419.

Complaints which at any stage of an investigation are found to be unsubstantiated, misconceived, frivolous, vexatious or not lawful by reason of a provision contained in legislation, or in breach of this Procedure, EduNex Training may, by Notice in writing addressed to the Complainant, dismiss the Complaint. Employees or Students who deliberately make false or malicious Complaints may be subjected to disciplinary action.

Disciplinary Action

Employees

Where Discrimination, Bullying or Harassment is found to have occurred, this may be considered as misconduct or serious misconduct and disciplinary action may be commenced against the person against whom the findings were made.

Where disciplinary action is recommended against an Employee the CEO or General Manager will determine whether or not disciplinary action should be commenced against the person(s) subject to the findings.

Where it is determined that disciplinary action should commence against an Employee, the process for Misconduct or Serious Misconduct of the Employee Employment Agreement will apply.

CEO or General Manager will provide written advice of the Decision to both the Complainant and the Respondent.

Students

Students engaged in unlawful Discrimination, Bullying, Harassment, Victimisation or Vilification may be disciplined under the Student Code of Conduct. Students found to have committed misconduct may be subject to penalties.

Where disciplinary action is recommended against a Student, the CEO or General Manager will determine whether or not disciplinary action should be commenced against the person(s) subject to

the findings. CEO or General Manager will provide written advice of the Decision to both the Complainant and the Respondent.

Non-Academic Appeals

A Student found guilty of misconduct under the Student Code of Conduct may lodge a Non-Academic Appeal against that Decision and/or the Decision of the CEO or General Manager in relation to penalties/restitution, if any. The process for lodging a Non-Academic Appeal is outlined in the Appeals Handling Policy.