

Harassment and Discrimination Complaint Resolution for Students Policy and Procedure



1 Purpose

To support the resolution of Complaints through a grievance process which encourages informal resolution, where possible, through an expeditious and confidential process and access to formal internal or external Mediation if required.

2 Scope

This policy applies to:

1. Students of the University;
2. Students visiting from other institutions who are engaged in University-related activity either on University property or off-campus.

The grievance resolution process shall be used in Student to Student grievances or staff to Student grievances and applies to all areas of Discrimination, Harassment, Bullying, Vilification and Victimisation as identified under federal and state anti-Discrimination legislation.

Employee and Student Complaints against University Employees will be managed in accordance with the Discrimination and Harassment Complaint Resolution for Employees Policy.

3 Policy Statement

The University shall protect the rights of Students to achieve their full potential in an environment which values and affirms diversity and is free from Discrimination, Bullying, Harassment, Victimisation and Vilification. The University will ensure that Students will be treated fairly and with dignity and respect whilst studying at the University.

4 Principles

This policy and associated procedures are based on the following principles:

1. Complaints of Discrimination, Bullying and Harassment will be treated seriously by the University and will be managed promptly in a thorough and confidential manner ensuring

that Complainants and witnesses are not victimised.

2. Complaints will be dealt with as expeditiously as possible with resolution as close as possible to the source.
3. Complaints managed under these procedures will normally be dealt with and finalised within 21 calendar days, where practicable.
4. Complaints will be dealt with promptly and sensitively by qualified and authorised officers.
5. All parties involved in the resolution processes are encouraged to participate in good faith and the principles of natural justice and procedural fairness will be observed.
6. At any time, a Complainant may withdraw the Complaint, seek assistance from a Nominated Representative or lodge a Complaint with an external agency, as appropriate.
7. The University may initiate disciplinary procedure investigations immediately in response to allegations of conduct or behaviour that may be considered serious misconduct.
8. Complaints which are made in good faith are not vexatious Complaints, even if the Complaint is not eventually substantiated.
9. If a preliminary investigation of the facts finds a Complaint to be frivolous, vexatious, misconceived or lacking in substance, it will be rejected.
10. The University reserves the right to take disciplinary action in accordance with the Student Code of Conduct Policy against persons who knowingly lodge a vexatious Complaint.

5 Procedures

These procedures can be used to resolve Complaints of Discrimination, Bullying, Harassment, Vilification or Victimisation on the basis of one or more of the following attributes from the *Anti-Discrimination Act 1991*:

- sex;
- relationship or parental status;
- race;
- religious belief or activity;
- political belief or activity;

- impairment;
- trade union activity;
- lawful sexual activity;
- pregnancy;
- breastfeeding needs;
- family responsibilities;
- gender identity;
- sexuality;
- age;
- or an association with, or relation to, a person identified on the basis of any of the above attributes.

In order for the claim of Victimisation to be brought under these procedures, the University must have jurisdiction over the parties involved and the initial Complaint must have included an allegation of Discrimination, Bullying, Harassment including Sexual Harassment or Vilification.

Stages 1 and 2 of the Discrimination and Harassment Complaint Resolution Policy for Students may be invoked to resolve a concern or Complaint arising within 12 months of the date on which the latest incident of Discrimination, Bullying, Harassment, Vilification or Victimisation is alleged to have taken place.

A request to investigate misconduct against a Student under Stage 3 of this policy should be submitted as soon as possible after the misconduct is alleged to have occurred or has been detected in accordance with the Student Code of Conduct Policy.

5.1 Operation

The following procedures detail the sequence of steps that a Student should follow in order to have a grievance addressed by the University. While Students are free to address their grievance to any individual or body identified as having a responsibility in relation to a particular category of grievance, the University strongly encourages Students to attempt to resolve the matter in the first instance informally with the person closest to the source of the grievance.

1. The University encourages Students to seek advice on the grievance resolution process from an Inclusion Officer, Student Equity Office or Student Guild Advocate when seeking

to resolve a matter.

2. The University uses a three stage process of grievance resolution. The stages are:
 - a. Stage 1: Advice
 - b. Stage 2: Conciliation
 - c. Stage 3: Investigation
3. Stage 1 is an informal process. It allows parties to make informed decisions and assists them to identify the issues through advice and information provision. It does not involve a formal investigation or the determination of evidence. Stages 2 and 3 are formal processes requiring a written statement of the grievance in order to proceed with either Conciliation or investigation of misconduct.
4. A person must progress through Stage 1 prior to commencing Stage 2. For example, a request for Conciliation will only be approved after the person who is making the Complaint has consulted an Inclusion Officer and received information regarding their grievance. Similarly, if a person against whom a Complaint has been made wishes to request Conciliation, they must first have consulted an Inclusion Officer to get the appropriate advice.
5. The University maintains a list of internal Inclusion Officers who are trained to provide advice on and support for these procedures. The Inclusion Officer will assist the Complainant to decide whether the grievance constitutes Discrimination, Bullying or Harassment by providing information on the person's rights and options for resolution.
6. Stage 3 is a formal procedure and will only be used when the matter cannot be resolved by Conciliation, either because the process was not successful or because it was deemed to be inappropriate under the circumstances.
7. At any time a Complaint may progress straight to the Student Equity Office if the allegations involve alleged criminal activity by a Student or Employee or pose an immediate risk to the health, safety and wellbeing of any member/s of the University community.

5.2 Stage 1: Advice

5.2.1 Inclusion Officers

1. Any person seeking assistance from an Inclusion Officer in the first instance is referred to as 'the client'. The person with whom they are experiencing some difficulty is referred to as the 'other party'.
2. The role of the Inclusion Officer is to act fairly and impartially to provide information and support, in confidence to:

- a. Students or Employees of the University community who perceive that they may have experienced Discrimination, Bullying or Harassment, or who believe that an allegation of Discrimination, Bullying or Harassment may be or has been made against them;
 - b. Students or Employees who believe that they have been vilified on the basis of their race, religion, sexuality or gender identity or who believe that an allegation of Vilification may be or has been made against them; and
 - c. Students or Employees who believe they have been victimised on account of taking action or being presumed to have taken action under these procedures.
3. The same Inclusion Officer will not deal with more than one client in any particular case. The Inclusion Officer who handles the initial Complaint cannot be part of an investigative team, or involved in initiating disciplinary action; or liaise directly with the Queensland Human Rights Commission if a formal Complaint has been lodged under the *Sex Discrimination Act 1984* or *Anti-Discrimination Act 1991*.
4. The role of the Inclusion Officer is to ensure that the client (who subsequently may become a first party, second party, Complainant or Respondent) is able to make an informed choice about further action.
5. Inclusion Officers will:
- a. act as an initial point of contact for Employees and Students with enquiries about any form of Discrimination, Bullying, Harassment, Victimisation and Vilification;
 - b. assist the client to establish whether Discrimination, Bullying or Harassment has occurred;
 - c. provide information and support, not counselling, about their options;
 - d. refer the client to the Student Services counsellors or to external services if required;
 - e. provide information on the client's rights under the relevant legislation, including the right to complain to a relevant external body;
 - f. assess the client's need for protection from further Harassment and/or intimidation or pressure to change or withdraw her/his Complaint and take appropriate action;
 - g. assure the client of her/his entitlement to protection from Victimisation or retaliation;
 - h. upon request by the client, forward a Complaint to the Student Equity Office under Stages 2 or 3 of the grievance resolution process;

- i. follow-up a client within a reasonable time after conclusion of the case to review the outcome;
 - j. protect the privacy and confidentiality of the client at all times;
 - k. undertake awareness sessions and disseminate materials and information to Employees and Students;
 - l. maintain and forward statistical reports and other records to the People Portfolio or the Student Equity Office as required.
6. Students who require assistance to make a formal Complaint to the Vice-Chancellor or an external third party will be supported by a Student Guild Advocate to do so.
 7. Where the Complaint involves offences under the Criminal Code such as sexual assault, rape, indecent exposure, assault, stalking or obscene communication which has occurred on University property, or whilst engaged in University related activity which may be off-campus, the Student or Employee, shall be informed of their right to report the matter to police and will be provided with information on the nearest sexual assault service in addition to any other options under these procedures. The Complaint shall be immediately forwarded by the Inclusion Officer to the Student Equity Office for actioning.

5.2.2 Responsibilities of Inclusion Officers

An Inclusion Officer will not disclose any information about the client without their written consent and will protect the privacy of their client at all times. However the Inclusion Officer may disclose to the Pro Vice-Chancellor (Students) information about criminal acts or his/her belief that one of the parties may pose a threat to an individual or the community. The Pro Vice-Chancellor (Students) will then consult as necessary and take appropriate action.

Inclusion Officers must forward the Statistical Data Collection Sheet and other records on any Student client to the Student Equity Office as required. These records must keep only details of meeting dates and persons attending. They do not keep records of advice given or options discussed or any other confidential information.

5.2.3 Appointment of Inclusion Officers

1. The University will appoint at least 15 Inclusion Officers for a term of up to three years; equitably distributed across all three campuses, to ensure all University Students and Employees from all operational areas have ready access to an Officer. At least half of these positions will be female.
2. Inclusion Officers are appointed by the Vice-Chancellor after consultation with the Social Justice Committee, the Student Equity Office and Student Guild Advocates.
3. Inclusion Officers must undergo a formal two day training program supplemented by

regular in-service which covers all forms of Discrimination, Bullying, Harassment, Victimisation and Vilification covered by the *Anti-Discrimination Act 1991*, relevant legislation and procedures, interviewing techniques appropriate to alleged Discrimination, Bullying or Harassment and options for addressing Discrimination, Bullying, Harassment, Victimisation and Vilification.

4. The names of all Inclusion Officers shall be publicised widely across all three campuses and be linked to the Student Equity Office section of the University website.
5. The People Portfolio shall arrange the initial training of Inclusion Officers, provide continuing support and advice and convene regular meetings of the Inclusion Officers to discuss the operation of the procedures.
6. The Vice-Chancellor may, after receiving advice from the Student Equity Office, cancel the appointment of an Inclusion Officer.

5.2.4 Record Keeping and File Management

1. The University is committed to maintaining the privacy of personal information. All personal information collected during the Discrimination and Harassment Complaint resolution process will be held and used in accordance with the University's Privacy Policy.
2. Clients should be informed that:
 - a. Inclusion Officers will keep confidential original notes and other working papers created or used in relation to inquiries or Complaints on a file. This file will be marked Strictly Confidential and stored in locked cabinets to which only Inclusion Officers have access.
 - b. Notes kept on files are the property of the University not the client or the Inclusion Officer and as such are subject to privacy legislation.
 - c. Notes are to be kept only in hard copy format and not on computer hard drive or on disks which can be removed from the University.
 - d. Clients have the right to access their file on request in accordance with the provisions of privacy legislation.
 - e. Inclusion Officers are encouraged to keep notes to a minimum stating only facts and relevant details as described by the client. Inclusion Officers should record the outcome of each interview and where appropriate have the client initial these as a correct record. The outcome recorded could include the client's preferred course of action (if any) and any undertaking the Inclusion Officer makes to the client.
 - f. Any additional follow up notes or subsequent contacts with the client should be recorded in the same way.

choice, but not a person who is a currently practising solicitor or barrister. If a translator or interpreter is required, this must be stated at the time of making the Conciliation request.

5. The Conciliator is responsible for managing the conference and should facilitate an exchange of information between the parties around the issues to enable them to gain an understanding of each other's perspective and state their desired outcome in the presence of each other or separately at any stage of the process. At all stages the Conciliator should treat all parties fairly and impartially and assist them to reach an agreement without coercion.
6. If there is no further progress and a resolution cannot be made in the Conciliator's opinion, the process may be terminated.
7. If another person is required in order to formulate a resolution, such as a Head of Department, this person may be invited to attend a Conciliation conference if all parties and the Conciliator agree.
8. If agreement is reached, the parties will be asked to sign a confidential written record of the agreement at the end of the Conciliation conference. The Conciliator will sign as witness to the agreement. The Conciliator will report the outcome to the Pro Vice-Chancellor (Students) and return all documentation to the Student Equity Office.
9. If Conciliation is unsuccessful in reaching an agreement, the parties have the option of proceeding to Stage 3: Investigation. There are other external avenues which Students may pursue. These include the [Human Rights and Equal Opportunity Commission](#) or the [Queensland Human Rights Commission](#).

5.3.2 Roles and Responsibilities of Conciliators

1. Conciliators will:
 - a. As directed by the Pro Vice-Chancellor (Students), conciliate Complaints by Students of Discrimination, Bullying, Harassment, Victimisation and Vilification.
 - b. Carry out their duties impartially, considering equally the rights of all parties to the Complaint.
 - c. Protect the privacy of all parties to the Complaint and maintain the confidentiality of the proceedings.
 - d. Advise the Pro Vice-Chancellor (Students) promptly if the matter should be referred to an external agency.
 - e. Report to the Pro Vice-Chancellor (Students) the outcome of Conciliation.
 - f. Remit all documents pertaining to the Complaint to the Student Equity Office for locked storage for three years.

5.3.3 Record Keeping and File Management

1. The University is committed to maintaining the privacy of personal information. All personal information collected under the Discrimination and Harassment Complaint Resolution for Students will be held and used in accordance with the University's Privacy Policy.
2. Conciliators should keep sufficient confidential notes as are necessary to conduct the Conciliation process. If the Conciliation continues over a period of time, the file should be kept locked in a secure place and provided to the Student Equity Office at the conclusion of the process. A secure file will be kept by the Manager, Student Equity Office of the names of the persons participating in the Conciliation and the dates of all meetings.
3. No other records of the Conciliation process will be kept unless it forms part of a written agreement. If a confidential written agreement is an outcome of Conciliation, the parties may each retain a copy and one is kept in the secured file by the Manager, Student Equity Office.
4. All records will be kept securely by the Manager, Student Equity Office for a period of three years.

5.4 Stage 3: Investigation

5.4.1 Process of Investigation

1. If Conciliation is unsuccessful, a party wishing to pursue the matter further may make a request for investigation of the Complaint to the Student Equity Office, following Stages 1 and 2, or as a particular request where a party does not believe that Stage 2 is an appropriate method of resolving the grievance.
2. At Stage 3, the person with the grievance is called 'the Complainant' and the person against whom the grievance is made is called 'the Respondent'. The matter that has been raised is called 'the Complaint'.
3. The Complainant must notify the Student Equity Office of their request for a formal investigation against either a Student or an Employee. A written and signed request to investigate with a statement outlining the details of the Complaint, the steps taken to resolve the matter informally and a full description of the allegation/s being made against the Respondent must be directed:
 - a. to the Pro Vice-Chancellor (Students) in the case of a Complaint against a student;
 - b. to the Chief People Officer in the case of a Complaint against an Employee.

4. Where investigation of misconduct against a Student is requested, the process will be considered under the provisions of the Student Code of Conduct Policy and pursuant procedures.
5. Where investigation of misconduct against an Employee is requested, the process will be considered under the provisions of the Discrimination and Harassment Complaint Resolution for Employees policy.
6. The Student Equity Office will assist the Student to access support if required in order to progress the Complaint and will liaise with the People Portfolio regarding an appropriate neutral venue to hear the Complaint.
7. If the allegations are found to be frivolous, malicious, misconceived or lacking in substance, the Vice-Chancellor may decline to investigate the Complaint and take any necessary disciplinary action against Employees as contained in the University's Enterprise Agreement or against Students as contained under the Student Code of Conduct Policy.

5.4.2 Disciplinary Action

1. Where Discrimination, Bullying, Harassment, Victimisation or Vilification 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.
2. Where disciplinary action is recommended against an Employee or a Student, the Pro Vice-Chancellor (Students) will advise the Vice-Chancellor. The Vice-Chancellor will determine whether or not disciplinary action should be commenced against the person(s), subject to the findings.
3. Where it is determined that disciplinary action should commence against an Employee, the process of Clause 33 "Disciplinary Action" and Clause 34 "Disciplinary Action for Misconduct or Serious Misconduct" of the University's Enterprise Agreement will apply.
4. Where it is determined that disciplinary action should commence against a Student of the University, the Student Code of Conduct Policy will apply.
5. The Vice-Chancellor will provide written advice of the Decision to both the Complainant and the Respondent.

5.4.3 Appeals

A Student found guilty of misconduct under the Student Code of Conduct Policy and pursuant procedures may lodge an Appeal against that Decision and/or the Decision of the Vice-Chancellor in relation to penalties/restitution, if any. The process for lodging an Appeal is

contained within the Student Appeals Procedure.

6 References

Monash University, "Discrimination and Sexual Harassment Grievance Procedures", Equity and Diversity Centre, Student and Community Services Division, 2003.

Queensland Government, Department of Industrial Relations, "Prevention of Workplace Harassment Advisory Standard", 2004

7 Schedules

This policy must be read in conjunction with its subordinate schedules as provided in the table below.

8 Policy Information

Accountable Officer	Pro Vice-Chancellor (Students)
Responsible Officer	Director (Student and Academic Support)
Policy Type	Executive Policy
Policy Suite	
Subordinate Schedules	
Approved Date	9/9/2016
Effective Date	9/9/2016
Review Date	
Relevant Legislation	Age Discrimination Act 2004 Anti-Discrimination Act 1991 Disability Discrimination Act 1992 Disability Services Act 2006 Equal Employment Opportunity (Commonwealth Authorities) Act 1987 Equal Opportunity for Women in the Workplace Act 1999 Human Rights and Equal Opportunity Commission Act 1986

	<p>Human Rights Act 2019</p> <p>Public Sector Ethics Act 1994</p> <p>Racial Discrimination Act 1975</p> <p>Racial Hatred Act 1995</p> <p>Sex Discrimination Act 1984</p> <p>University of Southern Queensland Act 1998</p> <p>Workplace Health and Safety Act 1995</p> <p>Workplace Relations Act 1996</p> <p>Workplace Relations Amendment (Termination of Employment) Act 2001</p>
Related Policies	<p>Academic Freedom and Freedom of Speech Policy</p> <p>Code of Conduct Policy</p> <p>Employee Complaints and Grievances Policy</p> <p>Employee Equity and Diversity Policy</p> <p>Student Code of Conduct Policy</p> <p>Student Grievance Resolution Policy</p>
Related Procedures	<p>Disciplinary Action for Misconduct or Serious Misconduct Procedure</p> <p>Student Appeals Procedure</p> <p>Student General Misconduct Procedure</p> <p>Termination of Employment Procedure</p>
Related forms, publications and websites	<p>Feedback, Complaints and Appeals</p> <p>Student General Misconduct Procedure Penalty Schedule</p>
Definitions	<p>Terms defined in the Definitions Dictionary</p> <p>Appeal</p> <p>A formal, written request made by a Student or Employee to a higher authority to have a Decision overturned.</p>

Complaint

A Complaint is an “expression of dissatisfaction made to or about the University, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required”.

Employee

A person employed by the University and whose conditions of employment are covered by the USQ Enterprise Agreement and includes persons employed on a continuing, fixed term or casual basis. Employees also include senior Employees whose conditions of employment are covered by a written agreement or contract with the University.

Student

A person who is admitted to an Award Program or Non-Award Program offered by the University and is: currently enrolled in one or more Courses or study units; or not currently enrolled but is on an approved Leave of Absence or whose admission has not been cancelled.

Definitions that relate to this policy only

Bullying

Bullying involves the repeated unreasonable ill-treatment of a person by another or others. It is a form of Harassment and Discrimination consisting of offensive, abusive, belittling or threatening behaviour directed at an individual or a group.

Conciliator

A neutral third party, agreed upon by the Complainant and the Respondent, to conciliate and/or assess Complaints.

Conciliation

Conciliation is a process whereby the resolution of a Complaint of Discrimination or Harassment is assisted by means of a neutral third party (the Conciliator). The process involves identifying the disputed issues, developing options, considering alternatives and endeavouring to reach an agreement on resolution. Conciliators are identified to assist the Complainant and Respondent to negotiate a solution which is acceptable to both of them but not to determine what that solution will be.

Complainant

A person who has made a Complaint of Discrimination or Harassment against another person in the University community.

Discrimination

Unlawful Discrimination occurs when a person or a group of people are treated less favourably than another person or group because of race, colour, national or ethnic origin; gender or marital status; disability; religion or political beliefs; sexual preference; or some other central characteristic. Discrimination may occur when a person is denied the opportunity to participate freely and fully in normal day-to-day activities, for example being harassed in the workplace or being denied entry to public places and other facilities.

Formal complaint or grievance

A confidential written Complaint of Discrimination or Harassment against an Employee or Student of the University, requesting either Conciliation or an investigation of misconduct.

Harassment

Unlawful Harassment occurs when a person is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under anti-Discrimination or human rights legislation. Harassment may include behaviour, comments or images which a reasonable person would consider to be offensive, humiliating, intimidating or threatening. Harassment includes all forms of Sexual Harassment.

Inclusion Officer

A number of appointed University representatives across each Campus who have been trained to assist with information and advice in relation to Complaints of Discrimination, Harassment, Victimisation and Vilification. The list of Inclusion Officers can be found under the University website links to the People Portfolio and the Student Equity Office.

Informal complaint or grievance

A discussion with an Inclusion Officer in regard to a Discrimination or Harassment related concern in order to receive information and explore options on resolving the concern. It does not involve a formal investigation or the determination of evidence.

Nominated Representative

A Student may elect to have a Nominated Representative assist or represent them through the grievance resolution process. A Nominated Representative is selected by the Student and may be an Employee of the University, an officer or Employee of the Student Guild or any person chosen by the Student who does not present a Conflict of Interest. This person may not be a currently practising solicitor or barrister.

Respondent

A member of the University community against whom a Complaint has been made and which is being considered under this policy and procedure.

Sexual Harassment

Sexual Harassment is defined as any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature, which makes a person feel offended, humiliated and/or intimidated, or where a reasonable person would anticipate that reaction in the circumstances. Examples of Sexual Harassment include staring, leering or unwelcome touching; suggestive comments or jokes; sexually explicit pictures or posters; unwanted invitations to go out on dates; requests for sex; intrusive questions about a person's life or body; sexually explicit physical contact such as touching a person, brushing up against them, patting, pinching or hugging. Extreme forms of Sexual Harassment can involve sexual assault and rape which are criminal acts.

Sexual Harassment is not behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated it is not Sexual Harassment. The University recognises that Sexual Harassment is an abuse that can be experienced by either gender and regardless of the sexual orientation of the persons involved.

Victimisation

Victimisation is any unfavourable treatment, or threats of unfavourable treatment against a person as a result of their actual or intended involvement in a Complaint under the Anti-Discrimination Act 1991. The involvement might include making a Complaint, supplying information and producing documents to someone making a Complaint or appearing as a witness in a proceeding under the Anti-Discrimination Act 1991. Unfavourable treatment may include adverse changes to their study or work environment, denial of access to

	<p>resources, work opportunities or training, ignoring the person, or biased assessment of Student work. Victimisation is an offence under the Anti-Discrimination Act 1991.</p> <p>Vilification</p> <p>Vilification is the public incitement of hatred, serious contempt or severe ridicule of a person or members of a group, on the basis of the race, religion, sexuality or gender identity. Vilification includes threatening physical harm to a person or their property or inciting others to threaten physical harm to a person or to their property. Vilification is an offence against the Anti-Discrimination Act 1991.</p>
Keywords	Discrimination, Harassment, Vilification, Victimisation, resolution, Complaint, Bullying
Record No	13/333PL