

# Bullying, Harassment and Discrimination Prevention Policy

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Contacts	policy@imc.edu.au		
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2024.06	Institute Legal Counsel	27 June 2024	27 June 2027

## 1. PURPOSE

The Institute is committed to maintaining a work and study environment free of discrimination and harassment and provides equal opportunities to staff and students. Although it is the primary role of Management to ensure appropriate standards of conduct are upheld, all staff and students are responsible for preventing and reporting instances of discrimination and harassment.

This policy aims to inform staff and students of their rights regarding equal opportunity and responsibilities in upholding appropriate standards of conduct. Behaviour involving discrimination or harassment is not tolerated under any circumstances, and staff and students must be aware of all relevant principles and processes. This policy also outlines the Institute’s procedures that enable complaints to be handled fairly, timely and confidentially.

The Institute will take action against any staff or students who breach this policy. Further to the Institute’s action, staff and students may be subject to procedures set out in the Anti-Discrimination Act 1977 (NSW) and all relevant Commonwealth legislation.

## 2. SCOPE

This policy applies to all the Institute’s students and professional and academic staff, including sessional staff. It applies to contractors, consultants, Council and board members, and visitors. The policy applies across all Institute campuses and includes online delivery.

## 3. DEFINITIONS

**Complainant** means a person who makes a complaint because they feel they have been a target of discrimination, harassment or decisions leading to unequal opportunity.

**Bullying** means any repeated and unreasonable act that is directed at a person or a group of employees and causes a reasonable person to feel humiliated, intimidated, offended, or in fear of harm to themselves or their property.

**Discrimination** means the act of treating, or proposing to treat, a person less favourably than another person because of a personal attribute.

**Equal Opportunity** means staff and students have equal access to work and study opportunities without discrimination.

**Grievance** means a complaint or conflict arising from an act, decision or omission that the grievant considers unjust, wrongful or discriminatory and which is within the control of the Institute.

**Harassment** means any form of unwelcome and unreciprocated behaviour which makes the situation humiliating and/or intimidating for the person who is the target of that behaviour.

**Mediation** is a process by which the participants in a dispute, together with the assistance of a neutral person, systematically isolate disputed issues to develop options, consider alternatives, and reach a consensual settlement that will accommodate their needs.

**Sexual Harassment** means making unwanted sexual advances, requests, comments and unwelcome physical conduct towards another, which would cause a person discomfort and/or offence.<sup>9</sup>

**Victimisation** means unfavourable and/or unfair treatment of a person because of their involvement in making or supporting an allegation of discrimination or harassment.

#### 4. PROCEDURE

##### Principles of Equal Opportunity

The Institute undertakes to provide equal opportunity in all aspects of the work and study environment through:

- Applying merit-based criteria to staff recruitment and promotion processes;
- Remaining transparent and fair regarding student admission, assessment and progression;
- Providing equal access to resources, support services and career development opportunities;
- Ensuring all decision-making processes are based on non-discriminatory principles;
- Using non-discriminatory, inclusive language;
- Educating staff and students about appropriate behaviour in the Institute's work and study environment;
- Ensuring the accountability of management and staff in upholding equal opportunity practices; and
- Maintaining confidentiality and dealing promptly with complaints of harassment, bullying and discrimination.

##### Discrimination

The Institute aims to ensure that all staff and students understand that it is a fair and reasonable expectation that their work and study environment be free of discrimination and that they are responsible for maintaining that environment. Induction and orientation programs provide information to staff and students regarding their rights and responsibilities and the possible consequences of a breach of this and/or other relevant policies.

Discrimination occurs when a person is treated less favourably based on an attribute (listed below) regardless of the motive of the person who engages in the conduct and whether or not that person is aware that their behaviour amounts to discrimination. Discrimination may be direct, such

as irrational judgments or indirect, such as decisions that disproportionately impact a particular group. Discrimination may be based upon personal attributes including, but not limited to:

- Age;
- gender/gender identity;
- sexual orientation;
- relationship status;
- pregnancy;
- parental responsibilities, including breastfeeding;
- race;
- ethnicity;
- religion;
- socio-economic background;
- disability;
- political belief/activity; and
- industrial relations activity.

### Harassment and Bullying

The Institute does not tolerate harassment under any circumstances. Harassment is any behaviour or physical contact that makes another person feel uncomfortable, offended, humiliated or intimidated, where it could be reasonably anticipated that there would be a possibility of the behaviour causing offence.

Bullying is ongoing offensive behaviour that may not be linked to or based upon discrimination. However, it is considered harassment and is not tolerated in the Institute's work and study environment.

Harassment often involves a misuse of power. It can occur between supervisors and staff, co-workers, students, and between students and staff, as well as in face-to-face and/or online environments. Harassment can be subtle or overt. It includes bullying and other actions such as:

- offensive abuse and shouting;
- deliberate exclusion or isolation;
- spreading malicious rumours;
- sabotage of a person's work;
- sarcasm, ridicule and repeated unreasonable criticism;
- setting impossible expectations/ allocating demeaning tasks;
- threatening gestures or actual violence;
- vilification aimed at inciting others to harass another person;
- offensive emails; and
- abusive comments on social media or internet chat rooms.

### Sexual Harassment - to be read in conjunction with GPO22 Sexual Assault and Sexual Harassment Policy

Sexual harassment is covered by this policy, irrespective of where and when it occurs. Acts of sexual harassment take many forms, including but not limited to:

- unwanted and uninvited physical contact;
- sexual propositions;
- remarks or insinuations about a person's sex life or morality;
- suggestive comments about a person's appearance or body;
- sexually explicit conversations or jokes;
- offensive gestures;
- offensive displays of sexually graphic material;

- gender-based insults or taunting; and
- offensive comments conveyed via telephone, email, social media, or internet chat rooms.

#### Procedures for dealing with complaints of discrimination, harassment and unequal opportunity

Procedures for dealing with complaints are based upon the following principles.

- Complaints are treated seriously and investigated promptly. The Institute endeavours to maintain confidentiality and resolve issues by procedural fairness.
- Employees and students will not be disadvantaged by complaining. Anyone who victimises another person because of making a complaint, being a witness to a complaint or being involved in the investigation of a complaint will be subject to disciplinary action.
- The Institute expects complaints to be made in good faith. Vexatious or frivolous complaints may result in disciplinary action against those lodging such complaints.

Any employee or student who feels they have been a target of discrimination, harassment or decisions leading to unequal opportunity has the right to take appropriate action and complain about their grievance. Any person who witnesses behaviour that breaches this policy should also take appropriate action.

*Procedures for dealing with complaints are listed below.*

#### **Informal Procedure**

1. Preliminary Action. Where possible, and where a person feels able, a direct approach to the other person is preferred. An explanation that the behaviour is unacceptable and a request to stop the behaviour may be an effective means of dealing with the current and potential issues.
2. Where it is not possible to directly approach another person, the matter should be reported to the Human Resources Office (HRO) if it concerns a staff member and to the Deputy President (Education) (DPE) if it concerns a student. When the complaint involves the HRO or the DPE, the complaint should be made to the President. Reports should be in writing and include details of dates, times, witnesses and a description of discrimination or harassment. Complainants are also encouraged to seek counselling and/or other support.
3. On receipt of a complaint, the DPE or HRO must take immediate action. The DPE/ HRO should meet immediately with the complainant to inform them of their options and to offer counselling and support services if appropriate.
4. The DPE/ HRO should consider the level of seriousness of the complaint and decide whether or not the complaint involves student or staff misconduct. If so, the DPE/HRO should follow the formal procedures outlined below. If the complaint involves unlawful activity, the matter must be reported to the police for investigation.
5. In circumstances not warranting formal procedures, the DPE/ HRO should address concerns and take action to stop the behaviour. The complainant should be informed of all actions taken. Options for dealing with the complaint include:
  - Meeting with the person about whom the complaint is made to discuss the behaviour but not make an allegation;
  - With the permission of the complainant, discussing the allegations with the other person, advising them of necessary changes to future behaviour, explaining their rights, and referring them to material such as this and other relevant policies;
  - Recommend mediation and/or counselling;
  - Speak informally, and in general terms, to other students or staff to inform them of responsibilities; and

- Organise training on equal opportunity, discrimination and harassment for students or staff as appropriate.

### Formal Procedure

1. If the issue is not resolved **within two weeks**, or if the complaint involves misconduct, the DPE/ HRO should advise the complainant to make a formal complaint in accordance with guidelines in the Institute's *Workplace Grievance Policy* (available from the HR Office) or *Student Complaints and Appeals Policy*. The complainant should also be informed of their right to make an external complaint to the Australian Human Rights Commission, NSW Anti-Discrimination Board, or Fair Work Ombudsman.
2. Formal investigation of the complaint will be undertaken by the HRO, in consultation with the Institute's Legal Counsel, who will consult with appropriate management staff regarding findings and recommended action to be taken. Action to be taken might include training for staff and students of the unit involved in the investigation.
3. The Institute reserves the right to suspend any staff member or student or require specific directions to be followed during the investigation process.
4. If an investigation deems that this policy has been breached, appropriate disciplinary action may be taken against the person who has been the subject of the complaint. Action may include dismissal or expulsion from the Institute.

### 5. EXCLUSIONS

This policy does not apply to incidents of discrimination, harassment and unequal opportunity that are beyond the control of the Institute and/or are unrelated to the Institute's work and study environment.

Reasonable direction does not constitute harassment. A legitimate part of the role of supervisors and lecturers is to offer advice and comment on performance. Reasonable direction includes but is not limited to constructive guidance and comment on unsatisfactory performance, counselling, and invoking unsatisfactory performance or misconduct procedures.

### 6. RELATED DOCUMENTS

- i. *Academic Staff Recruitment Selection and Appointment Policy*
- ii. *Access and Equity Policy*
- iii. *Code of Conduct for Staff*
- iv. *Code of Conduct for Students*
- v. *Employee Handbook\**
- vi. *Online Course Delivery Policy*
- vii. *Sexual Assault and Sexual Harassment Policy*
- viii. *Student Complaints and Appeals Policy*
- ix. *Working from Home Policy\**
- x. *Workplace Grievance Policy\**
- xi. *Workplace Health and Safety Policy\**

\*Available from the Human Resources Office

## 7. VERSION CONTROL.

Historical Version	Approved by	Approval Date
2021.06	Executive Team	24 June 2021
2018.03	Executive Team	06 March 2018 Replaces Equal Employment Opportunity, Anti-Discrimination and Anti-Harassment Policy
2017.07	Executive Team	13 July 2017
2017.02	Executive Team	17 February 2017
2013.12	Executive Team	20 December 2013

*The Director of Human Resources oversees the implementation and compliance of this policy. Please contact the Human Resources Office for any enquiries or clarifications related to this policy.*