



ANTI-HARASSMENT POLICY

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* Unless otherwise indicated, this Policy will still apply beyond the review date.

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Document Control

Version #	Date	Key changes
1.0	23/02/2018	Approved by Council
1.0a	31/5/2022	Updated the reference to the HES Framework (Threshold Standards)2021
1.1	14/12/2023	Inclusion of specific references to sexual assault and sexual harassment as part of this policy.

1. PURPOSE

1.1 The Anti-Harassment Policy assists Adelaide Institute of Higher Education (AIHE) to meet its responsibilities and obligations under State and Federal anti-discrimination and equal opportunity laws. It also attempts to ensure a safe environment for students to aid their wellbeing. It provides information and clear guidelines on understanding and preventing unlawful discrimination and harassment and provides the framework for handling behaviour that breaches this Policy.

2. SCOPE

2.1 The Anti-Harassment Policy applies to all students, staff and other stakeholders of AIHE. For this Policy all references to the term “student” are inclusive of a prospective student, an applicant for admission to AIHE, a current student, or a former or past student of AIHE.

2.2 This Policy applies when a claim of sexual or other harassment, sexual assault, bullying or discrimination concerns an AIHE student or staff member and where the conduct complained about occurred at AIHE or where the conduct is related to AIHE activities, or concerns people acting on behalf of AIHE.

3. POLICY STATEMENT

3.1 AIHE is committed to maintaining a teaching and learning environment that is free from all forms of harassment, assault, bullying and discrimination, an environment which values and fosters safety and good working relationships. In turn, this enables students and staff to be safe and be treated with dignity, courtesy, respect and understanding.

4. PRINCIPLES

4.1 All AIHE students and staff have a right to study and work in a safe environment free from discrimination and harassment.

4.2 Discrimination, bullying and all forms of assault and harassment constitute a risk to the health and safety of the student body, all workforce participants and AIHE as an organisation. Such behaviour is unacceptable and will not be tolerated. Further, any retaliation against an individual who has made a complaint, or retaliation against individuals for cooperating with an investigation of a complaint, will not be tolerated.

4.3 AIHE will use educative approaches for the prevention of discrimination, bullying, sexual assault, sexual harassment and other forms of harassment. These approaches will inform members of the AIHE community of their rights and responsibilities, to encourage the reporting of behaviour, practices or publications that contravene this Policy, and ensure AIHE’s systems and processes are not discriminatory.

4.4 Allegations of discrimination, assault and harassment involving students or staff will be handled with sensitivity and impartiality in accordance with the complaint process outlined in Section 6.

4.5 Where it is determined that discrimination, any form of assault, or harassment has occurred, AIHE will act promptly to eliminate the improper conduct and take corrective action as is necessary, including disciplinary action where appropriate.

4.6 If a person makes a false complaint, or a complaint in bad faith (e.g. making up a complaint to get someone else into trouble), that person may be disciplined and may be subject to a defamation claim.

5. UNACCEPTABLE CONDUCT

5.1 Australian law prohibits discrimination, sexual assault, sexual harassment and harassment on the basis of race, national or ethnic origin, gender, disability (i.e. physical, intellectual, psychiatric, sensory, neurological or learning disabilities and illnesses such as HIV/AIDS), sexual orientation, religious background, marital status, pregnancy or potential pregnancy, political belief, family status, criminal record and age.

The relevant State and Federal legislation includes:

- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Equal Opportunity Act 1984 (SA)
- Fair Work Act 2009 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Racial Vilification Act 1996 (SA)
- Sex Discrimination Act 1984 (Cth)
- Work Health and Safety Act 2012 (SA)
- Work Health and Safety Regulations 2012 (SA)
- Australian State based criminal acts

5.2 Discrimination

5.2.1 Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

5.2.2 Discrimination can occur:

- a) Directly, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (refer list in sub-clause 5.2.3).

For example, a student is harassed and humiliated because of their race, or a staff member is refused promotion because they are 'too old'.

- b) Indirectly, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (refer list in sub-clause 5.2.3).

For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.

5.2.3 Protected personal characteristics under Federal discrimination law include:

- a disability, disease or injury, including work-related injury;
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members;
- race, colour, descent, national origin, or ethnic background;
- age, whether young or old, or because of age in general;
- sex;
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union;
- religion;
- pregnancy and breastfeeding;
- sexual orientation, intersex status or gender identity;

- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship;
- political opinion;
- social origin;
- medical record; and
- an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

5.2.4 It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

5.3 Bullying

5.3.1 Bullying behaviour can range from obvious verbal or physical assault to subtle psychological abuse. It can include:

- sarcasm and other forms of demeaning language;
- threats, abuse, shouting or offensive language;
- coercion;
- intimidation;
- exclusion or isolation;
- inappropriate blaming
- ganging up;
- constant unconstructive criticism;
- deliberately withholding information or equipment that a person needs for their work or study, or access to their entitlements;
- unreasonable refusal of requests for leave, training or other workplace benefits;
- assigning meaningless tasks unrelated to the job; and
- giving employees impossible jobs.

5.3.2 The Fair Work Amendment Act 2013 defines 'workplace bullying' as repeated unreasonable behaviour by an individual towards a worker which creates a risk to health and safety.

5.3.3 If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination.

5.3.4 Bullying is unacceptable in AIHE and may also be against occupational health and safety law.

5.4 Sexual assault

5.4.1 Sexual assault includes a range of behaviours, all of which are unacceptable. Sexual assault normally constitutes a crime. Sexual assault occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent, including when they have withdrawn their consent.

5.4.2 Sexual assault is unacceptable at AIHE.

5.4.3 All AIHE students, staff and affiliates have the same rights and responsibilities in relation to sexual assault.

5.4.4 AIHE supports all victims of sexual assault, whether the sexual assault occurs at AIHE facilities, at AIHE-related events, or between staff, delegated AIHE representatives and/or students, at any location or event.

5.5 Sexual harassment

5.5.1 Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

- comments about a person's private life or the way they look;
- sexually suggestive behaviour, such as leering or staring;
- brushing up against someone, touching, fondling or hugging;
- sexually suggestive comments or jokes;
- displaying offensive screen savers, photos, calendars or objects;
- repeated unwanted requests to go out;
- requests for sex;
- sexually explicit posts on social networking sites;
- insults or taunts of a sexual nature;
- intrusive questions or statements about a person's private life;
- sending sexually explicit emails or text messages;
- inappropriate advances on social networking sites;
- accessing sexually explicit internet sites; and
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, stalking or obscene communications.

5.5.2 Just because someone does not object to inappropriate behaviour in the teaching and learning environment at the time, it does not mean that they are consenting to the behaviour.

5.5.3 All AIHE students, staff and affiliates have the same rights and responsibilities in relation to sexual harassment.

5.5.4 A single incident is enough to constitute sexual harassment – it does not have to be repeated.

5.5.5 All incidents of sexual harassment, no matter how large or small or who is involved, require employers and managers to respond quickly and appropriately.

5.6 Victimization

5.6.1 Victimization 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 victimization. Victimization is against the law.

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

5.6.3 Victimization 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.

5.6.4 AIHE has a zero tolerance approach to victimization.

5.7 Breaching confidentiality

5.7.1 It is unacceptable for students, staff and affiliates of AIHE to talk with others who have no need to access the information about any complaint of discrimination or harassment.

5.7.2 Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager or student advisor) is a serious breach of this Policy and may lead to formal discipline.

5.8 What is not considered to be discrimination, bullying or harassment

5.8.1 Under the relevant legislation, managing staff and students, including providing feedback on performance, does not constitute discrimination, bullying or harassment, when it is done in a reasonable way that is consistent with this Policy. Managers, immediate supervisors and lecturers should manage these processes with sensitivity.

5.8.2 Many people refer to bullying as harassment or discrimination. However, bullying may not be unlawful under Federal or State anti-discrimination laws unless it is linked to, or based on, one of the characteristics covered by these laws, such as the person's age, sex, race or disability.

5.8.3 Legitimate comment and advice, including relevant negative feedback, from lecturers, managers and supervisors on assessment tasks, work performance or work-related behaviour of an individual or group should not be confused with bullying, harassment or discrimination.

Providing negative feedback to staff during a formal performance appraisal, or counselling students regarding their learning performance, can be challenging. Lecturers and managers should handle these conversations with sensitivity, but they should not avoid their responsibility to provide frank feedback to students and staff.

5.8.4 Examples of reasonable practices may include:

- setting reasonable performance goals, standards and deadlines;
- deciding not to select a staff member for promotion where a reasonable process is followed;
- informing students or staff about inappropriate behaviour in an objective and confidential way;
- implementing organisational changes or restructuring;
- taking disciplinary action, including suspension or terminating employment of staff or a student's enrolment; and
- a direction to comply with AIHE's policies and procedures.

6. COMPLAINT PROCESS

6.1 To ensure that AIHE's learning and teaching environment is free of sexual assault, harassment, bullying and discrimination, AIHE has established procedures to address such complaints.

6.2 Any person who believes that they have been the subject of, or who believe that they have witnessed, sexual assault, harassment, bullying or discrimination should immediately report the situation in accordance with the processes set out in the Anti-Harassment Procedure.

6.3 Complainants who feel that they are likely a victim of a crime (for example, as a victim of sexual assault), are encouraged to report said alleged crime to Police, alongside any complaint lodged with AIHE.

6.4 Complainants are assured that they will not be victimised or disadvantaged for making a complaint.

7. CORRECTIVE OR DISCIPLINARY ACTION

7.1 Where it is determined that harassment, assault, bullying or discrimination has occurred, prompt action will be taken to eliminate the offending conduct.

7.2 Corrective or disciplinary action will be taken as appropriate, and may include:

- actions ranging from counselling to termination of employment or study, or
- other forms of disciplinary/ corrective action as deemed appropriate in the circumstances, including report to Police where appropriate.

8. RIGHTS AND RESPONSIBILITIES

8.1 AIHE Council will exercise due diligence to ensure AIHE complies with its obligations and has a responsibility to take all reasonable steps, consistent with its duty of care, to:

- ensure the health, safety and wellbeing of staff members, students, visitors, volunteers and contractors;
- support a working and learning environment that is free from discrimination, sexual assault and harassment;
- ensure staff members, students, visitors, volunteers and contractors are informed of this; and
- inform managers/supervisors of their responsibilities under this policy through the implementation of training and awareness raising strategies.

8.2 The General Manager will take reasonable steps to ensure AIHE has appropriate resources and has processes for complying with its obligations under this Policy.

8.3 Lecturers, managers and supervisors have a responsibility to:

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

8.3 All students, staff and affiliates have:

- an entitlement to work or study in a safe and healthy environment free of bullying, sexual assault, harassment and discrimination;
- the right to make a complaint about any bullying, sexual assault, harassing or discriminatory behaviour they are subjected to, or witness, in accordance with the associated Procedure;
- a responsibility to not knowingly misuse this Policy, including making a false or malicious accusation of bullying, sexual assault, harassment or discrimination;
- a responsibility to ensure they do not promote or engage in bullying, sexual assault, harassment or discrimination;
- a responsibility to comply with any reasonable instruction given by AIHE regarding the prevention of bullying, discrimination, sexual assault and harassment including complying with this Policy; and
- a responsibility not to victimise any person who raises a complaint of bullying, sexual assault, harassment or discrimination.

9. DEFINITIONS

9.1 See the AIHE Glossary of Terms for definitions.