

Student Equal Opportunity and Fair Treatment Policy – Higher Education

Policy Code: STU-027**Version:** 9.0**Effective Date:** 10 February 2023

Purpose

The purpose of this Policy is to provide guidelines and resources in relation to students in terms of equal opportunity, fair treatment, harassment and discrimination matters. It will cover specifically the areas of discrimination, bullying, harassment and sexual assault.

Scope

- All higher education students
- All staff (including contractors) when relating to higher education students

Policy Statement

As an education provider the College is committed to providing a safe learning environment free from discrimination, bullying, harassment and / or sexual assault or misconduct with equal opportunity for and fair treatment of all students. This commitment is based, in part, on the need to ensure that the College complies with Federal and State equal opportunity and anti-discrimination laws, but also is an extension of the College's organisational values and its commitment to providing a safe, happy, authentic and student-centric learning environment.

The College recognises the right of all students and staff to a College environment where equality of opportunity, inclusion and diversity are valued, promoted and practised.

The College has zero tolerance for sexual assault, harassment, sexual harassment, bullying and discrimination and expects that students regardless of background or intrinsic characteristics, are able to participate fully in College activities and will feel their contribution is welcomed, valued and supported.

In accordance with the *Student Code of Conduct – HE*, all students are expected to observe reasonable standards of behaviour with respect to all College activities and College property, thereby refraining from harassment (including sexual harassment), discrimination, bullying and other forms of intimidating or unlawful behaviour including sexual assault, against other students and staff.

Behaviour that is intimidating, abusive, disrespectful or threatening, including sexual assault and harassment, is not acceptable and will not be tolerated. Students who behave in a manner that is intimidating, abusive, disrespectful or threatening and in a manner that contradicts the *Student Code of Conduct – HE* may be liable for student misconduct and subsequent disciplinary action enforced as per the *Student Misconduct Policy - Higher Education*.

The College is committed to providing access to support services and referrals to individuals affected by these behaviours via student and staff counselling support programs through Talk Campus, 24/7 peer-to-peer support platform and Access EAP - Employee Assistance Program. The College may also refer students to specialist external

support counselling such as, [ReachOut](#), [Beyond Blue](#), 1800Respect, Head to Health, or Aboriginal and Torres Strait Islander support services.

The College will take all reasonable steps to identify and eliminate unequal opportunities, unfair treatment, harassment, bullying and discrimination from its practices in order to create an inclusive culture that fosters acceptance and respect of all students at the College.

This policy on discrimination, bullying, harassment and /or sexual assault and misconduct applies to all activities in which higher education students may participate while a student at the College or potential student including:

- Admission and enrolments
- Teaching and learning
- Student management
- Course development and delivery
- Training and instruction
- Assessment and examination
- Access to resources and facilities
- Course related placements
- College supported internal and external events and activities
- College culture

Equal Opportunity

Equal opportunity in student education is a principle of non-discrimination which emphasises that opportunities in education should be freely and equally available to all students irrespective of their personal characteristics or attributes which are unrelated to their ability, performance, knowledge, skill or competence (e.g.: race, gender, religion, disability etc.).

Discrimination

Discrimination in student education occurs when a student is denied a benefit or the equal opportunity outlined above, or treated less favourably than another student, on the grounds of a personal characteristic or attribute(s) (e.g.: race, gender, religion, disability etc.).

Discrimination can be either direct or indirect. Direct discrimination occurs when unlawful distinctions are made between individual students and student groups based on any of the discriminatory grounds. Indirect discrimination occurs when a seemingly harmless policy, rule or practice has a discriminatory effect on an individual student or student group.

The following discriminatory grounds apply under various Federal and State legislative instruments:

- age

- breastfeeding
- carer status
- family responsibilities
- impairment/disability (past, present or future)
- industrial activity
- lawful political belief or activity
- lawful religious belief or activity
- lawful sexual activity
- marital status/relationship status
- parental status
- physical features
- pregnancy or potential pregnancy
- race, colour, nationality, ethnic or national origin
- sex
- sexual orientation/gender identity/intersex status
- personal association with a person identified by reference to one of the above attributes

Vilification on the grounds of race, religion, sexuality or gender identity is also unlawful. Unlawful harassment can be verbal, written or physical, and has the intent or effect of creating an intimidating, hostile or offensive environment.

Behaviours that can be considered discriminatory:

- spreading gossip or rumours about a person based on an attribute
- refusing to work as a group with a person because of an attribute (for example because a student was older or younger, a particular nationality or sexual orientation)
- deliberately excluding a person from a study group because of a perception they may be slower than other students due to an attribute such as age, impairment or sex
- telling jokes about racial groups
- posting to social media ridiculing a person on the basis of an attribute such as gender identity, sexual orientation or race
- subjecting a person to humiliating initiation ceremonies to be accepted into a group, where an attribute made them a target for initiation.

Behaviours that can be considered not discriminatory:

- making a complaint about another student on the basis of their contributions to a group assessment task
- behaviour that may be considered bullying but is not directed to a person because of an attribute
- providing peer review feedback that is critical of the quality of another student's work
- having a one-off conflict with a person of a different race when the conflict is not due to that person's race
- adjusting to accommodate another student such as changing a meeting day or location to accommodate a student with a religious commitment, family responsibility or disability requiring a change of location

Sexual Discrimination

Sexual Discrimination is when a person is treated less favourable than that of a person of the opposite sex would be treated in a same or a similar circumstance.

The following sexual discriminatory grounds apply under various Federal and State legislative instruments:

- sexual orientation
- gender identity
- intersex status
- lawful sexual activity
- personal association with a person identified by reference to one of the above attributes.

The College does not tolerate any discrimination and higher education students who believe they may be subject to unlawful discrimination should initially discuss their concerns with the perpetrator (if appropriate and safe to do so), or raise their concerns via Student Services to discuss their concerns with the National Student Services Coordinator and / or the National Student Affairs Coordinator or Academic staff. The College provides a confidential case submission process and email address for students to use for all matters of a sensitive nature or if they are not confident in approaching Student Services or an Academic staff member. All student feedback can be lodged through:

the Student Portal > Complaints and Appeals > select the relevant category and submit. OR

by emailing safecampus@endeavour.edu.au, all cases that require investigation will be submitted as a case via the Student Portal to ensure case management and due process.

All case submissions are managed by the National Student Affairs Coordinator (or delegated authority) and are private and confidential.

All feedback lodged is monitored and all allegations will be investigated in a manner that is fair, impartial, equitable and with compassion and empathy, while adhering to the principles of natural justice (procedural fairness) in making decisions related to concerns. All higher education students can also lodge a complaint as per the *Complaints and Appeals Policy - Domestic Students - Higher Education* for domestic higher education students or the *Complaints and Appeals Policy - International* for international higher education students.

It must be highlighted that not all discrimination is unlawful, and in some instances discrimination on certain educational grounds may be necessary and fair, such as entry age; language requirements; supplying special services or facilities for a person with an impairment that would impose an unjustifiable hardship on the College, etc.

Unforeseen discrimination exemptions will be decided on a case-by-case basis by the Director of Student Services and Retention (or delegated authority), who may consult with the Director of Education and / or the National Quality, Governance & Compliance Manager to support an outcome.

Harassment

Harassment is repeated behaviour that is directed at an individual or group of students or staff and is offensive, humiliating, intimidating or threatening. The behaviour is often unwelcome and makes it difficult for effective work or study to be conducted.

Harassment occurs in circumstances where a reasonable person would have expected that the behaviour was going to be offensive, humiliating or intimidating and may be based on gender, race, disability, sexual orientation or a range of factors listed in the Age Discrimination Act 2004, Disability Discrimination Act 1992, Racial Discrimination Act 1975, Sex Discrimination Act 1984 and Australian Human Rights Commission Act 1986.

Harassment is perceived or actual unwelcomed conduct that humiliates, offends or intimidates people. Harassment is bullying conduct that is neither appropriate nor relevant to a situation. This includes words, as well as acts, pictures and images that create a hostile or threatening atmosphere.

Behaviours that can be considered harassment include:

- sending offensive comments or pictures, via emails, text messages or via social media or electronic platforms
- continually displaying offensive signs, posters, images or screen savers
- making derogatory comments or taunts about a person or group of people
- telling insulting jokes or using insulting language about particular racial groups
- sabotaging a person's study or work
- abusing someone verbally in relation to an attribute such as calling someone a name that mocks them
- asking repeated intrusive questions about someone's personal life
- verbal abuse
- offensive gestures
- ignoring or segregating a person or group.

Harassment is **not**:

- behaviours that arise from a relationship of mutual consent

- gestures or remarks that arise from a relationship of mutual consent such as giving a friend a hug or a compliment
- a single or isolated conflict or remark
- an isolated conversation where the people involved may have differing opinions
- intellectual disagreements related to academic freedom
- a direction to comply with College rules, regulations and policies
- legitimate and reasonable actions taken by College staff around teaching and learning outcomes and policies and procedures carried out and applied in a fair and objective way
- legitimate and reasonable actions taken by College staff around non-academic standards of behaviour that may require actions or investigation under the *Student Code of Conduct - HE* and the *Student Misconduct Policy - Higher Education*.

The effect of harassment is to make a person feel insulted, offended, intimidated and unable to perform a task effectively or ultimately safely.

Harassment in this Policy in any form (including sexual harassment and bullying) refers to student matters only (staff should refer to the *Equal Employment Opportunity and Anti-Discrimination Policy* for details on the College's approach for employees).

Sexual Harassment

Sexual harassment is unwanted or unwelcome conduct of a sexual nature or sexual behaviour, whether verbal, physical or electronically communicated which makes a person feel offended, humiliated, intimidated or threatened. Sexual harassment is unlawful under the Sex Discrimination Act 1984.

Sexual harassment occurs in circumstances where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Behaviours that can be considered sexual harassment include:

- staring or leering at a person or parts of their body
- unwelcome physical contact, such as deliberately brushing up against a person, massaging a person without invitation or unwelcome touching
- uninvited kisses or embraces or touching
- sexually suggestive comments or jokes or sharing stories of a sexual nature
- insults or taunts of a sexual nature
- propositioning someone for sex
- making comments or threats in return for sexual favours
- intrusive questions or statements or persistent questions about a student's personal life

- making remarks or insinuations about another person's sex life
- making sexual gestures
- editing images of a person to depict an image of a sexual nature
- displays of sexually graphic material including posters, pin-ups, cartoons, graffiti, computer screen savers or messages left on notice boards, desks or common areas (including distribution by email, internet, photographs, text messaging, social media platforms)
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- requests for sex or repeated unwanted requests to go out on dates
- offensive phone calls, letters or sending sexually explicit information or images in electronic form
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.
- Sexual harassment may also include:
 - reluctant consent, where there is a disparity in relative authority of power or where a person is in a position to make a decision more or less favourable
 - 'consent' that is based on fear; or
 - intimidation or other circumstances relating to the relative status of those involved. For example, a student may find it difficult to refuse an advance from a lecturer, or an academic staff member out of fear of a potential impact on future results. In these circumstances, a perceived consensual relationship may be found to be sexual harassment

Sexual harassment is **not**:

- interaction, flirtation or friendship which is mutual or consensual
- behaviour which is based on mutual attraction, friendship and respect
- an interaction that is welcomed and reciprocated
- flirting that is invited and not unwelcome
- attraction or friendship that is invited and not unwelcome
- sexual contact that has been engaged in with consent of the recipient, when the consent has not been obtained through fear, intimidation, threats or force or where there is a power imbalance in the relationship

Sexual Assault

Sexual assault is any unwanted or forced sexual act or behaviour that occurs without consent. Sexual assault occurs when a person indecently assaults another person or procures another person, without their consent, to commit a sexual act (*Criminal Code Act 1899* (Qld) s. 265).

Consent must be freely and voluntarily given by a person with the cognitive capacity to do so. Consent is not freely and voluntarily given if a person is:

- forced to engage in a sexual act
- unconscious or asleep
- under the influence of drugs or alcohol
- threatened or intimidated
- in fear of bodily harm; or
- under a mistaken belief that the person was their sexual partner

Sexual assault means any sexual act that a person does not consent to, including:

- sexual intercourse without consent
- oral sex without consent
- anal sex without consent
- groping and inappropriate touching of a sexual nature without consent
- indecent assault – kissing or touching a person's body in a sexual manner without their consent
- acts of indecency – doing an act of a sexual nature with or towards another person without their consent, or making another person do an unwanted act of a sexual nature
- Voyeurism – for the purpose of obtaining sexual arousal or sexual gratification, observing a person who is in a state of undress, using a bathroom, showering or bathing or engaged in a sexual act without their consent
- Recording or distributing an intimate image of another person without their consent, whether in person or by electronic, digital or other means including still or moving images of another person of a voyeuristic nature without their consent

For the purposes of this Policy, a person will be considered to have sexually assaulted another person if:

- The other person did not consent to the first person's actions; and
- The first person:
 - knew that the other person did not consent
 - was reckless as to whether the other person consented; or

- should reasonably have known, having regard to all the circumstances, that the other person did not consent

For the purpose of this Policy stalking or intimidating another person with the intention of causing them to fear physical or mental harm is also a criminal offence (*Crimes (Domestic and Personal Violence) Act 2007* (NSW) s. 13). Threatening to engage in any of the above conduct may also constitute sexual assault.

Sexual assault is **NOT**:

- a consensual sexual act or behaviour
- when a person consents freely and voluntarily to a sexual act

The College does not tolerate any harassment or assault and higher education students who believe they may be subject to unlawful harassment or assault should initially discuss their concerns with the perpetrator if appropriate and safe to do so, or raise their concerns via Student Services to discuss their concerns with the National Student Affairs Coordinator and / or the National Student Services Coordinator or Academic staff.

The College provides a confidential case submission process and email address for students to use for all matters of a sensitive nature or if they are not confident in approaching Student Services or an Academic staff member. All student feedback can be lodged through:

1. the Student Portal > Complaints and Appeals > select the relevant category and submit.

by emailing safecampus@endeavour.edu.au, all cases that require investigation will be submitted as a case via the Student Portal to ensure case management and due process.

All case submissions are managed by the National Student Affairs Coordinator (or delegated authority) and are private and confidential.

The College may reference the Student Misconduct Policy - Higher Education and / or the Complaints and Grievance Policy protocols for cases that require escalated case management and referrals to law enforcement. Refer to the *Complaints and Appeals Policy – Domestic Students - Higher Education* or the *Complaints and Appeals Policy – International* (for international students) and the *Student Misconduct Policy - Higher Education*.

All feedback lodged is monitored and all allegations will be investigated in a manner that is fair, impartial, equitable and with compassion and empathy, while adhering to the principles of natural justice (procedural fairness) in making decisions related to concerns.

Bullying

Bullying is repeated unreasonable verbal, physical, social or psychological behaviour that is harmful and involves the misuse of power by an individual or group towards one or more persons. Bullying is a form of harassment and is when a person or group of people misuse this power in a relationship to repeatedly and intentionally harm others. The outcome is the victim feels distressed, less powerful or helpless and there is a risk to their wellbeing.

'Repeated behaviour' refers to the persistent nature of the behaviour and can refer to a range of behaviours over time. 'Unreasonable behaviour' means behaviour that a reasonable person, having regard for the circumstances

would see as victimising, humiliating, undermining or threatening. Except in the case of sexual harassment, a single incident of unreasonable or harassing behaviour does not, of itself, constitute bullying.

Bullying can be intentional, where the actions are intended to humiliate, offend, intimidate or distress. Bullying can also be unintentional, where actions which, although not intended to humiliate, offend, intimidate or cause distress and should reasonably have been expected to cause that effect.

Sometimes people do not realise that their behaviour can be harmful to others. In some situations, behaviours may unintentionally cause distress and be perceived as bullying.

A single incident of unreasonable behaviour is not bullying, although it may have the potential to escalate into bullying and therefore should not be ignored.

Bullying can involve many different forms of unreasonable behaviour and can be obvious (direct) such as physical, verbal, or cyber harassment, or subtle (indirect) such as social exclusion or intimidation. Bullying can occur through many means including face-to-face, over the phone, via email, through text messaging, instant messaging and on social media platforms.

Examples of direct bullying behaviour include:

- abusive, insulting or offensive language
- spreading misinformation or malicious rumours
- behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered through yelling or screaming
- displaying offensive material
- teasing or regularly making someone the brunt of pranks or practical jokes
- unfair and excessive criticism
- repeated inappropriate comments about a person's appearance, lifestyle, or their family.

Examples of indirect bullying may include:

- deliberately excluding, isolating or marginalising someone from a group as part of a College activity or learning assessment (including online or in person)
- repeatedly ignoring a person's point of view
- constantly changing or setting unrealistic targets for a person
- undervaluing the efforts of a person
- intentionally and repeatedly hurting a person physically
- stalking a person
- taking advantage of any power over some-one else.

Bullying is **not**:

- mutual arguments, disagreements or dislikes
- a one-off offensive comment about a person that is never repeated and is not of a sexual nature
- having an argument, conflict or disagreement with another student (where there is no power imbalance)
- constructively critiquing another student's work
- having a difference of opinion and expressing it to others in an inappropriate way
- being rejected socially by an individual or group of students
- legitimate actions taken by College staff that support teaching and learning outcomes and policies and procedures which are carried out and applied in a fair and objective way while adhering to the principles of natural justice (procedural fairness) in making decisions, or
- legitimate actions taken by College staff around non-academic standards of behaviour within policies and procedures which are carried out in a fair and objective way while adhering to the principles of natural justice (procedural fairness), that may require actions or investigation under the *Student Code of Conduct - HE* and the *Student Misconduct Policy - Higher Education*.

It must be also highlighted that harassment is not legitimate comment or advice (including negative comment or feedback) from others, such as genuine assessment feedback.

- Academic staff at the College are responsible for undertaking assessment of students' work and making a judgement about their attained knowledge and competency in a particular subject.
- They are also expected to provide academic guidance and advice to students to complement their assessment and may have to instruct them about academic policy, processes and timeline provisions. In itself, the act – including repeated acts – of correcting students or pointing out inadequacies of performance does not constitute harassment or bullying in an educational environment.

Similarly, invoking unsatisfactory performance procedures or misconduct procedures, or applying student progress procedures, academic integrity procedures or assessment due dates do not in themselves constitute harassment or bullying of students.

The College does not tolerate any bullying and higher education students who believe they may be subject to unlawful bullying should initially discuss their concerns with the perpetrator if appropriate and safe to do so, or raise their concerns via Student Services to discuss their concerns with the National Student Affairs Coordinator and / or the National Student Services Coordinator or Academic staff.

The College provides a confidential case submission process and email address for students to use for all matters of a sensitive nature or if they are not confident in approaching Student Services or an Academic staff member. All student feedback can be lodged through;

- the Student Portal > Complaints and Appeals > select the relevant category and submit.
- by emailing safecampus@endeavour.edu.au, all cases that require investigation will be submitted as a case via the Student Portal to ensure case management and due process.

All case submissions are managed by the National Student Affairs Coordinator (or delegated authority) and are private and confidential.

The College may reference the Student Misconduct Policy - Higher Education and / or the Complaints and Grievance Policy protocols for cases that require escalated case management and referrals to law enforcement. Refer to the *Complaints and Appeals Policy – Domestic Students - Higher Education* or the *Complaints and Appeals Policy – International* (for international students) and the *Student Misconduct Policy - Higher Education*.

All feedback lodged is monitored and all allegations will be investigated in a manner that is fair, impartial, equitable and with compassion and empathy, while adhering to the principles of natural justice (procedural fairness) in making decisions related to concerns.

Vexatious or Malicious complaints

A student must not make vexatious or malicious complaints of discrimination, bullying, harassment, sexual harassment and or sexual assault or misconduct.

A complaint will be considered vexatious or malicious if the student makes it:

- knowing it to be false, dishonest or contains intentionally misleading information; or
- for the primary purpose of damaging the College or the person (student or staff member) against whom the complaint is made; or
- without merit or without reasonable cause; or
- when the college has determined that all policies and procedures have been followed, the student has been consulted, an outcome has been determined and communicated, and the student remains unaccepting of the outcome and continues to raise the complaints through multiple channels for a different outcome.

Making such a complaint may result in a student misconduct investigation and disciplinary action as per the *Student Misconduct Policy - Higher Education*.

Resources

The College integrates equal opportunities and fair treatment principles for students throughout its operations. In affirmation of this integration the College has policies, procedures and programs such as:

- *Access and Equity Program* that exists to enable equal participation of every student focusing on increasing student social inclusion and assisting students to achieve the graduate outcomes in their course.
- *Admission and Enrolment Policy – International* and related *Procedure* that explain the commitment and process of ensuring that admission of international students is fair, transparent and ethical, and in line with the National Code and legislative requirements around the provision of education to international students in Australia.

- *Admissions Policy - Undergraduate - Higher Education* and related *Procedure* that explain the commitment and process of ensuring that admission of students is fair, transparent and ethical and compliant with Higher Education Standards.
- *Complaints and Appeals Policy - International* and related *Procedure* that sets out the considerations and processes that must be taken into account when managing international student complaints and appeals to ensure that the concern raised by an international student are addressed using the appropriate channels in order to facilitate an equitable, confidential and a timely resolution.
- *Disability Policy* which sets out the College's commitment to provide an accessible and inclusive study environment to all students with a disability or special need(s).
- *Examination Policy - Higher Education* which provides a framework, set of principles and the minimum requirements for circumstances under which a student may seek requests for deferred examinations under special considerations and circumstances.
- *Complaints and Appeals Policy - Domestic Students - Higher Education* and related *Procedure* which includes the strategies and processes needed to manage student grievances to ensure that the students concern is raised and addressed using the appropriate channels to facilitate equitable, confidential and a timely resolution.
- *Privacy Policy* describes the importance of privacy and security of personal details of students and the practices required to handle the information.
- Provision of Reasonable Adjustment (*Reasonable Adjustment Policy*) in which the College will take all reasonable steps to ensure a student with a disability or special need is able to seek admission to or apply for enrolment; is able to participate in the courses provided; is able to use the facilities and services of the College; and where required able to participate in assessment tasks.
- *Remission of Financial Liability due to Special Circumstances Policy - Higher Education* which provides a broad framework, set of principles and the minimum requirements for circumstances under which a student may seek remission of debt or refund of fees under special considerations or other circumstances where the application of the College's policies requires consideration of special circumstances.
- *Special Circumstances Consideration Policy - Higher Education* which provides a broad framework, set of principles and the minimum requirements for circumstances under which a student may seek requests for assignment extensions under special considerations or other circumstances where the application of the College's policies requires consideration of special circumstances.
- *Student Code of Conduct - HE* frameworks the College's values and encourages active engagement between the College and the higher education student body within the contexts of professional practice, teaching and learning, research and the life of the College community. It outlines the College's expectations of students as individuals and responsibilities of a higher education student enrolled at the College.

Responsibilities

College

It is the College's responsibility to ensure that unlawful discrimination, bullying and harassment and or sexual assault and misconduct does not occur. If it does occur, the allegation will be investigated in a manner that is fair, impartial, equitable and with compassion and empathy, while adhering to the principles of natural justice (procedural fairness) in a confidential and timely manner according to the *Complaints and Appeals Policy - Domestic Students - Higher Education* or the *Complaints and Appeals Policy - International* or the *Student Misconduct Policy - Higher Education* and their associated Procedures.

If a higher education student informs the College of allegations of harassment or discrimination that involves persons who are not staff members or students at the College, the College will consider on the appropriateness of the College's intervening or assisting. The College will not become involved in external case investigations that may have arisen due to misadventure outside of the campus and College environment, except to support compliance with law enforcement requests aligned to State legislative requirements. All requests will align with the *Privacy Policy* protocols at the College and will be managed by the National Student Affairs Coordinator and / or Director of Student Services and Retention, and / or College Privacy Officer (or delegated authority).

The College will take all reasonable steps to ensure that it does not engage in discriminatory, bullying or harassing behaviour (sexual or other) towards students including not vilifying or victimising a student who has voiced a discrimination, bullying or harassment complaint.

All academic and non-academic staff are responsible for implementation of this Policy.

Directors, National Managers, Heads of Departments and Managers / Coordinators are responsible for monitoring the compliance of their staff with this policy.

Where appropriate, the College has a responsibility to:

- provide a safe environment for all members of the College community
- act on inappropriate behaviour observed
- take claims of sexual harassment, harassment, bullying, discrimination seriously and conduct and investigate allegations of staff or student misconduct
- treat all information regarding the claim in confidence and with sensitivity
- treat all parties with respect
- ensure all parties receive due process and natural justice; and
- attempt to achieve a non-adversarial and non-judgemental resolution.

When appropriate, in the allegations of sexual harassment or sexual assault, the College will engage an external investigator to conduct and conclude the case to support the principles of natural justice (procedural fairness) being upheld, and to determine an independent, confidential, and timely outcome.

Staff

It is part of the role and a legal obligation of academic and non-academic staff to take reasonable steps to ensure that the educational environment at the College is free from discrimination, bullying, harassment and or sexual assault and misconduct of students. All staff at the College have a responsibility to take appropriate action if concerns about discrimination, bullying, harassment and / or sexual assault or misconduct are brought to their attention by a student or personally witnessed.

Staff must ensure they do not engage in discriminatory, bullying, harassing and or sexual assault or other forms of intimidating or unlawful behaviour towards students themselves including ensuring that a student is not vilified or victimised unfairly by a staff member for making a discrimination or harassment complaint.

All staff are expected to uphold professional standards of behaviour towards all persons they interact with in their capacity as a staff member of the College. These professional standards are outlined in the *Employee and Contractor Code of Conduct*.

Any staff member found to be engaging in contravening behaviour may be subject to consequential disciplinary action both by the College and through legal avenues.

All employees of the College are expected to:

- lead by example by following policies and procedures and acting in a professional and non-offensive way
- immediately refer any complaints of sexual harassment or sexual assault to the National Student Affairs Coordinator, who will liaise with the Director of Student Services and Retention and the Director of Education
- treat any claims of sexual harassment confidentially by only discussing them with the appropriate parties
- report any instances of sexual harassment they may witness or that have been disclosed.

All staff have a responsibility to behave professionally and with respect for each other and are accountable for ensuring that harassment, bullying and discrimination are prevented or dealt with effectively at the element level.

Students

All students are expected to observe reasonable standards of behaviour with respect to all College activities and College property, thereby refraining from discrimination, bullying, harassment and or sexual assault or misconduct or other forms of intimidating or unlawful behaviour against other students and staff; and uphold professional standards of behaviour towards all persons they interact with in their capacity as a College student. These professional standards are outlined in the *Student Code of Conduct - HE*.

The College requires all higher education students to behave responsibly by complying with the *Student Code of Conduct - HE*, this policy and related policies / procedures, and to report unacceptable behaviour to staff at the College private and confidential.

All feedback lodged is monitored and all allegations will be investigated in a manner that is fair, impartial, equitable and with compassion and empathy, while adhering to the principles of natural justice (procedural fairness) in making decisions related to concerns. Higher education students can also lodge a complaint as per the *Complaints and*

Appeals Policy - Domestic Students - Higher Education for domestic students or the *Complaints and Appeals Policy - International* for international students.

All higher education students are responsible for their own behaviour and how they act and must ensure they do no::

- engage in discriminatory, bullying, harassing (sexual or other) and or sexual assault or misconduct or other forms of intimidating or unlawful behaviour towards other students or staff members; or
- raise frivolous or vexatious cases against a staff member or fellow student.

All cases raised will be investigated to determine an outcome, while case allegations are under investigation a student / students may be suspended from their studies due to an ongoing investigation and may be subject to consequential disciplinary action by the College applied through the *Student Misconduct Policy - Higher Education* and through legal avenues.

Support

The College is committed to providing accessible support for individuals who are affected by discrimination, bullying, harassment, sexual harassment or sexual assault. At all times the College respects an individual's rights to privacy and confidentiality when providing support services.

Counselling Services

The College provides Talk Campus, a peer-to-peer support platform that offers 24/7 support, The platform is safe and moderated, and is designed as a place where students can connect with mental health and wellbeing support.

Crisis Support

The College is able to recommend a number of external support agencies for individuals who require assistance to manage their reaction to a particular event or experience and to provide support and resources in the individual's time of need:

- **1800 RESPECT** - National sexual assault, domestic family violence counselling services. Phone 1800 737 732 or refer to the website: <https://www.1800respect.org.au>
- **REACHOUT** - For sexual assault support and state contact service numbers, refer to the website <https://au.reachout.com>
- **AUSTRALIAN GOVERNMENT SUPPORT SERVICES** - The Australian Government website offers contacts per state and support categories: <https://www.respect.gov.au/services>

Academic Support

The College is committed to providing accessible academic support for individuals who are affected by discrimination, bullying, harassment, sexual harassment or sexual assault. Academic assistance to support the student in continuing to meet the professional learning outcomes of the subjects can be provided through the provision of extra tutorial support, academic resources and special academic considerations.

College staff that can liaise to arrange academic support include the Academic Clinic Coordinator, Discipline Coordinator, Heads of the Department, International Student Success Coordinator. Based on the nature of the student's concerns, the central contact person will establish and maintain a liaison relationship with the student and any relevant College staff members and programs.

College Support

To support students who experience extenuating or exceptional circumstances, the College:

- extends special consideration to students in respect of the course and any assessment item in the course as specified in the *Assessment Policy - Higher Education* and the *Special Consideration Policy - Higher Education*
- provides an application process for deferred assessment or examination for students prevented from undertaking an assessment item or exam as specified in the *Examination Policy - Higher Education*
- considers requests for withdrawal from a course/s due to special circumstances on the grounds supported by appropriate documentary evidence as specified in the *Deferral, Withdrawal and Course Variation Policy - Higher Education* and related (International) Procedure
- considers requests for remissions of fees based on special circumstances on the grounds supported by appropriate documentary evidence as specified in the *Remissions of Financial Liability due to Special Circumstances Policy - Higher Education*
- may extend the maximum period of completing a program on the basis of exceptional circumstances affecting the student's progress in the program as specified in the *Academic Progression Policy - Higher Education*.

In some cases, students may experience a misadventure that is outside the control of the College and unrelated to their course of study, such as an assault in a city street. In such circumstances the College may not have jurisdiction to investigate such incidents or take actions against those responsible. The College is able to offer and extend all of the support options available such as counselling services, access to crisis support providers, academic support to students who experience extenuating or exceptional circumstances due to misadventure.

Consequences of Discrimination, Bullying, Harassment and or Sexual Assault and Misconduct

College

Consequences for the College may include:

- Poor public image
- Excessive absenteeism
- Increased attrition rates
- Poor retention rates

- Litigation and compensation
- Breakdown in communications.

Student

Consequences of discrimination and harassment for the student may include:

- Low morale
- Low productivity
- Poor academic results
- Excessive absenteeism
- Withdrawal from studies
- Stress related illnesses
- Loss of confidence, reduced self-esteem, depression and suicide
- Thoughts of suicide
- Social isolation.

The College will appropriately discipline any person (student or staff) if it is proven through the investigation, grievance or complaint process that their behaviour was inappropriate and they have discriminated against, bullied or harassed or sexually assaulted another person within the College.

Procedure for Reporting and Acting on allegations of Discrimination, Bullying, Harassment or Sexual Assault

If discrimination, bullying, harassment, sexual harassment and or sexual assault and misconduct occurs, the higher education student is encouraged to act according to the processes set out in the *Complaints and Appeals Policy - Domestic Students - Higher Education* or the *Complaints and Appeals Policy – International* and their associated Procedures.

The College provides a confidential case submission process and email address for students to use for all matters of a sensitive nature or if they are not confident in approaching Student Services or an Academic staff member. All student feedback can be lodged through;

- the Student Portal > Complaints and Appeals > select the relevant category and submit OR
- by emailing safecampus@endeavour.edu.au, all cases that require investigation will be submitted as a case via the Student Portal to ensure case management and due process.

All case submissions are managed by the National Student Affairs Coordinator (or delegated authority) and are private and confidential.

All feedback lodged is monitored and all allegations will be investigated in a manner that is fair, impartial, equitable and with compassion and empathy, while adhering to the principles of natural justice (procedural fairness) in making decisions related to concerns.

The College will ensure that:

- The above policy and procedure advise students of available support, such as Talk Campus if required when making a complaint or lodging a grievance.
- The student is not vilified or victimised for making a complaint or lodging a grievance.
- The complaint or grievance process will be dealt with in a professional and sensitive manner and will adhere to the principles of privacy and confidentiality.
- Support is offered to the student if required, and the student is able to have a third party of their choosing present at all meetings. A support person should not be a lawyer.
- The matter is referred to the College's legal representatives if required, at which time students will be advised that legal representation may be required if they have not already sought this.
- The matter is referred to a third-party provider to support the principles of natural justice in investigation of any allegations to support procedural fairness in determining an independent outcome.

The higher education student is to ensure that they maintain confidentiality of information when making a complaint or grievance.

If the student is dissatisfied with the initial outcome after the initial case submission, they may raise an appeal through the Student Portal > Complaints and Appeals > Appeal

If the student remains dissatisfied with the appeal outcome of the College's internal investigation process, they may refer the matter to a relevant external body (depending on the situation), such as:

- Resolution Institute <https://www.resolution.institute/contactus>
- Australian Human Rights Commission <https://www.humanrights.gov.au/about/contact-us>
- Australian Competition and Consumer Commission (ACCC), <https://www.accc.gov.au/>
- Overseas Students Ombudsman (for international students only)
<http://www.ombudsman.gov.au/about/overseas-students>

Students may also refer to the Government Study Assist website for further information:

<https://www.studyassist.gov.au/support-while-you-study/higher-education-student-complaints>

If the complaint or grievance is substantiated that a student has behaved in a discriminative, bullying, harassing (sexual or other) or other forms of intimidating, misconduct or unlawful behaviour occurs towards another student, the College can initiate the *Student Misconduct Policy - Higher Education* and associated procedures, or the *Deferring, Suspending or Cancelling Enrolment Policy - International* and *Deferring Suspending or Cancelling Enrolment Procedure - International* for international students to deal with the outcome of this matter. The consequential actions of such behaviour can include, but are not limited to:

- requested apology to those involved
- a formal warning on student perpetrator's file
- probationary enrolment for a period up to 12 months, subject to the perpetrator student's ongoing good behaviour
- suspend the perpetrating student from the College for a specified period of time, not exceeding 12 months
- cancel credit or enrolment for any subject of the perpetrating student
- exclude the perpetrating student from the College permanently
- refer the matter to an external agency for action (e.g.: Police)

If the complaint or grievance is substantiated that a staff member has behaved in a bullying, discriminative, harassing manner (sexual or other), sexual assault and or misconduct towards a student, the College can initiate action under the *Employee and Contractor Code of Conduct*, the *Equal Employment Opportunity and Anti-Discrimination Policy* and / or the *Employee and Contractor Grievance Procedure* which can include:

- performance monitoring (which could include enforced peer review of teaching)
- formal warning on perpetrator's staff file
- dismissal and / or termination of contract of the perpetrating staff member.

Definitions

Bullying - Is repeated, unreasonable behaviour directed towards a person or a group of people. It includes behaviour that intimidates, offends, degrades or humiliates a person.

College –The Australian College of Natural Medicine Pty Ltd (ACNM) trades as Endeavour College of Natural Health and Endeavour Wellness Clinic. For the purpose of this policy, any reference to 'College' or 'the College' should be considered a reference to each or any of these respective trading names / entities.

Complaint - A statement that a situation is unsatisfactory.

Cyberbullying - Is bullying that occurs through the use of technology e.g.: online.

Discrimination - Student is denied a benefit or the equal opportunity outlined above, or treated less favourably than another student, on the grounds of a personal characteristic or attributes (e.g., race, gender, religion, disability etc.).

Grievance - An official statement of a complaint over something believed to be wrong, which has resulted in what is believed to be by the Claimant, unfair treatment.

Harassment - Harassment is repeated behaviour that is directed at an individual or group of students or staff and is offensive, humiliating, intimidating or threatening. The behaviour is often unwelcome and makes it difficult for effective work or study to be conducted.

Reasonable person - Is a person who exercises average care, skill and judgement in making a decision.

‘Repeated’ behaviour - Refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

Sexual Assault - Sexual assault is any unwanted or forced sexual act or behaviour that occurs without consent. Sexual assault occurs when a person indecently assaults another person or procures another person, without their consent, to commit a sexual act.

Sexual Harassment - Is unwanted or unwelcome conduct of a sexual nature or sexual behaviour, whether verbal, physical or electronically communicated which makes a person feel offended, humiliated, intimidated or threatened.

Staff - Refers to anyone employed and being paid by the College either on an ongoing basis or as a casual contractor.

Student - Is an individual person who is formally enrolled to study at the College. The individual person is that who appears on the College’s documents such as enrolment, admission and payment documents, and who is assigned an individual student ID. Student may also refer to a prospective, current or former student of the College.

Unlawful harassment - Can be verbal, written or physical, and has the intent or effect of creating an intimidating, hostile or offensive environment.

‘Unreasonable behaviour’ - Means behaviour that a reasonable person, having regard for the circumstances, would see as victimising, humiliating, undermining or threatening.

Victimisation - Means punishing or threatening to punish someone because they have made a grievance or complaint.

Vilification - is behaviour that incites hatred, serious contempt for, or revulsion or severe ridicule of a person because they made a grievance or complaint.

Related Procedures

Admissions Procedure - Higher Education

Complaints and Appeals Procedure – Domestic - HE

Complaints and Appeals Procedure - International

Deferring, Suspending or Cancelling Enrolment Procedure - International

Employee and Contractor Grievance Procedure

Further Information

Related Policies

Admission and Enrolment Policy - International

Admissions Policy - Undergraduate - Higher Education

Complaints and Appeals Policy - Domestic Students - Higher Education

Complaints and Appeals Policy - International

Leave of Absence , Variation of Course and Withdrawal Policy - Higher Education

Disability and Special Needs Policy

Employee and Contractor Code of Conduct

Employee and Contractor Grievance Policy

Employee Assistance Program Policy

Equal Employment Opportunity and Anti-Discrimination Policy

Examination Policy - Higher Education

Privacy Policy

Reasonable Adjustment Policy

Remission of Financial Liability due to Special Circumstances Policy - Higher Education

Special Consideration Policy - Higher Education

Student Code of Conduct - HE

Student Misconduct Policy - Higher Education

Related Documents

Endeavour College of Natural Health. (2018). Access and equity program. Retrieved 9 January 2023 from <https://www.endeavour.edu.au/current-students/access-and-equity-program>

Guidelines

Not Applicable

Benchmarking

- Australian Catholic University
- Australian College of Natural Therapies
- Griffith University
- The University of Sydney
- University of Wollongong

Supporting Research and Analysis

Anti-Discrimination Act 1991, July 2019, from <https://www.qhrc.qld.gov.au/your-rights/discrimination-law>

Australian Human Rights Commission. (n.d.). A quick guide to Australian discrimination laws. Retrieved January 1, 2019, from <https://www.humanrights.gov.au/employers/good-practice-good-business-factsheets/quick-guide-australian-discrimination-laws#summary>

Australian Human Rights Commission. (n.d.). What is bullying?: Violence, harassment and bullying fact sheet. Retrieved January 1, 2019, from <https://www.humanrights.gov.au/what-bullying-violence-harassment-and-bullying-fact-sheet>

Australian Human Rights Commission. (n.d.). Sexual harassment in education. Retrieved January 1, 2019, from <https://www.humanrights.gov.au/sexual-harassment-education>

Related Legislation

Age Discrimination Act 2004 (Cth).

Anti-Discrimination Act 1977 (NSW).

Anti-Discrimination Act 1991 (Qld).

Anti-Discrimination Act 1992 (NT).

Anti-Discrimination Act 1998 (Tas).

Australian Human Rights Commission Act 1986 (Cth).

Crimes (Domestic and Personal Violence) Act 2007 (NSW).

Disability Discrimination Act 1992 (Cth).

Discrimination Act 1991 (ACT).

Equal Opportunity Act 1984 (SA).

Equal Opportunity Act 1984 (WA).

Equal Opportunity Act 2010 (Vic).

ESOS Act 2000 (Cth).

Racial Discrimination Act 1975 (Cth).

Sex Discrimination Act 1984 (Cth).

Review and Approval

Policy Author

Director, Student Services and Retention

Policy Owner

Director of Student Services and Retention

Contact

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Recommending Body

Education Board

Meeting date: 19 January 2023

Approval Body

College Council

Meeting date: 10 February 2023

Policy Status

Revised – full revision to meet new processes and staff titles

Responsibilities for Implementation

- All staff
- Director of Education
- Director of Student Services and Retention
- National Quality, Governance & Compliance Manager

Key Stakeholders

- All staff
- Board of Directors
- Higher education students