Human Rights and Discrimination Policy

Section 1 - Purpose

(1) The intent of this Policy is to support the University of Canberra's (University) legislative obligations of the various discrimination acts and the Human Rights Act 2004 in constructing a positive working environment, built on mutual respect and consistent with the University's Charter of Conduct and Values.

(2) This Policy asserts that:

a. all individuals have rights under legislation, which the University commits to uphold;
b. appropriate action will be taken against individuals engaging in conduct which limits the legislative rights of others; and
c. all University decisions will be made, and policies will be written and enacted, with due consideration given to relevant human rights.

Section 2 - Scope

(3) This Policy covers employees, students, contractors and others at the University who are engaged in University-related activity either on or off-campus.

(4) Discrimination or other violations of the rights of others, by any member of the University community against another is prohibited.

Section 3 - Principles

Introduction

(5) Consistent with its legislative and policy commitments, the University commits to providing a work and study environment free from discrimination which upholds the human rights of staff, students and others at the University who are engaged in University-related activity either on or off-campus. As such, the University will seek to ensure that due regard is given to human rights in the application of workplace policies and administrative actions and that discrimination in all of its forms is appropriately addressed.

Discrimination

(6) The University affirms its continuing opposition to discrimination, whether direct or indirect, on the basis of the attributes outlined in the discrimination definition outlined in relevant legislation and outlined below.

Human Rights, University Policy and Administrative Decision-making

(7) As a public authority, as defined by the Human Rights Act 2004, the University is required to act consistently with the definition of the human rights mentioned in the Policy.

(8) Human Rights in this Policy refers to the Civil and Political Rights, and the Economic, Social and Cultural Rights

defined in Parts 3, and 3A of the Human Rights Act 2004, and additionally the responsibilities under section 27A, the Right to Education.

(9) These rights include the right to:

a. recognition and equality before the law;
b. privacy and reputation;
c. freedom of thought, conscience, religion and belief;
d. peaceful assembly and freedom of association;
e. freedom of expression; and
f. take part in public life.

(10) Section 40B of the Act requires the University to "act consistently with human rights". Acting consistently with human rights means:

a. acting in a way that is compatible with human rights, and
b. giving "proper consideration to a relevant human right".

(11) In making administrative decisions, or producing and enacting university policies, the human rights of employees, students and others in the University will be considered by the decision-maker, or decision making body.

(12) Note that the above considerations are not relevant where other legislation, Commonwealth or Territory, expressly requires the act or decision to be made in a particular way, or the legislation itself is inconsistent with a human right.

Complaint Resolution

(13) In circumstances where informal resolution attempts are unsuccessful, or where allegations are so serious that the less formal approaches are inappropriate, the complainant may utilise the University's complaint processes.

(14) Where the complainant is an employee, the procedure outlined in Schedule 6 of the Enterprise Agreement will be utilised.

(15) In circumstances where the respondent is an employee, consideration will be given as to whether there may also have been a breach of the University's Charter of Conduct and Values.

(16) Where the complainant is a student of the University, the Student Grievance Resolution Policy or the Student Conduct Rules will apply, depending on the nature of the complaint.

(17) Where a complaint is made against a student, the Student Conduct Rules will apply.

(18) Where a complaint is made against a staff member by a student, the relevant authority investigating the student's allegations will ensure that any actions taken in relation to the staff member arising from the complaint will be done in accordance with the relevant processes outlined in the Enterprise Agreement.

(19) In instances where the complainant is both an employee and a student of the University, People and Diversity and the Director, Student Life will determine the appropriate processes under which the complaint should be handled depending upon the nature of the complaint.

(20) In instances where a complaint is brought against someone who is both a student and a staff member, People and Diversity and the Director, Student Life will determine the appropriate processes under which the complaint should be handled depending upon the nature of the complaint.

(21) In some circumstances it may be appropriate to deal with the complaint under both the student and the worker processes concurrently.

Implementation

(22) This Policy will be implemented through training, communication and awareness-raising, and will be monitored and reviewed on a regular basis.

Section 4 - Responsibilities:

WHO	RESPONSIBILITIES
Vice-Chancellor	Approval of this Policy
Chief People Officer, People and Diversity; Director, Student Life and Secretary of Council	Co-Owner of Policy and decision-makers in relation to staff/Student matters under this Policy
Managers	Implement this Policy in their area of responsibility
Staff, Students, Contractors and others engaged in University-related activity either on or off-campus	Comply with the Policy

Section 5 - Procedure

(23) Nil.

Section 6 - Definitions

Terms	Definitions
Direct Discrimination	Where a person treats or proposes to treat another person unfavourably because the other person has an attribute mentioned either in this Policy or in relevant legislation.
Discrimination	Discrimination occurs when a person or groups of persons: 1. harasses the other person because the person has an attribute referred to below; 2. treats or proposes to treat the other person unfavourably because the other person has an attribute referred to below; or 3. imposes or proposes to impose a condition or requirement that has, or is likely to have, the effect of disadvantaging people on the basis of any of the attributes referred to below to below: • Race, colour, descent, national or ethnic origin, or cultural group as defined under the Racial Discrimination Act 1975 (Cth), or the Discrimination Act 1991 (ACT); • Sex, sexual orientation, intersex status, marital status, pregnancy, family responsibility, or breastfeeding as defined under the Sex Discrimination Act 1984, or the Discrimination Act 1991 (ACT); • A disability as defined under the Disability Discrimination Act 1992, or the Discrimination Act 1991 (ACT); • Age as defined under the Age Discrimination Act 2004, or the Discrimination Act 1991(ACT); or • On the grounds outlined in the Australian Human Rights Commission Act 1986 (Cth), and the Human Rights Act 2004 (ACT), including: industrial, political or religious belief, affiliation, or activity; spent or irrelevant criminal conviction; profession, trade or occupation; association (whether as a relative or otherwise) with a person identified by reference to an attribute referred to above; or other attributes as legislation is amended from time-to-time.
Harassment	Harassment includes offensive, belittling or threatening behaviour toward an individual or group of employees

Terms	Definitions
Human Rights	Human Rights in this Policy refer to the Civil and Political Rights, and the Economic, Social and Cultural Rights defined in Parts 3, and 3A of the Human Rights Act 2004 (ACT). They include the right to; • recognition and equality before the law; • privacy and reputation; • freedom of thought, conscience, religion and belief; • peaceful assembly and freedom of association; • freedom of expression; • take part in public life.
Indirect Discrimination	Where a person or organisation imposes or proposes to impose a condition or requirement that has, or is likely to have, the effect of disadvantaging people because they have an attribute mentioned either in this Policy or in relevant legislation.
Others engaged in University-related activity either on or off-campus	Volunteers, contractors, sub-contractors, visiting academics, adjuncts and others who engage in University-related activities. As a public authority as defined under the Human Rights Act 2004 (ACT), the University's Human Rights obligations extend more broadly than solely to our staff and students

Status and Details

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