

DIVERSITY, EQUITY AND INCLUSION POLICY

Section 1 - Purpose and Scope

- (1) The purpose of this Policy is to provide the framework for a learning and work environment that:
- fosters equal opportunity, diversity and inclusive practices, including but not limited to students and staff with a disability;
 - is free from unlawful discrimination, harassment, bullying and abuse; and
 - complies with the spirit and intent of Federal and NSW anti-discrimination legislation.

Scope

- (2) This Policy applies to all students and all staff:
- on an ACPE campus;
 - on a digital platform used for College purposes;
 - while representing ACPE; or
 - in relation to a class, function or event sanctioned or organised by ACPE.

Section 2 - Definitions

- (3) In this Policy:

a. Direct discrimination occurs when a person, or group of people, is treated less favourably than another person or group because of their background or certain personal characteristics.

Direct discrimination in relation to a person with a disability also occurs when an organisation does not make reasonable adjustments for that person, and where this has the effect of the person with a disability being treated less favourably than a person without a disability.

b. Discrimination that is unlawful occurs when a person, or group of people, is treated less favourably than other person or group on the basis of characteristics as determined by Commonwealth and NSW legislation. Unlawful discrimination can be direct or indirect.

c. Disability is defined broadly under Commonwealth and NSW legislation. It includes any physical, sensory, neurological, intellectual, psychiatric or learning disability, physical disfigurement, the presence in the body of disease/illness-causing organisms and total or partial loss of part of the body or a bodily function. It also includes temporary, permanent, past, future or presumed disability, and chronic health conditions.

d. Equal opportunity refers to people having equal access to opportunities in study and in work. It does not mean treating everyone in the same way. To help redress

the past disadvantages of certain groups, special measures may be implemented to improve the employment and educational opportunities for people from these groups.

e. Harassment is behaviour that is directed at a person or a group on the basis of characteristics (prescribed attributes) that is offensive, humiliating and/or threatening. It occurs where a reasonable person would have expected that the behaviour would be considered offensive, humiliating or intimidating.

Note: Sexual harassment may be a single incident. See also the Sexual Assault and Sexual Harassment (Students) Policy.

f. Inclusive practices are those practices that anticipate and accommodate the needs of a diversity of people, minimising the need for adjustments to respond to individual needs, while maintaining quality and other standards.

g. Indirect discrimination occurs when a rule, practice or policy has the effect of disadvantaging a particular group of people when they cannot comply with the rule, practice or policy and it is not reasonable in the relevant circumstances.

Indirect discrimination in relation to a person with a disability also occurs if the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the disability. This does not apply if the requirement or condition is reasonable, having regard to the circumstances of the case.

h. Protected attributes are the characteristics of a person on the basis of which discrimination and harassment is prohibited as set out in Commonwealth and NSW anti-discrimination legislation. These attributes include:

- age;
- pregnancy and breastfeeding;
- disability / impairment / mental health condition;
- family or carer's responsibilities;
- indigeneity;
- marital or relationship status;
- political belief or activity;
- pregnancy or potential pregnancy;
- race, colour, descent, nationality, ethnic, ethno-religious or national origin;
- sex;
- sexual orientation or preference;
- transgender status;
- industrial or employment activity;
- actual or imputed characteristics of the attributes listed above; and
- association with a person identified by reference to any of the attributes listed above.

- i. Reasonable adjustment** means a measure or action that is necessary, achievable and reasonable to enable the person with disability (student or staff member) participate in their education or employment to the best of their ability. An organisation may refuse to make an adjustment if it will cause unjustifiable hardship. An adjustment is reasonable if it takes into account the requirements of the person and balances the interests of all affected parties. The change may be temporary or permanent.
- j. Staff** means an employee of ACPE including casual employees.
- k. Student** means a person who has active enrolment status in a course at the College.
- l. Unjustifiable hardship** is an exception that allows an organisation to refuse to make an adjustment, having taken into account all relevant circumstances of a particular case, including:
- the nature of the benefit or detriment likely to accrue or be suffered by any persons concerned;
 - the effect of the disability on the person; and
 - the financial circumstances and estimated amount of expenditure required to be made by the organisation claiming unjustifiable hardship.
- m. Victimisation** refers to a person subjecting (or threatening to do so) another person to a detriment because that other person has made a complaint or been involved in a complaint procedure, whether that participation was actual, intended or presumed. This includes a person who has agreed to be a witness in relation to a complaint.
- n. Visitor** means a visiting supplier, worker, academic or other guest, invitee or visitor to the ACPE campus, or to a class, function or event sanctioned by ACPE.

Section 3 - Policy Statement

(4) The following principles underpin the College's commitment to equity and social justice:

- All reasonable steps will be taken to ensure that the learning and working environment is:
 - free from unlawful discrimination and harassment;
 - safe for students, staff and visitors; and
 - inclusive of all and characterised by respect.
- Equal opportunities to education and employment will be supported by processes which are free of unlawful discrimination.

- c. The diversity of students and staff is respected and supported, including its rich contribution to the teaching, learning and creative endeavours of the College.
 - d. Fair, transparent and merit-based processes will be used when:
 - (i) appointing, progressing and promoting staff; and
 - (ii) admitting, assessing and in providing College-supported opportunities for students.
 - e. Equal opportunity and diversity principles will be integrated across policies and practices including using non-discriminatory and inclusive language in publications and learning materials.
 - f. Positive, informed and inclusive attitudes and behaviour will be fostered towards people of different backgrounds and characteristics. This includes persons with diverse sexualities and gender identities and from culturally and linguistically diverse backgrounds.
 - g. Regular monitoring and review will be undertaken to identify and address any systemic issues impacting equal opportunity and inclusion. Feedback from students and staff will also be used for this purpose.
- (5) All staff and students are responsible for ensuring their own behaviours comply with the College's expectations and relevant NSW and Commonwealth legislation.
- (6) The College will not tolerate unlawful discrimination or harassment in any form. This includes incidents or behaviour that:
 - a. are facilitated by technology or involve image-based abuse; or
 - b. may be construed as intimidating, abusive, disrespectful or threatening.
- (7) The College may, on the request of the student, provide special measures to support the admission of students from certain backgrounds. This includes Aboriginal and Torres Strait Islander students and students with a disability.

Right to make complaint

- (8) Students and staff have the right to make a complaint in good faith, and without fear of retaliation or victimisation, about a breach of this Policy or anti-discrimination and harassment laws. Complaints may be submitted through the College complaints process:
- a. Students – see the Student Code of Conduct and the Grievances, Complaints and Appeals Policy.

- b. Staff – see the Staff Code of Conduct and the EEO, Discrimination, Harassment and Workplace Bullying Policy.

(9) Students and staff may also make complaints externally:

- a. the Australian Human Rights Commission;
- b. the NSW Anti-Discrimination Board; or
- c. the Fair Work Ombudsman (staff only)

Breach of Policy

(10) The College may take disciplinary action against any person who breaches this Policy, including those who have victimised participants in the complaints process:

- a. Where the person is a student, this may include disciplinary action under the Student Misconduct (Non-academic) Policy.
- b. Where the person is a staff member, this may include disciplinary action under the Staff Code of Conduct.

Section 4 - Procedures

(11) Diversity, Equity and Inclusion Procedures (Supporting Students with Disability)

Section 5 – Guideline

(12) Nil.

Related documents

This Policy should be read in conjunction with but not limited to:

- a. Diversity, Equity and Inclusion Procedures
- b. Sexual Assault and Sexual Harassment Policy and Procedure
- c. Student Code of Conduct
- d. Grievances, Complaints and Appeals Policy
- e. Staff Code of Conduct
- f. EEO, Discrimination, Harassment and Workplace Bullying Policy - Staff

Legislation:

- a. Tertiary Education Quality and Standards Agency Act 2011
- b. The National Code of Practice for Providers of Education and Training to Overseas Students 2018
- c. Disability Discrimination Act 1992 (Cth)
- d. Racial Discrimination Act 1975 (Cth)
- e. Sex Discrimination Act 1984 (Cth)
- f. Age Discrimination Act 2004 (Cth)
- g. Anti-Discrimination Act 1977 (NSW)
- h. Disability Standards for Education 2005 (Cth)

Document Administration

Policy Name	Diversity, Equity and Inclusion Policy
Policy Owner	Director of Student Services and Campus Wellbeing
Approval Authority	Academic Board
Approval Date	24 June 2021
Effective Date	As at Approval Date
Next Review #	Three years from the Approval Date
Amendment history	
Version 1:	<p>Document revised and reformatted into new template (separate Procedure developed). Other changes:</p> <ul style="list-style-type: none"> - Updated definitions - Reference to inclusion (CALD, gender etc) - Reference to external complaints

Unless otherwise indicated, this Policy will still apply beyond the Review date