

## **Bullying, Discrimination and Sexual Misconduct Prevention Policy and Procedure**

### **1. Purpose**

- 1.1 This Bullying, Discrimination and Sexual Misconduct Prevention Policy and Procedure provides a structure for the promotion of ethical standards and professional behaviour within the Edvantage Institute Australia (EIA) community and procedures for dealing with bullying, discrimination and sexual misconduct. Bullying, discrimination and sexual misconduct and/or failure to prevent it can have a damaging impact.
- 1.2 This policy complies with the Higher Education Standards Framework (Threshold Standards) HESF 2015 in the Tertiary Education Quality and Standards Agency Act 2011 by the Commonwealth of Australia, specifically to Standard 2.2, 2.3 and 6.3.
- 1.3 This Policy is developed based on the consideration of:
  - The Sex Discrimination Act 1984
  - The Racial Discrimination Act 1975
  - The Disability Discrimination Act 1992

### **2. Scope**

- 2.1 This policy applies to all EIA staff and students.

### **3. Responsibility**

- 3.1 All EIA staff and students are responsible for upholding the principles of this policy.
- 3.2 The Executive Manager of Operations is responsible for the implementation of this policy and procedure.

### **4. Policy Statement**

- 4.1 EIA is committed to developing and maintaining an environment that is free from discrimination and harassment. As outlined in the Code of Conduct policies, the EIA Bullying, Discrimination and Sexual Misconduct Prevention Policy and Procedure also discourages behaviour and actions or inactions that jeopardise the maintenance of a healthy, safe, positive and respectful learning environment for students.
- 4.2 EIA staff are expected to respect students, other staff, volunteers, contractors and visitor
- 4.3 EIA students are expected to respect staff, affiliates, volunteers, contractors, and visitors and each other.

### **5. Definition**

**Bullying:** repeated unreasonable action/s directed towards a student, or a group of students, or staff member. Unreasonable such as incessantly denying the person equal respect, verbal attacks or isolating them. It is not confined to these examples only. See the Bullying section within this document for more.

**Harassment:** Unwanted, unwelcomed and uninvited conduct which annoys, intimidates, threatens, demeans or put a person in fear. The behavior may include derogatory comments, intimidating actions, physical conduct or contact and visual insults.

**Discrimination:** an unfavourable treatment based on individual characteristics, including race, gender, sexual orientation, age, disability, culture, religion, marital status, parental responsibilities or community associations. Harassment can be displayed in various forms including but not limited to conversations, comments, jokes, electronic messages, printed materials and social media.

**Sexual harassment:** any unwanted or unwelcome sexual behaviour, which makes a person feel offended, humiliated or intimidated. It is not an interaction, flirtation or friendship which is mutual or consensual.

#### 4.4 Bullying

Any form of bullying in or outside class and workplace is strictly forbidden.

Bullying amongst students or between students and staff or between staff will not be tolerated.

Bullying behaviour can include but is not limited in the following:

- 4.4.1 Calling someone insulting names or using offensive language or calling someone a disliked nickname that causes anguish;
- 4.4.2 Verbal abuse, including bad language or accusations that cause the person to appear bad;
- 4.4.3 Practical jokes that lead to humiliation;
- 4.4.4 Physical assault, including pushing, blocking or any unwanted physical contact;
- 4.4.5 Spreading rumours or exaggerated stories that lead to damage of character or harm of reputation to the person;
- 4.4.6 Putting someone's life at an unreasonable risk or endangering their safety inside the classroom or outside of it;
- 4.4.7 Abusive action using electronic formats such as text messages, phone calls or posting messages or video recordings on social websites;
- 4.4.8 Intimidating and threatening behaviour, causing the person to feel isolated, pressured or fearful;
- 4.4.9 Inciting others to engage in behaviour that causes damage or destruction to someone's personal property;
- 4.4.10 Harassing others and interfering with their learning environment or their personal life;
- 4.4.11 Assigning someone with copious amounts of unpleasant work/tasks;
- 4.4.12 Unreasonably preventing someone from either a workplace or a learning environment
- 4.4.13 Establishing unrealistic timelines, or frequently changing deadlines;
- 4.4.14 Denying access to information, consultation, or resources;
- 4.4.15 Excessively monitoring an employee's work;
- 4.4.16 Giving feedback in an insincere or disrespectful manner;
- 4.4.17 Repeatedly reminding someone of past errors or mistakes;
- 4.4.18 Inconsistently following or enforcing rules, to the detriment of an employee;
- 4.4.19 Ignoring an employee or isolating them from others.

#### 4.5 Sexual Misconduct

Sexual misconduct includes instances of sexual harassment brought to the notice of EIA. It applies to both students and staff and includes obvious or indirect, physical or verbal, repeated or one-off which is perpetrated by males and females against people of the same or opposite sex.

Following the Australian Human Rights Commission, sexual harassment includes:

- 4.5.1 unwelcome touching;
- 4.5.2 staring or leering;
- 4.5.3 sexually explicit pictures or posters;
- 4.5.4 unwanted invitations to go out on dates;
- 4.5.5 requests for sex;
- 4.5.6 intrusive questions about a person's private life or body;
- 4.5.7 unnecessary familiarity, such as deliberately brushing up against a person;
- 4.5.8 insults or taunts based on sex;
- 4.5.9 sexually explicit physical contact; and
- 4.5.10 sexually explicit emails or SMS text messages.

#### **4.6 Racial Vilification and Acts of Racial Hatred**

Vilification is defined as behaviour that incites or encourages hatred, serious contempt, and revulsion against another person or group of people because of their race.

Under the Racial Discrimination Act 1975, racial discrimination occurs when someone is treated less fairly than someone else in a similar situation because of their race, colour, descent or national or ethnic origin.

Racial abuse includes both written and verbal abuse and, in the context of higher education, it may take the form of offensive racial stereotype or racial comments, speeches or presentations.

## **6. Rights and Responsibilities**

- 6.1 All staff and students are responsible for their own behaviour and are warned not to participate in or engage in the planning or encourage any form of bullying/sexual misconduct mentioned within this policy.
- 6.2 All staff and students must not use intimidating or intimation of an intention to participate in bullying/sexual misconduct either face-to-face or through the use of electronic means both within/outside EIA campus.
- 6.3 All staff and students are responsible for not possessing, supplying or using prohibited weapons such as knives, guns or any instrument that could be used as a weapon of harm or damage.
- 6.4 All staff and students have a responsibility to treat others with respect and fairness.
- 6.5 All staff and students must avoid discrimination against race, gender, sexuality, family or social background, culture, religion, dress code, language, age or political stance.
- 6.6 All staff and students are responsible for what they write and disseminate through all forms of social media, including online post as pictures or videos about others.
- 6.7 All staff and students have the right to a safe working and learning environment.
- 6.8 All staff and students have the right to receive support from lecturers and other EIA staff members.
- 6.9 All staff and students have the right to make a complaint about bullying/sexual misconduct without fear of retribution or revenge from the perpetrator/s.
- 6.10 All staff and students have the right to be taken seriously when issuing a complaint or a series of complaints regarding their experiences or observations of bullying behavior/sexual misconduct.
- 6.11 All staff and students have the right to have their complaint relating to bullying/sexual misconduct and situation to be acted upon with discretion, sensitivity and to be immediately rectified to ensure the bullying behavior is quickly resolved and prevented from future behavioral lapses of bullying.

## 7. Preventive Measures

The Operating Director will conduct regular workshops for raising awareness regarding bullying, sexual misconduct and racial vilification prevention; the workshop will involve training the staff on the procedure to be followed when they become aware, either directly through a complaint or indirectly, of any incident relating to bullying, sexual misconduct or racial vilification among staff or students.

This policy will be included in staff inductions and will be available on Employment Hero; the students will be given information about this policy during their orientation program.

## 8. Procedures

The EIA's complaint process comprises five stages. Every stage represents an increased complaint or appeal formality. The process steps entail:

### Stage 1: Filing Complaint

A student complainant can contact the Welfare Support Officer and file a complaint in a confidential and private meeting.

A staff complainant can contact their Manager and file a complaint in a confidential and private meeting.

The Welfare Support Officer or the Manager will document the complaint using EIA's Student/Staff Grievance and Appeal Form; the complaint may be anonymous and the complainant may choose to not disclose the names of the people involved.

The complainant may choose to file a complaint anonymously by submitting and dropping the form in the locked Complaint Boxes available at several locations on EIA campus (outside of elevators of each floor).

### Stage 2: Meeting

Where the names of people involved are disclosed in the complaint, the Welfare Support Officer /Manager shall individually meet with the concerned student/staff members involved to find the best course of action to resolve the complaint.

Where the complainant requires moral or social support, he/she may be accompanied by a support person, who may be the complainant's friend, family members or staff of EIA.

### Stage 3: Formal Internal Grievance and Appeals

The Welfare Support Officer/Manager will investigate the matter and initiate disciplinary action, such as warning, restraint, termination or suspension from employment, where required; preventive action will be taken to protect the people involved pending disciplinary proceedings.

If the case of the complaint cannot be established, the Welfare Support Officer/Manager will provide further educative information and/or training to the parties involved in the complaint and support if needed.

The Welfare Support Officer/Manager is required to communicate the outcome of the investigation to the complainant and the counterparty separately in writing within 10 business days of the complaint being lodged.

If the Welfare Support Officer/Manager requires more time to conduct a full investigation, he/she must notify the complainant and the counterparty in writing within 10 business days of the complaint being lodged.

#### Stage 4: Appeal

The complainant may choose to appeal the outcome of an investigation by writing to the Operating Director.

The Operating Director may review existing information and evidence of the complaint and interview the parties involved including the investigator to reach an outcome of the appeal. The Operating Director may also choose to collect additional information and evidence that are not previously presented to the investigation.

The Operating Director is required to communicate the outcome of the appeal to the complainant and the counterparty separately in writing within 10 business days of the appeal being lodged.

#### Stage 5: External Appeal

The complainant may choose to escalate for external review to person/body nominated by EIA as the External Reviewer or the applicable higher education regulatory authority, or for the international student the Overseas Students Ombudsman or other legal authorities.

A formal complaint to the Victorian Equal Opportunity and Human Rights Commission or the Australian Human Rights Commission can be made. Due to the discrimination law being complex, it is best to lodge a formal complaint to either the Victorian Equal Opportunity and Human Rights Commission or the Australian Human Rights Commission, but not both.

### 9. Application of other laws

Cases of physical abuse or assault may result in the behavior being deemed as illegal under the Victorian criminal law. Such cases should immediately be reported to police as well as the Edvantage Institute Australia.

|                                       |   |
|---------------------------------------|---|
| <b>Document Title</b>                 | Bullying, Discrimination and Sexual Misconduct Prevention Policy and Procedure    |
| <b>Date Created</b>                   | 18/05/2019  |
| <b>Created By</b>                     | Executive Manager of Operations   |
| <b>Current Version</b>                | 1.1   |
| <b>Last Approved Date</b>             | 29/05/2019  |
| <b>Approval Authority</b>             | Board of Directors  |
| <b>Custodian</b>                      | Quality and Governance Officer  |
| <b>Responsible for Implementation</b> | Executive Manager of Operations   |
| <b>Version History</b>                |   |
| Version Number                        | Amendments  |
| 1.1                                   | Change company name to Edvantage Institute Australia (EIA); update responsibility |