

DISCRIMINATION, BULLYING AND HARASSMENT POLICY AND PROCEDURE

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Policy Lead	Chief Executive Officer / Principal
Approving Authority	Board of Directors
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Relevant legislation or external requirements	<p>Age Discrimination Act 2004 (Cth) Anti-Discrimination Act 1977 (NSW) Australian Federal Criminal Code Act 1995 (Cth) Australian Human Rights Commission Act 1986 (Cth) Crimes Act 1914 (Cth) Crimes Act 1900 (NSW) Defamation Act 2005 (NSW) Disability Discrimination Act 1992 (Cth) Equal Opportunity Act 2010 (Cth) Equal Opportunity for Women in the Workplace Act 1999 (Cth) Fair Work Act 2009 (Cth) Human Rights Act 2004 (Cth) Multicultural Act 2000 (NSW) National Higher Education Code to Prevent and Respond to Gender-based Violence (National Code) National Plan to End Violence against Women and Children 2022-2032. Privacy Act 1998 (Cth) Racial Discrimination Act 1975 (Cth) Sex Discrimination Act 1984 (Cth) Work Health and Safety Act 2011 (Cth) Workplace Gender Equality Act 2012 (Cth) Workplace Relations Act 1996 (Cth) National Code of Practice for Providers of Education and Training to Overseas Students 2018 Higher Education Standards Framework (Threshold Standards) 2021 (HESFs: 2.3, 2.4) Tertiary Education Quality and Standards Agency Act 2011 (TEQSA Act) Education Services for Overseas Students Act 2000 (ESOS Act 2000) Education Services for Overseas Students Regulations 2001</p>
Related ASA Documents	<p>Student Code of Conduct Staff Code of Conduct Sexual Assault and Sexual Harassment Policy and Procedure Diversity and Equity Policy and Procedure Aboriginal and Torres Strait Islanders Participation Policy and Procedure Student Support Framework Special Consideration Policy and Procedure Staff Grievance Policy and Procedure Student Grievance Policy Student Grievance Procedure Student Support, Wellbeing, and Health Policy and Procedure Mental Health Framework Privacy Policy Critical Incident Management Plan Work Health and Safety Policy</p>

1. Purpose

Creating a safe and inclusive community requires the active participation of all Australian School of Accounting (ASA) community members. In this policy and procedure ASA articulates the manner in which all staff, students, and stakeholders are to embrace their responsibility in fostering an environment where diversity is celebrated, differences are respected, and everyone feels empowered to thrive academically, personally, and professionally.

2. Scope

This policy and procedure is applicable at all times, including regular academic sessions, breaks, and any other periods during which individuals associated with ASA are engaged in activities related to ASA. The commitment to preventing discrimination, bullying, and harassment is a continuous and year-round responsibility.

Breaches of this policy and procedure will be treated seriously and dealt with under the relevant staff and student policies or legislation.

This policy and procedure apply to any conduct that in the reasonable opinion of ASA is connected to ASA, including conduct that:

- a. occurs on campus, or in connection to ASA or other property owned, managed, or occupied by ASA or any agent of ASA.
- b. takes place at or in connection to any ASA related function, conference, or event.
- c. involves any form of contact or communication, whether initiated in person, by phone, fax, cameras, social networking or media, email, SMS communication or any other means.
- d. occurs in connection with the employment or enrolment status of a student or staff member.

This policy and procedure should be read in conjunction with the *Codes of Conduct* for staff and students and the *Sexual Assault and Sexual Harassment Policy and Procedure*.

3. Principles

ASA is committed to fostering an environment where all individuals are treated with equality and fairness. Inclusivity is at the heart of our community. ASA leadership strives to create an environment where every member, regardless of background or identity, feels included, valued, and heard. Discrimination, bullying, and harassment are antithetical to ASA's commitment to inclusivity and have no place in our educational community.

4. Definitions

Term	Definition
adverse behaviour	Behaviour which a reasonable person would not consider appropriate. This includes, but is not limited to, unlawful discrimination, harassment, sex-based harassment, bullying, victimisation, and vilification.
ASA community	ASA community refers to all students and staff members of ASA.
bullying	Bullying is when people repeatedly and intentionally use words or actions against someone or a group of people to cause distress and risk to their wellbeing. These actions are usually done by people who have more influence or power over someone else, or who want to make someone else feel less powerful or helpless.

Term	Definition
Chief Executive Officer (CEO) / Principal	The Chief Executive Officer is the highest organisational role for ASA and performs the role of Principal as well as their other duties.
consent (sexual)	Consent is having the capacity to give free and voluntary agreement, expressed outwardly through mutually understandable words or gestures, agreeing to engage in a particular activity. Consent can be withdrawn by any party at any point and must be voluntarily given and is not valid if a person is being subjected to actions or behaviours that elicit emotional, psychological, physical, reputational, financial pressure, threat, intimidation, or fear (coercion or force). Consent to engage in one sexual activity, or past agreement to engage in a particular sexual activity, cannot be presumed as agreement for consent to engage in a different sexual activity or to repeat a sexual activity. Consent cannot be given by a person who does not have the capacity to give consent, including those who are intoxicated, unconscious, unwell, distressed or otherwise disadvantaged.
discrimination	Happens when a person or a group of people: <ol style="list-style-type: none"> is treated less favourably than another person or group because of a particular characteristic or attribute (or because they associate with another person or group with a particular characteristic or attribute) ('direct discrimination'); or where an unreasonable rule or policy, which applies to everyone has an unfair effect on a person or group, because they have a particular characteristic or attribute ('indirect discrimination'). Protected characteristics or attributes include a person's age, breastfeeding, family responsibilities, gender identity or intersex status, impairment or disability, lawful sexual activity, parental status, political belief or activity, pregnancy, race, relationship or marital status, religious belief or activity, sex, sexuality, social origin, trade union activity, and irrelevant criminal or medical record.
gender-based violence	Gender-based violence is violence that is used against someone because of their gender. It describes violence rooted in gender-based power inequalities, rigid gender norms, and gender-based discrimination.
harassment	Undesirable conduct that induces feelings of belittlement, intimidation, offense, or apprehension, and which a reasonable person, considering all circumstances, would anticipate causing offense, intimidation, or apprehension.
National Student Ombudsman	National Student Ombudsman is the national body appointed to oversee escalated higher education student complaints on a range of issues, including student safety, welfare, course administration, reasonable adjustments for students and other matters (excluding matters of academic merit). It is centred on student voices and needs and is accessible and transparent through the full complaints cycle.
offensive	Means any conduct or language which a reasonable person would regard as insulting or humiliating in the circumstances.
sexual assault	Sexual Assault occurs when a person is forced, coerced, or tricked into sexual acts attempted or sexual contact is performed against their will or without their consent. Sexual assault describes the forced penetration of the vagina or anus of any person with any part of the body of another person, or any object, against their will or consent. It also includes oral sex. Sexual assault is a crime under the Australian Law. Sexual assault can be committed against people regardless of their gender, age, sexual orientation, ability, and background. Sexual assault is sometimes referred to as rape, sexual abuse, or sexual violence.

Term	Definition
sexual harassment	Sexual harassment is any unwelcome behaviour of a sexual nature that makes a person feel offended, humiliated, and/ or intimidated. It may include, but is not limited to, unwelcome sexual advances, persistent questions relating to a person’s sexual orientation or sex life, or unwelcome requests for sex or sexual favours. Sexual harassment is a form of sex discrimination, can be obvious or indirect, can be physical or verbal, can be repeated or one-off and can be perpetrated by any gender and towards any gender.
sexual misconduct	Sexual misconduct is a general term that includes sexual harassment and sexual assault. Some forms of sexual misconduct can occur online including through email, websites, online meetings, social media, games, or other forums. Some sexual misconduct may also amount to criminal conduct.
unreasonable behaviour	Is behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating or threatening.
victimisation	Occurs if a person commits, or threatens to commit, an act against a complainant or respondent, or another person acting in support of a complainant or respondent as a result of that complaint.
vilification	Is a form of unlawful discrimination which is a public act or expression that incites hatred against, contempt for, revulsion or severe ridicule of an individual or group based on their personal attributes including race, colour, nationality, descent or ancestry, ethnic-religious origin, national origin, sexuality, transgender status and / or HIV / AIDS status.

5. Policy Details

5.1 Unreasonable Behaviour

5.1.1 Harassment

- Harassment is unwelcome behaviour that intimidates, offends or humiliates an individual, or group of people, on the basis of race, colour, sex, age, sexual orientation, disability or other attribute protected by any state of federal anti-discrimination legislation.
- Harassment, including sexual harassment, is determined by reference to the nature and consequences of the behaviour, not the intent of the initiator, and occurs in circumstances where a reasonable person would have expected the behaviour to be offensive, humiliating or intimidating.
- Harassment may be repeated or a one-off incident.
- Harassment includes but is not limited to:
 - a. Telling insulting jokes about particular racial groups.
 - b. Verbal abuse or comments that put down or stereotype certain groups.
 - c. Personal insults, comments, name calling or innuendo.
 - d. Offensive communications including digital communications such as facebook, instagram, and e-mails.
 - e. Making derogatory comments or taunts about a person's disability.

5.1.2 Sexual Harassment

Sexual harassment is unwelcome, unwanted, or uninvited behaviour of a sexual nature which

makes a person feel offended, humiliated and/or intimidated and where that reaction is reasonable in the circumstances. Some forms of sexual harassment including sexual assault, indecent exposure, stalking and obscene communications may constitute a criminal offence.

Sexual harassment is prohibited by the *Sexual Assault and Sexual Harassment Policy and Procedure*.

Disclosures, reports, and complaints relating to sexual harassment are handled in accordance with the principles set out in the *Sexual Assault and Sexual Harassment Policy and Procedure*.

5.1.3 Gender-based Violence

Gender-based violence is a phenomenon deeply rooted in gender inequality and continues to be one of the most notable human rights violations within all societies. Gender-based violence is violence directed against a person because of their gender. Both women and men experience gender-based violence but the majority of victims are women and girls.

5.1.4 Bullying

Bullying is defined as repeated and unreasonable behaviour directed towards a person or a group of persons that creates a risk to health and safety.

Unreasonable behaviour includes behaviour that is victimising, humiliating, intimidating, or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Bullying can be overt or covert. Examples of behaviour that may be considered to be bullying if they are repeated, unreasonable and create a risk to health and safety include:

- a. physical or verbal abuse
- b. yelling, screaming or offensive language
- c. unjustified criticism or complaints
- d. Intimidation
- e. psychological harassment
- f. deliberately excluding or isolating employees from workplace activities
- g. withholding information that is vital for effective work performance
- h. setting unreasonable timelines or constantly changing deadlines
- i. setting tasks that are unreasonably below or beyond a person's skill level
- j. denying access to information, supervision, consultation, or resources such that it has a detriment to a worker
- k. spreading misinformation or malicious rumours
- l. changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker's work
- m. excessive scrutiny at work

Bullying does not include:

- a. a single incident of unreasonable behaviour
- b. reasonable management action taken in a reasonable way, including but not limited to:
 - i. setting reasonable performance goals, standards, and deadlines.

- ii. rostering and allocating working hours where the requirements are reasonable.
- iii. transferring an employee for operational reasons.
- iv. deciding not to select a worker for promotion where a fair and transparent process has been followed.
- v. informing a person about unsatisfactory performance when undertaken in a reasonable manner and/or in accordance with relevant policies and procedures.
- vi. informing a person about inappropriate behaviour in an objective and confidential way.
- vii. implementing organisational changes or restructuring.
- viii. disciplinary action where appropriate.

Workplace conflict, including differences of opinion and disagreements, are generally not workplace bullying. People can have differences and disagreements without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, in some cases, conflict may escalate to the point where it becomes workplace bullying. It is therefore important that conflict is not ignored and, where possible, resolved to avoid escalation.

5.1.5 Discrimination

Discrimination occurs when a person is treated less favourably than another person because of certain attributes (direct discrimination), or when a requirement that is the same for everyone has an unfair effect on some people because of a defined attribute (indirect discrimination). Under federal and state laws, it is against the law to discriminate against people, in various areas of public life because of their:

- a. race
- b. colour
- c. sex
- d. sexual orientation, gender identity or intersex status
- e. pregnancy
- f. age
- g. marital status
- h. physical or mental disability
- i. family or carers' responsibilities
- j. religion
- k. political opinion
- l. national extraction
- m. social origin
- n. any other attribute defined in state or federal legislation.

It is also against the law to treat people unfairly, or harass them, because of the age, disability, carers' responsibilities, homosexuality, marital status, race, sex, or transgender status of any relative, friend or colleague.

5.1.6 Vilification

Vilification is a public act that could incite or encourage hatred, serious contempt, or severe ridicule towards people because of their race, colour, national origin, sexual orientation, transgender status, religion, HIV/AIDS status, or disability.

5.2 Prevention

ASA will prevent bullying, harassment, and discrimination by:

- Providing clear standards of behaviour in the *Student Code of Conduct* and *Staff Code of Conduct*.
- Educating all staff and students on what constitutes bullying, harassment and discrimination, the support services available, reporting options and how to be 'first responder'.
- Requiring all staff to complete targeted training so they can respond in a compassionate and culturally respectful way to disclosures of bullying, harassment, and discrimination.
- Celebrating and promoting diversity through organised events.
- Providing workplace and study conditions that enable full access to the provision of all services on the same basis for staff and students without disability.
- Ensuring all employment decisions – recruitment, promotion, benefits, conditions of employment, remuneration, discipline, training, work environment, supervision, and termination of employment – are based upon merit, fit, fact and circumstance.

5.3 Support

- Bullying, harassment, and discrimination can affect the health and wellbeing of individuals, regardless of when and where the incident occurred. Staff and students can access support at any time, even if the incident occurred beyond the scope of this policy and procedure.
- Affected individuals may disclose – tell someone about – their experience and seek support, but not informal or formal resolution. All staff should be able to refer the affected individual to support services.
- Affected individuals and alleged offenders can have a support person with them at any time when discussing incidents of bullying, harassment, or discrimination, and throughout the informal resolution and formal reporting process.

5.4 Responding to bullying, harassment, and discrimination

1. Individuals affected by bullying, harassment or discrimination can take the following action:
 - Informal – disclose the incident to a trusted person and seek support and/ or attempt to address the incident/s directly with the person/s or area involved (if it is appropriate and safe to do so).
 - Informal – seek to resolve the incident/s via informal resolution. This is not a formal report; however, it involves the intervention of a third party.
 - Formal – make a formal report through ASA's grievance process. ASA will assess whether the incident constitutes misconduct.
 - Formal – lodge a critical incident for a more immediate response. The incident/s

must be 'traumatic, or the threat of such, causes extreme stress, fear or injury and results in psychological and/ or physical trauma' as outlined in the *Critical Incident Policy, Procedure and Critical Incident Management Plan*.

2. An individual can seek independent advice from:

- Wellbeing Officer
- Academic Dean
- Director Learning and Innovation
- Student Services
- Chief Executive Officer (CEO)

If they are unsure of their options or need support to make a formal report.

3. All disclosures will be treated seriously, confidentially, and impartially.
4. No individual will be disadvantaged by seeking informal or formal resolution. Those accused of incident/s of bullying, discrimination, or harassment will be treated without bias while claims are investigated.
5. The Discrimination Bullying and Harassment procedure section, *Student Grievance Policy* and associated procedure, *Staff Grievance Policy and Procedure* provide further detail of the above processes.

5.5 Responding to a formal report

1. All formal reports of bullying, discrimination and harassment will be responded to in accordance with the relevant grievance policy and procedure. This is the *Student Grievance Policy* and associated procedure for students, and the *Staff Grievance Policy and Procedure* for staff.
2. The assessment or investigation of incidents will be undertaken in a fair, impartial and equitable manner. This includes ensuring that the alleged offender(s) is:
 - provided with details of any reports about them.
 - provided with the opportunity to make representations in the matter.
 - is treated without bias.
3. Anyone found to have engaged in bullying, discrimination, or harassment, following a review, will be disciplined. They may be counselled, warned, dismissed/ expelled, or be refused further services offered by ASA.
4. ASA will not take any action that will compromise a police investigation or the resolution process of a regulatory authority.
5. If the incident cannot be addressed or resolved by ASA, the individual will be advised of their options for external review by the National Student Ombudsman or other relevant external agencies.

5.6 Privacy, Confidentiality and Report Keeping

1. Allegations of bullying, harassment and discrimination have the potential to damage an individual's reputation, even if the allegation is found to be unsubstantiated. Only those with a legitimate need to know, such as relevant managers, will be notified of any allegations of bullying, harassment, or discrimination.

2. When an incident is formally reported, only those directly involved in assessing, investigating, or resolving the grievance will have access to information, subject to legal requirements for disclosure.
3. There may also be cases where certain information may need to be shared with key personnel to ensure the individual's safety, the safety of others or to provide support.
4. The relevant grievance policies and procedures outline how confidentiality will be maintained throughout the investigation, including how records will be managed and accessed.
5. The following Discrimination, Bullying and Harassment procedure will outline how incidents will be reported internally.

6. Procedure Principles

6.1 Prevention

Training on identifying and responding to bullying, harassment and discrimination and information on the support available is provided to:

- staff during induction;
- students during orientation;
- managers and students facing staff when appointed to the role; and
- at various intervals through their employment/ enrolment.

6.2 Support

In the event of an emergency, students and staff should contact emergency services (police, ambulance) by calling 000.

Individuals affected by bullying, harassment or discrimination can:

- Contact the Wellbeing Officer by emailing wellbeing@asahe.edu.au or phoning the campus on 1300 672 076.
- Access information about, and obtain assistance to navigate, ASA's formal reporting process from student support (for students) and Academic Dean or CEO (for staff).
- Request special consideration to extend assessment deadlines – refer to the *Special Consideration Policy and Procedure* for further information.
- Seek adjustments to work requirements, assessments, deadlines, or location by discussing this with their direct manager or Academic Dean or CEO.

6.3 Responding to Bullying, Harassment, and Discrimination

Individuals affected by bullying, harassment or discrimination can address the incident(s) informally or formally, as outlined below. However, if an individual believes a criminal incident has taken place, they must report the matter to the police. The individual will be supported by ASA.

6.3.1 Informal

When confronted with bullying, harassment or discrimination, an individual should consider their level of safety. If appropriate and safe to do so, they can:

- Attempt to resolve directly by approaching the alleged offender to discuss the offensive behaviour and request that it stop. (It should be noted this is not considered a disclosure

– it will not lead to a record of the incident or a referral to support services).

- Tell a trusted colleague, student, teacher, or staff member about the incident. This is considered a ‘disclosure’. They can refer the complainant to support available and outline the reporting options.

6.3.2 Informal Resolution

Affected individuals can seek to resolve their incident via informal resolution. This is not a formal report; however, it involves the intervention of a third party to address an incident or resolve an issue in a fair and equitable manner.

Requests for informal resolution do not have to be in writing, however, they must be directed to the Academic Dean (for students) or direct manager or CEO (for staff).

The Academic Dean or CEO will manage the informal resolution process and involve the parties concerned. The process will follow the principles of natural justice and procedural fairness, as outlined in the *Student Grievance Policy* and associated procedure or the *Staff Grievance Policy* and related procedure.

If the individual is not satisfied with how the informal resolution is handled, they can either escalate the report to a formal report or to the National Student Ombudsman for students or Fair Work Australia for staff.

6.3.3 Formal Reporting

Affected individuals can formally report incidents of bullying, harassment, or discrimination as a grievance. This will be addressed in accordance with the *Staff Grievance Policy* and related procedure or the *Student Grievance Policy* and related procedure. Refer to these policies and their related procedures for further details on formal reporting.

Where bullying, harassment or discrimination causes an individual extreme stress, fear or injury and results in psychological and/ or physical trauma, the affected individual should lodge the incident(s) as a critical incident. This will provide a more immediate response. Refer to the *Critical Incident Policy, procedure, and Critical Incident Management Plan*.

An individual can seek independent advice, from the Wellbeing Officer, if they need further support or information on the formal reporting process.

6.3.4 Responding to a Formal Report

Once a formal report has been submitted, the assessment will follow the process outlined in the *Student Grievance Policy* and procedure or the *Staff Grievance Policy and Procedure*.

To summarise, this involves the following steps:

1. A prompt response confirming receipt.
2. An investigation of the allegations of bullying, harassment, or discrimination.
3. Recommendation of an appropriate resolution.
4. Appropriate sanctions or corrective actions against the person responsible if bullying, harassment, or discrimination has occurred.
5. Advice to the individual of external avenues for further review if the incident(s) have not been substantiated by ASA.

The CEO or Academic Dean will provide regular and timely communication to all parties throughout the process about next steps and resolution. This includes providing the accused with details of reports made about them.

The process is free of charge and all parties have the right to be represented by a third person (such as a family member, friend, counsellor, or other professional support person, other than a lawyer) throughout the process.

ASA will seek to provide an environment where all members of the ASA community feel safe and supported. ASA will respond to vexatious complaints or repeated complaints on a case-by-case basis to ensure safety and consideration of all members.

6.4 Privacy, Confidentiality and Record Keeping

A report showing the number of student disclosures and formal reports of bullying, harassment and discrimination incidents, their status and outcomes will be provided to the Board of Directors.

These reports must be de-identified and include any recommendations for changes to policies and procedures for preventing and responding to bullying, harassment, and discrimination.

All other procedures to maintain privacy, confidentiality and ensure appropriate record keeping are outlined in the Student and Staff Grievance policies and procedures.

6.5 Discrimination, Bullying and Harassment – Risk Management Process

ASA will take all reasonable steps to prevent discrimination, bullying and harassment through a risk management process. This process includes, but is not limited to:

- Identification of discrimination, bullying and/ or harassment risk factors – these are things and situations which could contribute to discrimination, bullying and/ or harassment such as the way in which student cohorts are managed.
- Assessment of the likelihood of discrimination, bullying and/ or harassment occurring from the risk factors identified and their potential impact on the student learning environment.
- Eliminating the risks, controlling, or minimising them as far as is reasonably practicable.
- Reviewing the effectiveness of the control methods put in place and the process generally.
- Training relevant staff about discrimination, bullying and harassment and how to deal with it and its impact on both staff and students.

7. Grievances

A student who is dissatisfied with a decision made under this policy should lodge a formal complaint. Further information is detailed in *Student Grievance Policy* and associated Procedure.

8. Relevant HESFs

This Policy and Procedure comply with the Higher Education Standards Framework (Threshold Standards) 2021. The following are relevant excerpts and specify that:

Standard 2.3 Wellbeing and Safety

1. All students are advised of the actions they can take, the staff they may contact and the support services that are accessible if their personal circumstances are having an adverse effect on their education.
2. Timely, accurate advice on access to personal support services is available, including for access to emergency services, health services, counselling, legal advice, advocacy, and accommodation and welfare services.

3. The nature and extent of support services that are available for students are informed by the needs of student cohorts, including mental health, disability and wellbeing needs.
4. A safe environment is promoted and fostered, including by advising students and staff on actions they can take to enhance safety and security on campus and online.
5. There is a critical-incident policy together with readily accessible procedures that cover the immediate actions to be taken in the event of a critical incident and any follow-up required.

9. Version Control

This Policy and Procedure has been reviewed and approved by the Australian School of Accounting Board of Directors as at January 2024 and is reviewed every three years.

This Policy and Procedure are published and available on the Australian School of Accounting website <https://www.asahe.edu.au/policies-and-forms/>.

Change and Version Control				
Version	Authored by	Brief Description of the changes	Date Approved:	Effective Date:
2024.1	Director Learning and Innovation	Updated policy to include HESF references, changes in regulatory compliances. Benchmarked against 5 other Higher Education Providers.	29/01/2024	29/01/2024
Previous version archived. New Policy code and numbering system implemented.				
1.0		Board of Directors approval	30/04/2021	