

# Equal Opportunity and Valuing Diversity Guidelines

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## Purpose

To confirm the University's commitment to equal opportunity for all members of the University community.

To create an environment that values diversity and is free from discrimination and harassment and where allegations of breaches of these Guidelines are dealt with fairly and promptly.

To give effect to the University's legal obligation to take positive action in providing an environment free from discrimination and harassment.

## Scope

These Guidelines applies to all students and prospective students, staff and prospective staff, and other individuals associated with the University in all situations or activities related to their roles at the University. Such situations and activities may extend beyond University campuses and day-to-day activities eg field trips, conferences, events and functions, student senate/club volunteer activities, University on- and off-campus residences.

## Legislative Context

- Commonwealth [Racial Discrimination Act 1975](#)
- Commonwealth [Sex Discrimination Act 1984](#)

- Commonwealth [Australian Human Rights Commission Act 1986](#)
- Commonwealth [Disability Discrimination Act 1992](#)
- Commonwealth [Disability Standards for Education 2005](#)
- Commonwealth [Racial Hatred Act 1995](#)
- Commonwealth [Workplace Gender Equality Act 2012](#)
- Commonwealth [Age Discrimination Act 2004](#)
- Commonwealth [Fair Work Act 2009](#)
- Victorian [Equal Opportunity Act 2010](#)
- Victorian [Racial and Religious Tolerance Act 2001](#)
- Victorian [Charter of Human Rights and Responsibilities Act 2006](#)

## Definitions

| Term                    | Definition  |
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| <b>Academic freedom</b> | <ul style="list-style-type: none"> <li>• The freedom of academic staff to teach, discuss, exhibit artistic works or public performances, research, as well as disseminate and publish the results of their research.</li> <li>• The freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research.</li> <li>• The freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled.</li> <li>• The freedom of academic staff, without constraint imposed by reason of their employment by the university, to make lawful public comment on any issues in their personal capacities.</li> <li>• The freedom of academic staff to participate in professional or representative academic bodies.</li> <li>• The freedom of students to participate in student societies and associations.</li> </ul> |
| <b>Attribute:</b>       | <ul style="list-style-type: none"> <li>• Are the following (actual or assumed) personal characteristics on the basis of which discrimination is prohibited under Commonwealth and Victorian legislation:</li> <li>• Disability (further defined below)</li> <li>• Sex (sex designated at birth: female, male, intersex)</li> <li>• Gender identity (identification by a person as female, male, something other, or in between; with or without regard to sex designated at birth)</li> <li>• Intersex status (people born with physical, hormonal or genetic features that are neither wholly female nor wholly male, or a combination of female and male)</li> <li>• Sexual orientation (the nature of a person's basic sexual attraction to other people eg being heterosexual, homosexual, gay, lesbian, bisexual)</li> <li>• Lawful sexual activity (includes adult, consenting sexual relationships or using legal sexual services)</li> <li>• Pregnancy (being, or planning to become, pregnant)</li> </ul>            |

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|                               | <ul style="list-style-type: none"> <li>• Marital status (being or not being married or single, having or not having a domestic partner)</li> <li>• Parental status (being or not being a parent, which includes step-parent, adoptive parent, foster parent and guardian)</li> <li>• Carer status (being or not being a person upon whom someone else relies substantially for their ongoing care)</li> <li>• Breastfeeding (breastfeeding infants or expressing milk)</li> <li>• Race (colour, descent or ancestry, nationality or national origin, ethnicity or ethnic origin, and language spoken at home)</li> <li>• Religious belief or activity (holding or not holding a lawful religious belief or view; participating or not participating in a lawful religious activity)</li> <li>• Political belief or activity (holding or not holding a lawful political belief or view; participating or not participating in a lawful political activity)</li> <li>• Industrial activity (includes being or not being a member of an association of employees/participating or not participating in lawful activities organised by an industrial association)</li> <li>• Employment activity (making an enquiry or expressing a concern as an individual about their own employment entitlements)</li> <li>• Age (a person's age)</li> <li>• Physical features (a person's weight, height or other bodily characteristic, and may include body piercing, body hair or tattoos)</li> <li>• Personal association (being a friend, relative, associate or companion with an attribute listed above)</li> </ul> |
| <p><b>Disability:</b></p>     | <p>Refers to:</p> <ul style="list-style-type: none"> <li>• a partial or total loss of a bodily or mental function (which can be permanent or temporary, visible or invisible)</li> <li>• a total or partial loss of a part of the body</li> <li>• the presence in the body of organisms causing or capable of causing disease or illness (eg hepatitis or HIV/AIDS)</li> <li>• the malfunction, malformation or disfigurement of part of the body</li> <li>• mental or psychological disease or disorder</li> <li>• A disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or</li> <li>• A disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour</li> </ul> <p>Included is a disability (as defined above) that presently exists, previously existed but no longer exists, may exist in the future (including because of a genetic predisposition to that disability), is imputed to a person, and behaviour that is a symptom or manifestation of a disability.</p>  |
| <p><b>Discrimination:</b></p> | <p>Refers to unfavourable treatment based on the actual or assumed attributes as defined above. In determining whether or not a person discriminates, the person's motive is irrelevant. Discrimination includes Direct and Indirect Discrimination.</p>  |

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| <b>Direct Discrimination:</b>     | Occurs if a person treats, proposes to treat, a person with an attribute as listed above unfavourably, because of that attribute.  |
| <b>Indirect Discrimination:</b>   | Occurs if there is an unreasonable requirement, condition or practice that purports to treat everyone the same, but actually disadvantages someone with an attribute as listed above.  |
| <b>Discriminatory Harassment:</b> | <p>Is a form of discrimination and refers to a wide range of deliberate and unintentional behaviours, based on an attribute as listed above, which are unwelcome and uninvited and which are reasonably likely, in all the circumstances, to humiliate, intimidate or offend. It includes behaviour which may be written, printed, verbal, non-verbal or physical (including transmission or display of inappropriate electronic communications, use of social media).</p> <p>Examples of potential discriminatory harassment include:</p> <ul style="list-style-type: none"> <li>• Spreading gossip about a person, such as gossip about a person's (real or assumed) attribute</li> <li>• Sexist or racist language or humour or images or emails</li> <li>• Intrusive personal questions based on an attribute</li> <li>• Displays of images (eg on computers, social media, posters, or graffiti) which target attributes and give rise to offence</li> <li>• Negative comments, taunts, jokes or insults eg at the expense of others' attributes</li> </ul> <p>Negative comments or actions about adjustments made because of a person's disability or culture or carer responsibilities</p>  |
| <b>Sexual harassment:</b>         | <p>Is where a person engages in any unwelcome conduct of a sexual nature in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the other person would be offended, humiliated or intimidated. Sexual harassment can occur even if the behaviour is unintentional, and a single incident can amount to sexual harassment.</p> <p>Sexual Harassment refers to a wide range of behaviours and includes behaviour which may be written, printed, verbal, non-verbal or physical (including transmission or display of inappropriate electronic communications, use of social media).</p> <p>Examples of potential sexual harassment include:</p> <ul style="list-style-type: none"> <li>• Physical intimacy or contact</li> <li>• Sexual jokes, images, emails, gestures, remarks or conversations</li> <li>• Intrusive personal questions</li> <li>• Spreading gossip about a person, such as sexual gossip</li> <li>• Displays of sexually explicit images (eg on computers, social media, posters, or graffiti)</li> <li>• Requests for sexual acts or favours, or unwelcome or repeated gifts or requests for 'dates'</li> <li>• Indecent assault, rape or stalking (which are also criminal offences)</li> </ul> |

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| <b>Racial and Religious Vilification:</b>                | Occurs where a person engages in conduct that incites hatred, serious contempt, revulsion or severe ridicule against another person or group of people, because of their race or religious belief or activity.  |
| <b>Reasonable Adjustment:</b>                            | <p>Is the term used to describe actions or changes which may be required to enable staff and student participation on an equitable basis to other staff and students. Lack of provision of reasonable adjustment might constitute discrimination.</p> <p>Adjustments may be necessary where the interaction between the learning and working environment and certain student/staff personal characteristics or circumstances has a negative impact on staff/student participation or achievement. Such characteristics and circumstances include having a disability, carer responsibilities, cultural or religious obligations, having English as a second language.</p> <p>Reasonable adjustments for people with a disability are required under the Disability Discrimination Act 1992.</p> <p>There is no set definition of what is a 'reasonable' adjustment. Each situation needs to be considered in its own circumstances and on its own merits.</p> |
| <b>Learning Access Plan (LAP)</b>                        | A tool used by FedUni's Disability and Learning Access Unit (DLAU) to communicate recommended reasonable adjustments for students with a disability.  |
| <b>Flexible working arrangements</b>                     | Are forms of reasonable adjustments that can be requested by staff who are carers, have a disability, are 55 or older, are experiencing domestic violence, as covered by the Commonwealth <i>Fair Work Act 2009</i>   |
| <b>Freedom of speech</b>                                 | The freedom of staff, students, and invited visitors to the University to express lawful opinions publicly, without undue restriction.  |
| <b>Inclusive practices:</b>                              | Are practices that anticipate and accommodate the needs of a diversity of people, and which result in learning and working activities and environments being accessible by all people, to the greatest extent possible, minimising the need for adjustments to respond to individual needs.   |
| <b>Vicarious liability:</b>                              | Refers to the University's responsibility for the behaviours of its staff, students and other individuals associated with the University unless it takes all reasonable steps to prevent discrimination and harassment.   |
| <b>Victimisation:</b>                                    | Is where a person subjects (or threatens to subject) another person to any detriment because that person has made (or might make) a complaint in relation to these Guidelines or is involved (or might be involved) in the resolution of a complaint, including as a witness. Victimisation includes physical, visual, verbal and non-verbal behaviour.   |
| <b>Other individuals associated with the University:</b> | Includes persons (other than staff and students) holding an honorary, visiting or adjunct appointment, and external members of the University Council, boards, committees or other University bodies, as well as those volunteers, consultants and contractors who are legally bound by the policies and procedures of the University.  |

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| <b>Governance Bodies:</b> | Are University Council and its Committees and Academic Board and its Committees.   |
| <b>Staff member:</b>      | Is any person who is an employee of the University. This includes full-time, part-time, sessional or casual staff.   |
| <b>Student:</b>           | Is any person enrolled as a student of the University. This includes full-time, part-time, block-mode, online or distance education students. For the purpose of these Guidelines overseas students not residing or present in Australia are excluded, as they are subject to the relevant legislative processes of their country. |

## Guidelines Statement

Federation University Australia is committed to providing equal opportunity and freedom from discrimination, harassment and vilification for all members of the University community, and to creating an environment which reflects and values the social and cultural diversity within the University community and the communities it serves.

The University will not tolerate discrimination, sexual or discriminatory harassment, racial or religious vilification or victimisation, as defined in these Guidelines, in any University activities.

The University will take proactive, reasonable and proportionate measures to eliminate discrimination, sexual and discriminatory harassment, vilification and victimisation within University activities, and recognises the potential for the University to be vicariously liable if all such measures have not been taken.

The University will provide reasonable adjustments/flexible working arrangements to the learning and working environment as required, and will use inclusive practices wherever practicable, to ensure that all people have equal opportunity to access and participate in University activities. This is particularly relevant to students and staff with disability.

The University will use its best endeavours to reflect and value the diversity of the University community and the communities it serves in its learning materials, publications, publicity, and when recognising the contributions of individuals to the University and the broader community, and to ensure that the University's learning materials, publications and official documents use inclusive and non-discriminatory language.

The University acknowledges the systemic disadvantage that affects participation and progression in University activities by some members of the University community and the communities it serves. The University will take proactive steps to redress this. As part of this, the University will put in place measures to have the composition of governance bodies, and staff and student populations better reflect the diversity within the communities served by the University. This may involve the implementation of special measures that lawfully discriminate between groups of individuals for the purpose of realising substantive equality for members of a group with a particular attribute.

Particular focus will be given to the development of measures to advance equality and respect for Aboriginal and Torres Strait Islander students and staff, as expressed in the University's Statement on Reconciliation, and to the promotion of workplace gender equality.

The University will ensure that it has in place procedures to deal with any alleged breaches of these Guidelines fairly and expeditiously.

## Responsibility

Staff members, students and other individuals associated with the University are responsible for their own behaviour and may face disciplinary and/or legal action if they engage in, condone or collude with discriminatory, sexually harassing, vilifying or victimising behaviour.

All University fixed-term and continuing staff are required to successfully complete the University online Discrimination and Harassment training. For new staff completion must be within the first three months of their employment. Deans, Directors and Managers are responsible for ensuring staff completions.

Supervisors, Managers, Academics and Teachers of the University are responsible to use their best endeavours to ensure an inclusive learning and working environment that is free from discrimination, discriminatory and sexual harassment, vilification and victimisation in the areas or activities for which they are responsible. This responsibility includes communicating the intent of these Guidelines, where appropriate, to their staff, students and other individuals associated with the University for whom they are responsible, and taking appropriate action in the event of a concern being raised about breaches of these Guidelines.

Staff who develop University learning materials, publications, publicity materials and official documents are responsible for ensuring the use of inclusive and non-discriminatory language and for using images that reflect social and cultural diversity.

Where senior staff or University committees are seeking persons to be honoured or formally recognised by the University, they are responsible for making their best endeavours to reflect and value social and cultural diversity.

Supervisors, Managers, Academics and Teachers, and any staff responsible for learning activities, facilities and services, are responsible for using inclusive practices in the review, design and implementation of activities and actions within their domains.

Supervisors, Managers, Academics and Teachers are responsible for ensuring the provision of reasonable adjustments/flexible working arrangements to the learning and working environment as required. Where Learning Access Plans are developed by FedUni's Disability and Learning Access Unit (DLAU) for students with disability, these will be regarded as the recommended reasonable adjustment/s which balance the needs of the student, academic standards and FedUni's legislative responsibilities.

Managers and staff with responsibility for planning within their areas of operation are responsible for identifying areas of under-achievement in the participation and progression of groups of students and staff (such as Indigenous people, women, people with disabilities, people from low socio-economic backgrounds, people from culturally diverse backgrounds) and putting in place measures to positively address participation and progression of these identified groups. Particular emphasis should be given to the development of measures to advance equality and respect for Aboriginal and Torres Strait Islander students and staff, and to the promotion of workplace gender equality.

Staff with responsibility for engaging other individuals or groups (such as contractors, partner providers) who will have interactions with University staff, students or other individuals associated with the University, are responsible for putting in place measures to have those individuals or groups comply with the expectations of these Guidelines where appropriate to their activities.

Governance bodies are responsible for putting in place measures to ensure diversity in the composition of governance bodies and their sub-committees and working parties.

The Manager, Equity and Equal Opportunity is responsible for the provision of information on these Guidelines and to provide advice to individuals and committees, and input to University policy and practices, in order to assist the University to prevent and redress breaches of these Guidelines.

The Deputy Vice-Chancellor Academic, as nominee of the Vice-Chancellor, has overall responsibility for the implementation and review of these Guidelines.

## Complaints

Any person who believes that they have experienced discriminatory or sexual harassment, discrimination, vilification or victimisation in breach of these Guidelines can seek advice and information on courses of action available to them from the Manager, Equity and Equal Opportunity.

There are six internal processes to deal with breaches of these Guidelines. Complaints should be raised as soon as possible, but normally not later than 12 months after the incident(s) that led to the complaint occurring.

1. A staff member, student or other individual associated with the University, who believes that they have experienced discriminatory harassment or sexual harassment may make a complaint under the [Discriminatory and Sexual Harassment Complaint Procedure](#).
2. A staff member who believes that they have experienced discrimination, vilification or victimisation may make a complaint under the [Staff Grievance Procedure](#).
3. A student who believes that they have experienced discrimination, vilification or victimisation may make a complaint under the Student Grievance Procedure.
4. Behaviours in breach of these Guidelines may be regarded as serious misconduct or misconduct staff or general misconduct (students) and result in disciplinary action being taken under staff and student misconduct/discipline processes.
5. An individual associated with the University (who is not a staff member or student) who believes that they have experienced discrimination, vilification or victimisation, should raise their complaint with the Manager, Equity and Equal Opportunity who will assist in determining the appropriate process for dealing with the complaint.
6. A student or staff member who has a complaint of discrimination, discriminatory or sexual harassment, vilification or victimisation against a person who is not a staff member, student or other individual associated with the University, should raise their complaint with the Manager, Equity and Equal Opportunity who will assist in determining the appropriate process for dealing with the complaint.
7. Past students and staff wishing to make a complaint, and who were enrolled or employed at the University at the time of the conduct which is the subject of the complaint, should raise their complaint with the Manager, Equity and Equal Opportunity who will assist in determining the appropriate process for dealing with the complaint;

While use of internal complaint processes are encouraged, anyone with a complaint of breach of these Guidelines has the right to seek advice from and/or lodge a complaint with external bodies including the Victorian Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission and the Police. In the case of alleged criminal offences the University encourages reporting to the Police and reserves its right to separately inform the Police.

## Promulgation

The [Equal Opportunity and Valuing Diversity Guidelines](#) will be communicated throughout the University via an Announcement Notice via FedNews and on the 'Recently Approved Documents' page on the 'Policies, Procedures and Forms @ the University' website to alert the University-wide community of the approval.

## Implementation

The [Equal Opportunity and Valuing Diversity Guidelines](#) will be implemented throughout Federation University via:

- Information sessions, and
- Inclusion in the Equity Online training



## Supporting Documents

- [Students and Support for Students Policy](#)
- Statement of Reconciliation
- [Discriminatory and Sexual Harassment Complaint Procedure](#)
- [Staff Grievance Procedure](#)
- [Complaints Management Procedure](#)
- [Staff Code of Conduct](#) Procedure
- [Children in University Activities Procedure](#)
- [Information Technology Services Operations Manual- Use of Computing and Communication Facilities and Information Security](#)
- [Study Adjustment and Course Flexibility Guidelines](#)
- [Disability Learning Access Plan \(LAP\) Procedure](#)
- [University Collective Agreement](#), Academic and General Staff Employees
- [Victorian TAFE Teaching Staff Multi-Business Agreement \(MBA\) 2009](#)
- [Federation University Australia Statute 2021](#)
  - Part 6 - Division 4 - Student misconduct
- [Federation University Australia \(Students\) Regulation 2022](#)
  - Part 5 - Student misconduct
- [Academic Freedom and Freedom of Speech Policy and Procedure](#)