

# Discrimination Complaints (Students) Procedure

|                            |  |
|----------------------------|--|
| <b>Policy code:</b>        | ST2086                                   |
| <b>Policy owner:</b>       | Director, Student Services and Registrar |
| <b>Approval authority:</b> | Chief Learner Experience Officer         |
| <b>Approval date:</b>      | 03 January 2024                          |
| <b>Next review date:</b>   | 18 August 2026                           |

## Table of Contents

|  |    |
|--|----|
| Purpose .....  | 1  |
| Scope .....  | 1  |
| Legislative context .....  | 2  |
| Definitions .....  | 2  |
| Reporting and resolving complaints .....                                     | 4  |
| Stage 1 - Seek support .....   | 4  |
| Stage 2 - Raising a complaint - informal resolution (no hearing) .....       | 5  |
| Stage 3 - Raising a complaint - requiring investigation and/or hearing ..... | 7  |
| Unsatisfactory complaints handling process .....                             | 10 |
| Responsibility .....   | 10 |
| Records management .....   | 10 |
| Supporting documents .....   | 11 |
| Promulgation .....   | 11 |

## Purpose

This Procedure aims to assist the University to meet its obligations, as set out within the State and Commonwealth legislative frameworks to provide a learning and working environment that is free from discriminatory behaviours. It aims to provide a clear and transparent process to enable breaches of the University's [Equal Opportunity and Valuing Diversity Guidelines](#) and the [Student Code of Conduct](#) Guidelines to be responded to respectfully, fairly and expeditiously.

This procedure supports the operationalisation of the Federation University [Students and Support for Students Policy](#) and Federation University (Students) Regulations 2022.

The University recognises raising complaints can be difficult. There are many supports available to you through Student Equity and Inclusion. Some of these are listed on the Federation University [Student Equity and Inclusion page](#).

## Scope

This Procedure applies to prospective and current students who are the complainant or respondent in an allegation of discrimination. This Procedure should be used where there is a complaint of discrimination in any University

situation, facility or activity. Such situations and activities may extend beyond University campuses and day-to-day activities e.g., placement, field trips, conferences, events and functions, student senate/club/volunteer activities and University residences.

Discrimination complaints where the complainant and respondent are staff members, will be actioned by the Discrimination Complaints Staff Procedure.

Students studying at third party providers should be aware that all third-party providers are contractually bound to provide equivalent support and procedural process within their operational structures and should check with their institution and follow those procedures. The relevant legislative context may differ between offshore providers.

## Legislative context

- Federation University Australia 2010
- 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 [Disability \(Access to Premises – Buildings\) Standards 2010](#)
- Commonwealth [Racial Hatred Act 1995](#)
- Commonwealth [Age Discrimination Act 2004](#)
- Commonwealth [Fair Work Act 2009](#)
- Victorian [Equal Opportunity Act 2010](#)
- Victorian [Racial and Religious Tolerance Act 2001](#)
- Queensland Anti-Discrimination Act 1991

Nothing in this Procedure affects any other right or remedy which the University may have against the student under other University legislation, other legislation or at common law. The student may also have other right or remedy under legislation or common law.

## Definitions

| Term           | Definition   |
|----------------|--|
| Complainant    | A complainant is a person that makes a complaint of discrimination.  |
| Disability     | Disability as defined in the Disability Discrimination Act (1992) Cth. This includes physical, sensory, perceptual, mental and intellectual disability, chronic illness or medical conditions.   |
| Discrimination | <p>Direct discrimination occurs when a person treats, or proposes to treat another person unfavourably because of a protected attribute. This may include protected attributes pertaining to race, religion, disability, age, gender identity or any physical characteristics the other person has, or is believed to have.</p> <p>Indirect discrimination occurs when conditions are put forward that will disadvantage a person with a protected attribute, and it is not reasonable to have these conditions imposed.</p> |

|  |   |
|--|---|
| Hearing  | A meeting that is held to collect and determine facts about a specific incident or event, in accordance with University regulations.  |
| Other individuals associated with the University | 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.  |
| Principles of natural justice                    | <p>is a concept made up of two rules – the fair hearing rule and the bias rule. This may include, but not be limited by, the following:</p> <ul style="list-style-type: none"> <li>• Prior notice that a decision that may affect a person’s interests (the respondent) will be made.</li> <li>• The critical issues to be addressed, and of information that is credible, relevant, and significant to the issues will be disclosed to the respondent.</li> <li>• A substantive hearing with a reasonable opportunity for the respondent to present a case.</li> <li>• The decision maker must not be biased or be seen by an informed observer to be biased in any way.</li> <li>• Whether an oral hearing should be provided will depend on the circumstances but will be provided if a decision cannot be made fairly on written submissions alone.</li> <li>• A respondent will be allowed to attend a hearing with a support person.</li> <li>• Findings will be made by evaluating evidence considering relevance, reliability, and sufficiency.</li> <li>• The respondent will be informed of the decision in a timely manner.</li> </ul> |
| Prospective student                              | means any individual who has contacted Federation University requesting information concerning admission to a unit or course of study.  |
| Protected Attribute                              | <p>As defined in the Equal Opportunity Act (Victoria) 2010, including:</p> <ul style="list-style-type: none"> <li>• age;</li> <li>• breastfeeding;</li> <li>• employment activity;</li> <li>• gender identity;</li> <li>• disability;</li> <li>• industrial activity;</li> <li>• sexual activity;</li> <li>• marital status;</li> <li>• parental status or status as a carer;</li> <li>• physical features;</li> <li>• political belief or activity;</li> <li>• pregnancy;</li> <li>• profession, trade or occupation;</li> <li>• race;</li> <li>• religious belief or activity;</li> <li>• sex;</li> </ul>   |

|                |  |
|----------------|--|
|                | <ul style="list-style-type: none"> <li>• sex characteristics;</li> <li>• sexual orientation;</li> <li>• an expunged homosexual conviction;</li> <li>• a spent conviction;</li> <li>• personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.</li> </ul> |
| Respondent     | A respondent is a person or organisation who has a complaint made against them. They are accused of doing something wrong, or acting in a discriminatory manner.   |
| Senior Officer | An officer of the University community in a senior position as detailed in the University Statute and Regulations.   |
| Staff member   | Is any person who is an employee of the University. This includes full-time, part-time, sessional, or casual staff.  |
| Student        | Is any person enrolled as a student at Federation University, Federation TAFE or third-party provider institution studying a Federation University course. This includes full-time, part-time, block-mode, online or distance education students.  |
| Support person | Means a person who accompanies a party to a complaint during any stage of the procedure. May be internal or external to the University and not be acting in a legal capacity.  |
| Victimisation  | Victimisation is where a person is subjected to detriment or threat of detriment due a complaint they have made or may make in relation to this procedure. This extends to detriment in being a witness or support person.   |
| Vilification   | Vilification is behaviour that incites or encourages hatred, serious contempt, revulsion or severe ridicule for a person or group of people because of a protected attribute or perceived protected attribute.   |

## Reporting and resolving complaints

If a student discloses discrimination to a staff member of the University, they are required to refer the affected student to Student Equity and Inclusion in the first instance.

### Stage 1 - Seek support

|    | Activity  | Responsibility      | Steps   |
|----|---|---------------------|---|
| 1. | Initiate contact with Student Equity and Inclusion Team | Student complainant | a. Initiate contact with Student Equity and Inclusion Team to obtain information and support via: <ul style="list-style-type: none"> <li>• Telephone</li> <li>• Email</li> <li>• Online portal</li> </ul> |

|    |                                     |                                   |  |
|----|-------------------------------------|-----------------------------------|--|
| 2. | Provide initial advice and planning | Student Equity and Inclusion Team | <ul style="list-style-type: none"> <li>a. Obtain detailed accounts of events.</li> <li>b. If the matter is not within the remit of the Student Equity and Inclusion Team, refer complainant to appropriate internal or external service</li> <li>c. Consideration of appropriate safety measures in conjunction with CampusSecurity</li> <li>d. Consideration of academic impacts</li> <li>e. Provide complainant with disclosure and/or reporting options for consideration. This may also include options for reporting externally, including to police.</li> <li>f. Clarify outcomes sought by the complainant</li> <li>g. Consideration of referrals to internal and external support services</li> <li>h. If a student reports externally to police at any stage of this procedure, the student will be supported by the University through continuity of safety measures and other agreed actions. University actions will not interfere with a police investigation.</li> </ul> |
| 3. | Recording a student disclosure      | Student Equity and Inclusion Team | <ul style="list-style-type: none"> <li>a. If the student decides to make a disclosure, Student Equity &amp; Inclusion will create a case note of disclosure and advise the complainant of options available.</li> <li>b. Appropriate reasonable safety measures may remain in place, if requested by the student, for an agreed period.</li> <li>c. The complainant may revisit reporting options outlined in this procedure at any time</li> </ul>  |

## Stage 2 - Raising a complaint - informal resolution (no hearing)

|    | Activity  | Responsibility                    | Steps   |
|----|---|-----------------------------------|---|
| 1. | Decision to make an informal report   | Complainant                       | a. If the complainant chooses to lodge an informal report, seeking a local, University based resolution, they must notify the Student Equity and Inclusion Team.  |
| 2. | Supporting Aboriginal and Torres Strait Islander Peoples  | Student Equity and Inclusion Team | a. Where a complainant or respondent identifies as Aboriginal and/or Torres Strait Islander, seek permission to engage the Aboriginal Education Centre (Students) or Indigenous Workforce Consultant Staff into the planning and support.   |
| 3. | Joint creation of rectification measures  | Student Equity and Inclusion      | <p>a. Work with complainant and respondent to develop measures and agreed outcomes to resolve the matter.</p> <p>b. Respondent must be offered opportunity to have a support person and may seek advice and support from <a href="#">Student Advocacy</a></p>   |
| 4. | Joint creation of rectification measures where respondent is a staff member or other member of University community | People and Culture                | <p>a. Where a member of staff or other individuals associated with the University is the respondent, People and Culture will advise and lead on the appropriate process regarding the respondent under the Discrimination Compliant (Staff) Procedure.</p> <p>b. Student Equity and Inclusion will continue to work with the student complainant and be the single point of contact for the student in this matter.</p> <p>c. People and Culture will ensure that Student Equity and Inclusion are informed of each stage of the process for communications and safety reasons.</p> <p>d. People and Culture will provide written outcomes to</p> |

|    |                                    |                              |   |
|----|------------------------------------|------------------------------|---|
|    |                                    |                              | the respondent and Student Equity and Inclusion   |
| 5. | Communicate outcome to all parties | Student Equity and Inclusion | a. Written communication provided to student complainant and student respondent outlining agreed measures, outcomes and available support services. |
| 6. | Additional support provided        | Student Equity and Inclusion | a. Student Equity and Inclusion contacts the complainant to ensure agreed outcomes are implemented.   |

### Stage 3 - Raising a complaint - requiring investigation and/or hearing

|    | Activity  | Responsibility     | Steps   |
|----|---|--------------------|---|
| 1. | Lodge a formal complaint  | Student            | <p>a. Following Stage 1: Seek Support, if the complainant chooses to lodge a complaint, seeking a formal resolution within the University, they must notify the Student Equity and Inclusion Team.</p> <p>b. Where a complaint is raised against a staff member or other member of the University community, People and Culture will manage the investigation process in conjunction with Student Equity and Inclusion and the Safer Campuses Team under DiscriminationComplaintsStaff Procedure.</p> <p>c. Where the matter involves allegations which, if established, might (in the opinion of the University) be sufficient to warrant a sanction of exclusion, the matter will be heard by the Student Misconduct Committee (refer to the <a href="#">Student Misconduct Procedure</a>).</p> |
| 2. | Joint creation of rectification measures where respondent is a staff member or other member of University community | People and Culture | a. Where a member of staff or other individuals associated with the University is the respondent, People and  |

|    |   |   |  |
|----|---|---|--|
|    |   |   | <p>Culture will advise and lead on the appropriate process regarding the respondent.</p> <p>b. Student Equity and Inclusion will continue to work with the student complainant and be the single point of contact for the student in this matter.</p> <p>c. People and Culture will ensure that Student Equity and Inclusion are informed of each stage of the process for communications and safety reasons.</p> <p>d. People and Culture will provide written outcomes to the respondent and Student Equity and Inclusion.</p> |
| 3. | Supporting Aboriginal and Torres Strait Islander Students | Student Equity and Inclusion Team                       | <p>a. Where a complainant or respondent identifies as Aboriginal and/or Torres Strait Islander, seek permission to engage the Aboriginal Education Centre (Students) or Indigenous Workforce Consultant (Staff) into the planning and support.</p>   |
| 4. | Safer Campuses Recommendation                             | Student Equity and Inclusion Chair, Safer Campuses Team | <p>a. Safer Campuses team to review allegations against the respondent and consideration of need for investigation undertaken. Immediate safety measures, including temporary exclusion, are also considered.</p> <p>b. If there is proposed temporary exclusion from student residence or university activities in line with the Students Regulations 53 &amp; 54, after liaison with appropriate University business units, send appropriate communication to appropriate Senior Officer for actioning next steps.</p>         |
| 5. | Appointing an Investigator                                | Chair, Safer Campuses Team                              | <p>a. Where the Safer Campuses Team has recommended an investigation, the Chair will appoint an investigator.</p>  |



|    |   |  |  |
|----|---|--|--|
|    |   |  | <ul style="list-style-type: none"> <li>b. Student Equity and Inclusion is kept informed prior to each stage in order to communicate and support the student complainant.</li> <li>c. Written communication sent to complainant and respondent outlining appointment of an investigator, detail of the allegations, the process for investigation and available support services. Respondents will be referred to <a href="#">Student Advocacy</a> for support.</li> </ul>  |
| 6. | Investigation takes place                 | Investigator   | <ul style="list-style-type: none"> <li>a. Investigator interviews all people relevant to the allegations raised and considers the requested outcomes of the complainant.</li> <li>b. Investigator obtains specialist advice, if needed. The details of the parties involved in the matter should be de-identified if possible.</li> <li>c. Investigator prepares a report of findings and recommendations to the Chair, Safer Campuses Team.</li> </ul>  |
| 7. | Hearing is conducted and outcome reported | Director, Student Services and Registrar, or nominee | <ul style="list-style-type: none"> <li>a. Director, Student Services and Registrar, or nominee, conducts a hearing with respondent in accordance with the Principles of Natural Justice and the University's Student Regulations. Respondent may have support person/s present. Investigator may be present for clarification of the report and/or process.</li> <li>b. The outcome of the hearing is communicated to the complainant via Student Equity and Inclusion, both verbally and in writing, whilst maintaining the privacy of the respondent.</li> <li>c. The respondent and relevant staff action officers will be</li> </ul> |

|    |                             |                       |   |
|----|-----------------------------|-----------------------|---|
|    |                             |                       | <p>provided written communication detailing the outcome of the hearing where action needs to occur.</p> <p>d. Communications to the respondent should include support service options including Advocacy and Counselling, as well as information relating to any applicable internal avenues of review or appeal.</p> <p>e. The respondent signs and returns an acknowledgement of the outcome.</p> |
| 8. | Monitor and Review outcomes | Chair, Safer Campuses | <p>a. Seek reports from action officers to ensure hearing outcomes are implemented.</p> <p>b. Review and adjust reasonable measures if necessary.</p> <p>c. Inform Student Equity and Inclusion of progress and completion of hearing outcomes.</p>   |

## Unsatisfactory complaints handling process

The University aims to resolve complaints and concerns from students and members of the public in a transparent, consistent, fair, and timely manner. If a student believes their discrimination complaint has not been handled appropriately, they should follow the process detailed in the Federation University [Complaints Management Procedure](#).

Respondents can appeal the outcome to the Student Appeals Committee by following the [Student Appeals Procedure](#).

A student may wish to lodge a complaint with the [Victorian Ombudsman](#). Complaints about the actions and decisions of the University. Complaints may be made to the Victorian Ombudsman at no cost.

## Responsibility

The Manager, Student Equity and Inclusion is responsible for the implementation and review of this Procedure.

The Director, Student Services and Registrar as nominee of the Chief Learner Experience Officer, has overall responsibility for the implementation and review of this Procedure.

The Manager, Student Equity and Inclusion is required to report to the Director, Student Services and Registrar, and the Chief Learner Experience Officer annually on the number and types of complaints reported.

## Records management

Student Equity and Inclusion will keep records of each complaint, including:

- the names of all parties involved;
- a summary of the issue/s raised, including the remedy or outcome sought; and
- accurate and up-to-date file notes of any action and resolution initiated under this Procedure.

Such records are to remain confidential and held in a restricted area.

In the case of informal resolution, records are to be retained in a restricted area for 7 years.

In the case of a formal resolution, records are to be retained in a restricted area for 15 years.

## Supporting documents

- [Students and Support for Students Policy](#)
- [Equal Opportunity and Valuing Diversity Guidelines](#)
- [Staff Code of Conduct](#)
- [Student Code of Conduct](#) Guidelines
- [Information Privacy Procedure](#)
- [Records Management Procedure](#)
- Federation University Australia (Students) Regulations 2022
  - Part 5 - Student Misconduct

## Promulgation

The [Discrimination Complaints \(Students\) Procedure](#) will be communicated throughout the University via:

1. an Announcement Notice under 'FedNews' website and through the University Policy - 'Recently Approved Documents' webpage to alert the University-wide community of the approved Policy;
2. inclusion on the University Policy, Procedure and Forms website; and/or
3. documentation distribution, eg. posters, brochures.