



HR1 Equal Opportunity and Anti-Discrimination Policy

Version Control	Date	Author	Description of Change	Links to ECSNR 2011 and WA 2012:
1.0	Nov 2014	AEG	New policy / procedure	Links to NQS: QA 4 QA 7 Related Processes: 6.1.01 Manage Centre-based Recruitment 6.1.02 Manage CSO Recruitment 6.2.09 Manage Grievance and Conflict Resolution 6.2.11 Manage Confidentiality 6.2.12 Manage Code of Conduct 6.2.20 Manage Workplace Equal Employment and Anti-discrimination
1.1	Apr 2015	AEG	Minor amendments	
1.2	May 2016	AEG	Revision	
10.17	Oct 2017	AEG	Revision	
10.18	Oct 2018	AEG	Annual Review	
10.19	Oct 2019	AEG	Scheduled review	
10.20	Oct 2020	AEG	Scheduled review	
10.21	Oct 2021	AEG	Sexual harassment extended	
12.22	Dec 2022	AEG	Scheduled review	
1.23	Jan 2023	AEG	Revision to legislation	
12.23	Dec 2023	AEG	RACI table and reference added	

Responsible	Talent Team		
Accountable 1	Chief People Officer	Accountable 2	Managers
Consulted	People and Culture Team, Compliance Team, Policy Committee		
Informed	All staff, students, volunteers		

Policy Statement

The objective of this policy is to ensure compliance with Fair Work Act and other relevant/ appropriate Employee Relations legislation.

Rationale

An employer may not disadvantage an employee or potential employee through bias or discrimination on grounds of age, gender or gender identity, marital status, ethnic background, religion, political beliefs, pregnancy, parental status, sexual preferences, medical history, criminal record (dependent on working with children check), disability or membership of organisations.

The Equal Opportunity for Women in the Workforce Act, 1999, requires employers to give equal employment opportunities to women and eliminate discrimination based on gender. Employers with more than 100 employees are required to report annually to the Equal Opportunity for Women in the Workforce Agency.

This policy ensures that all vacant positions in the service will be allocated based on a person's skills, capabilities, knowledge, attitude and qualifications. Thus, all employees are treated fairly and equally according to their merits, skills and knowledge.

In its responsibility for all members of the Affinity Education Group community, the organisation aims to:

- ensure that there is no discrimination against any group of employees, in access to Affinity Education Group facilities;
- establish and maintain mechanisms within the organisation to deal with complaints concerning discrimination and sexual harassment and empower employees to address discrimination and sexual harassment;
- educate the Affinity Education Group community on the general goals and philosophy of equal opportunity together with the rationale for policies and practices which are adopted;
- provide the Affinity Education Group community with information about the organisation's condemnation of sexual harassment and discrimination, to provide advice and support for those who have been discriminated against or harassed, and training for Anti-Discrimination and Sexual Harassment Advisors;

- ensure that all policies, procedures and official documentation and publications accord with equal opportunity principles and are amended as necessary to accord with these principles; and
- eliminate sexist and other discriminatory language from all organisation publications and discourage the use of such language in published and unpublished material and in the speech of its employees.

Relevant Legislation

- Fair Work Act 2009
- Age Discrimination Act 2004 (Commonwealth)
- Disability Discrimination Act 1992 (Commonwealth)
- Human Rights and Equal Opportunities Commission Act 1986 (Commonwealth)
- Privacy Act 1988 (Commonwealth)
- Racial Discrimination Act 1978 (Commonwealth)
- Sex Discrimination Act 1984 (Commonwealth)
- Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021
- Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Bill 2022

Notes

Information relating to this Policy / Procedure may be communicated throughout the organisation using a variety of the following:

- | | |
|-----------------------------|-------------------------------------|
| • Newsletters | • Role modelling |
| • Emails | • Signs |
| • Handbooks | • Training and development sessions |
| • Meetings and memos | • Performance meetings |
| • Notice boards and posters | • Promapp |
| • Information sheets | |

Strategies and Practices

1.0 Commitment

- Affinity Education Group will give equal opportunities to all applicants.
- Selection of suitable applicants will be through use of selection criteria and set expectations.
- All decisions and discussions related to appointment of new employee, performance counselling and transfer/promotion must relate to the expectations and specifications of the job.
- Applicants and employees cannot be asked questions about their private life and plans, if this information is to be used to make appointment decisions.
- Applicants and employees may refuse to answer questions of a personal nature or ask the purpose of the question.

Any employee who feels they have been discriminated against or unfairly disadvantaged can lodge a formal grievance, following the process in the grievance and conflict resolution policy.

Affinity Education Group is committed to the principle of equal opportunity in employment and welfare for staff and will continue to develop equal opportunity practices and programs compatible with its overall goals and responsibilities.

This commitment is consistent with the principles of justice, equity and the pursuit of excellence which should apply in any organisation and conforms with the spirit and intent of equal opportunity and anti-discrimination legislation.

The policy is designed to support the principle that staff are selected or promoted according to merit.

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Affinity Education Group accepts that it has a responsibility to create an employment environment free of discrimination. It will ensure that its structures and practices are free from direct or indirect discrimination based on age, gender, marital status, carer status, pregnancy and breastfeeding, parenthood, physical features, sexual orientation, gender identity, intersex status, social and economic circumstances, race, disability, Indigenous heritage, religious and political beliefs, and activities, industrial activity and personal association with a person who could be discriminated against.

Affinity Education Group recognises that it has a responsibility to develop programs in employment which redress, where appropriate, the effects of past discriminatory practices within the community, and that it has a responsibility to take positive steps to overcome inequality of opportunity.

2.0 Employment

In employment, Affinity Education Group aims to:

- implement the Equal Employment Opportunity;
- integrate the principles of equal opportunity and practical examples of their application into all training programs for staff with management responsibility;
- encourage disadvantaged individuals to participate in training and staff development programs, in order to broaden skills and equip them adequately for positions of responsibility; and
- maintain and develop programs to accommodate disadvantaged or disabled staff, adjusting where necessary the work environment and procedures.

3.0 Discrimination Complaints

Discrimination Complaints procedures are based on the following principles:

1. Complaints of discrimination or discriminatory harassment will be dealt with expeditiously to achieve early resolution.
2. According to the nature of each individual complaint the most suitable complaints process (external or internal to the organisation) will be used.
3. The principles of procedural fairness apply at all stages in the handling of complaints including impartiality and good faith.
4. Every effort will be made to maintain harmonious working relationships during and after the handling of any complaint of discrimination or discriminatory harassment.
5. Every effort will be made to maintain confidentiality with respect to complaints.
6. The first point of contact whom receives the grievance or complaint must be suitably trained in dealing with harassment cases including bullying and harassment, sexual discrimination, LGBTI discrimination or other unlawful or unethical treatment.

4.0 Principles

Affinity Education Group is committed to the principle of equal opportunity in employment and welfare for staff.

The organization aims to ensure that its structures, practices, policies and guidelines are free from direct or indirect discrimination on all relevant legislative grounds.

The organisation will not tolerate discrimination against any staff member in relation to access to Affinity Education Group facilities and services. Its policies and guidelines aim to ensure that discrimination does not occur.

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Managers and supervisors have a particular responsibility to ensure that the workplace is free from discrimination and discriminatory harassment, and that relevant policies and guidelines with regard to the resolution of complaints are followed.

Employees will be informed of the processes and procedures relating to the handling of complaints of discrimination and discriminatory harassment.

A complaint must be made as soon as possible but not later than twelve months after the alleged discrimination occurred unless good and sufficient reason for consideration after this time can be established.

These procedures are designed to resolve complaints within Affinity Education Group. However employees are advised that they have the right to make a complaint under the relevant state or federal anti-discrimination legislation.

There may be alternative complaints processes available to a complainant, according to the nature of each individual complaint. Such options will need to be fully considered upon receipt of the complaint by consultation between the complainant, the person handling the complaint and other relevant sources of advice within the organization.

Any complaint must initially be dealt with by those staff members with designated responsibility for complaint resolution (this means the Chief People Officer or the General Manager) with provision for resolution at higher levels of authority if necessary.

Affinity Education Group will take appropriate action in respect of each complaint.

To the extent possible, consistently with the proper and fair investigation and determination of a complaint, a person or persons handling or involved in a complaint must respect the confidentiality of information supplied in relation to the complaint, and must proceed on the assumption, unless the contrary appears, that any information supplied in relation to a complaint is, and is intended to remain, confidential.

Persons handling complaints should cease handling a complaint if there is a possibility of bias or conflict of interest. Complaints should be handled fairly and impartially and the complainant and the respondent should be given the opportunity to present their cases.

Victimisation of a staff member who makes a complaint under these procedures will be treated with the utmost seriousness by Affinity Education Group.

5.0 Definitions

(1) Discrimination

(a) Discrimination means direct or indirect discrimination on the basis of one or more of the following attributes:

- age;
- physical, psychiatric or intellectual disability or impairment;
- industrial activity or membership/ non-membership of a union;
- lawful sexual activity/sexual orientation;
- gender identity;
- marital status;
- physical features;
- political beliefs and activity;

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- pregnancy and breastfeeding;
- race;
- religious belief and activity;
- sex;
- status as parent or carer;
- personal association with a person who is identified by reference to any of the above attributes.

(b) In determining whether a person discriminates it is irrelevant whether or not that person is aware of the discrimination, or whether or not it is intentional.

(c) Direct discrimination means treating or proposing to treat another person less favourably on the basis of an attribute that person may possess (see (a) above). This is subject to applicable exceptions and exclusions in the above legislation.

(d) Indirect discrimination occurs when a rule, practice or policy appears to be neutral, but in effect has a disproportionate impact on a particular group. It arises with practices which are fair in form and intention but discriminatory in impact and outcome.

(2) Discriminatory Harassment

(a) Discriminatory Harassment means any form of discrimination on the basis of the attributes referred to in Section 1(a) and is behaviour which takes place in circumstances in which a reasonable person, having regard to all circumstances, would have been offended, humiliated or intimidated.

(b) In determining whether a person unlawfully harasses it is irrelevant whether or not that person is aware of the harassment, or whether or not it is intentional.

(c) Although sexual harassment fits within the definition of discriminatory harassment it will continue to be dealt with under the organisation's Sexual Harassment procedures and in line with Respect at Work Amendments including stop sexual harassment orders.

(3) Complaint

(a) A complaint must concern perceived discrimination or discriminatory harassment by or against an individual.

(b) A complaint may be made by a staff member against a staff member. Where a complainant is unable to lodge a complaint personally another person may act on the complainant's behalf provided that person's authority to act and good reason for so doing are verified by the Chief People Officer.

(c) A complaint must be made to a staff member of the organisation designated to handle these complaints (such as the Chief People Officer) in accordance with the Complaint's Procedure.

(4) Complainant, Respondent

(a) 'Complainant' refers to a staff member who alleges discrimination or discriminatory harassment and who then makes a complaint.

(b) 'Respondent' refers to a staff member against whom a complaint is made.

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(5) Staff

(a) 'Staff' means any person who is an employee of Affinity Education Group at the time the discrimination or discriminatory harassment is alleged to have occurred.

(b) These procedures are applicable to staff engaged in activities reasonably connected with their role at the organisation; such activities may extend beyond the office environment.

(6) Procedures

Procedures are a series of organised steps or stages which are followed once a complaint is made.

6.0 Procedures

There are three stages to the complaints procedures which will generally be undertaken in progression, unless the nature of the complaint or the wishes of the complainant determine otherwise. Each stage aims at resolution, so progress to a further stage only occurs if resolution has not been achieved and the complainant wishes to proceed.

Stage 1: Advice

The aim of Stage 1 is to clarify the problem as perceived by the complainant, to advise the complainant of the options available to them (including options for directing the complaint to an external agency) and to ensure the complainant is provided with support and advice to decide whether, and if so, how, they wish to proceed with the complaint. The complainant must state that they are lodging a formal complaint, as opposed to just making a comment about an issue.

Stage 2: Conciliation

The complaint process will only proceed to Stage 2 if the complainant is willing to be identified to the respondent and to detail the complaint in writing. If so, the respondent must be provided with the written complaint and the complaints procedures and be provided with the opportunity to respond in writing. Resolution may be achieved after meetings with the respondent and the complainant individually or together.

Stage 3: Investigation and Determination

If the complaint is not satisfactorily resolved at Stage 2, and the complainant wishes to proceed, the complaint will be forwarded to the Chief People Officer, or nominee, for investigation and determination.

7.0 Persons to Handle the Complaints Procedure

Affinity Education Group will select anti-discrimination advisers to conduct Stages 1 and 2 of the complaints procedures.

As the complaint is progressed from each stage to the next stage the most appropriate person to handle the complaint must be reviewed. The same or different advisers may assume responsibility for the complaint at different stages. Continuity, success of previous contacts, and the request of those involved will be taken into account in this decision.

Stage 3 will be carried out by the Chief People Officer or nominee.

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7.0 Guidelines for those with a Complaint

Complainants should, if possible, maintain and have available accurate records of the time and place of the incident(s) of alleged discrimination or discriminatory harassment.

Staff with a complaint of discrimination or discriminatory harassment, while being encouraged to use the organisation's procedures, have the right to seek advice from the Queensland Equal Opportunity Commission or the Commonwealth Human Rights and Equal Opportunity Commission at any stage.

8.0 Sexual Harassment Policy and Procedures

8.1 Staff-Staff Relationships

Staff are generally in a position of trust and professionalism. This position of trust implies a series of responsibilities owed to other staff members. In exercising those responsibilities, staff should avoid conflicts of interest, that is, a conflict between a personal relationship and professional responsibilities. These relationships should be based on the following principles.

8.2 Principles

That staff recognise their professional and ethical responsibility to protect the interests of other staff and to recognise and resolve conflicts of interest, to respect the trust involved in the staff-staff relationship and to accept the constraints and obligations inherent in that responsibility.

To have a close personal relationship with another staff member to whom one has a duty of care is likely to involve serious difficulties arising from the power disparity inherent in the staff-staff relationship. In general, such relationships should be avoided.

An initial sexual approach to a staff member, or engaging in a sexual relationship with a staff member, may constitute sexual harassment and can be the subject of complaint under the organisation's Sexual Harassment Procedures or to an outside body.

Some relationships may disrupt the business environment for other colleagues.

Relationships with family members or with friends or associates in the business environment may raise ethical and professional issues, including conflicts of interest.

The staff member should not be involved in decision making or other processes which could advantage or disadvantage another staff member (or could reasonably be perceived as advantaging or disadvantaging the student).

If a conflict of interest cannot be avoided, it must be declared to the Chief People Officer, and alternative arrangements to safeguard the interests of the staff members concerned and the organisation must be made. Details of the nature of the conflict of interest will not be required and the matter must be treated in an absolutely confidential manner.

8.3 Sexual harassment

Sexual harassment is unwelcome conduct of a sexual nature where it is reasonable to expect that, in that situation, there is a possibility that the person being harassed would be offended, humiliated or intimidated by the behaviour. Examples might include unwelcome touching, staring or leering, or a suggestive comment or joke.

Our obligations include the implementation of seven changes to the Anti-Discrimination and Human Rights Legislation (Respect at Work) Bill 2022. This incorporates positive duty for employers to prevent workplace sex discrimination, harassment, and victimisation.

Where an employee believes they have been sexually harassed at work, they can follow complaints procedures with a People and Culture Representative or apply to the Fair Work Commission for an order to stop the sexual harassment.

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9.0 Specific Responsibilities

9.1 Managers

Each manager is required to ensure that this policy is effectively implemented in their areas of control, and to support supervisors and hold them accountable for their specific responsibilities.

9.2 Supervisors

Each first-line supervisor is responsible, and will be held accountable, for taking all practical measures to ensure that:

- in the area of their control the policy and/or procedure is complied with and employees are supervised and trained to meet their requirements under that policy and/or procedure;
- employees are consulted in issues which affect their role and that any concerns employees have are referred to management .

9.3 Employees

All employees are required to comply with the policy and/or procedure.

9.4 Contractors and sub-contractors

All Contractors and sub-contractors engaged to perform work on the Company's premises, sites or work locations are required, as part of their contract, to comply with the policy and/or procedure of the Company and to observe directions on this policy and/or procedure as designated officers of Affinity Education Group. Failure to comply with the policy and/or procedure or observe a direction will be considered a breach of the contract and sufficient grounds for termination of the contract.

References

- Fair Work Act 2009
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- Disability Discrimination Act 1992 (Commonwealth)
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- Privacy Act 1988 (Commonwealth)
- Racial Discrimination Act 1978 (Commonwealth)
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Resources

Fair Work Act 2009 (<http://www.comlaw.gov.au/Details/C2013C00070>)

Responsible = those who are responsible for carrying out the task

Accountable level 1 = the owner and person accountable for the sign off or approval of a task

Accountable level 2 = the person who is accountable for the task being carried out

Consulted = the person to be consulted with and whose input, opinions and feedback are crucial to the task

Informed = the person who should be informed and made aware of the task and any updates

Policy Written by: Fiona Young	Position: Policy, Training and Development Manager	Date: Dec 2023
Approved by: Chief People Officer	Approved Date: Dec 2023	Next review date: Dec 2024

Employees Sign: