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Policy Owner:	Managing Director
Contact Officer:	Deputy Principal
Approved by:	Management Board
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Related Policies:	Complaints and Appeals Policy Student Misconduct Policy Equal Opportunity Policy Occupational Health and Safety Policy Critical Incident Policy

### **1. Overview**

- 1.1 Phoenix Academy regards harassment and discrimination as a serious breach of the Academy's Equal Opportunity Policy and a risk to occupational health and safety. Discrimination and sexual harassment are illegal and unacceptable.
- 1.2 The Academy will take all reasonable steps necessary to minimise the likelihood of harassment or discrimination occurring within the Academy and assist staff and students to deal with incidents when they occur.
- 1.3 The purpose of the policy is to provide the framework and process for dealing with harassment and discrimination claims in a fair, equitable and consistent manner.
- 1.4 It is the responsibility of the Academy to communicate this policy and guidelines to staff and students and train key staff in managing cases of suspected or reported harassment or discrimination.

### **2. Organisational Scope**

- 2.1. These guidelines will apply to harassment and discrimination claims:
- made by students, staff or related parties against a student or staff member.
  - made by students, staff or related parties against a Academy policy or process.
  - regardless of whether the reported harassment or discrimination occurred on- or offcampus.

### **3. Definitions**

- 3.1 Appeal: In this context, an appeal relates to a request to review a decision or outcome resulting from lodgment of a harassment or discrimination claim. Complainant: A person lodging a harassment or discrimination claim, complaint or appeal.
- 3.2 Discrimination: Treating another unfavourably or in an offensive manner based on disability, impairment, age, gender, sexual orientation, race, religion, culture, carer responsibilities and lawful associations.
- 3.3 Harassment: covers a wide range of behaviours including, intimidation, bullying, coercion; which may reasonably be expected to offend, humiliate, embarrass, disturb or in some way threaten the person at whom it is directed. See Appendix A for examples of behaviour which may be deemed to be harassment.
- 3.4 Harassment claim: for the purpose of this policy 'harassment claim' refers to both claims of harassment or discrimination.
- 3.5 Respondent: A person responding to a harassment claim, complaint or appeal.
- 3.6 Sexual harassment: refers to repeated, unwelcome and/or inappropriate behaviour of a sexual nature. See Appendix A for examples of behaviour which may be deemed to be sexual harassment.

#### **4. Policy Principles**

- 4.1 All staff and students have the right to a learning/working environment free from discrimination and harassment.
- 4.2 All claims of harassment and discrimination will be taken seriously, regardless of whether the alleged harasser is at fault, was acting with good intent or is aware of any wrong doing.
- 4.3 Persons alleging harassment or discrimination will be advised on the process in place for dealing with reported harassment and the potential challenges they may face.
- 4.4 Persons alleging harassment or discrimination will not be discriminated against as a result of the claim.
- 4.5 Making a harassment claim in bad faith or with malicious intent is considered to be a form of misconduct and will be dealt with according to staff/student misconduct policies.
- 4.6 Early intervention will be taken where incidents are reported, suspected and/or evident to Phoenix Academy staff.
- 4.7 Attempts will be made to resolve matters informally where possible and appropriate.
- 4.8 Persons handling complaints must be impartial. Where this is not possible an impartial and appropriate party must be identified to manage and/or consider the claim.
- 4.9 Persons against whom formal claims are made will be given the opportunity to hear and respond to the allegations against them.
- 4.10 The Academy reserves the right to report an incident to the relevant authorities and continue to deal with the matter in part or whole according to the Academy's process and policies.
- 4.11 Staff found to be carrying out harassment or discrimination against other staff or students may be subject to performance management or disciplinary action.
- 4.12 Students found to be carrying out harassment or discrimination against a member of staff or other student(s) may be subject to disciplinary action under the Student Misconduct Policy.
- 4.13 Where a reported case of harassment or discrimination is deemed by the Academy to be a critical incident, it will be managed in accordance with the Critical Incident Policy.
- 4.14 Under the Privacy Act 1988, individuals are entitled to the protection of their personal and private information. Phoenix Academy is committed to maintaining this right to privacy in line with legal requirements, however, the Academy may exercise its discretion and disclose information as necessary to prevent or lessen a serious and imminent threat to the life or health of a student, staff member or other person.
- 4.15 All parties have a right to representation by union officials if appropriate or a support person of their choice. Neither party, except with agreement of all parties, may be represented at this stage by a legal practitioner.

#### **5. Policy Content**

##### **5.1 Advice for Complainants**

Persons who feel they are being subjected to harassment should consider:

- Whether the behaviour would reasonably be considered as harassment or discrimination (See Appendix A).
- Keeping a detailed written record (with dates) of the events upon which a claim might be made.
- Seeking professional advice / support.
- Communicating clearly to the person that their behaviour is unwelcome or unacceptable and may be reported if it continues.
- Taking step to avoid being alone with the harasser.
- Limiting discussion of the matter to trusted persons who can provide support or assistance. This may also include legal, medical professionals or counselors.

##### **5.2 Informal Reporting of Harassment or Discrimination - Stage 1**

Informal action is usually appropriate when:

- The complainant wants to address the matter informally
- The allegations are less serious

- There is a change of quickly stopping the problem before it escalates
- The persons involved are likely to have an ongoing working relationship

5.2.1 Students experiencing harassment or discrimination should contact or be directed to the Director - Academic.

5.2.2. Staff experiencing harassment or discrimination should consult the HR Coordinator or a trusted senior member of staff to discuss their situation.

5.2.3. Where the complainant is considering proceeding to a formal harassment claim, they should be referred to the HR Coordinator (or nominee) or Director – Academic to discuss the process and possible outcomes of a formal complaint. In this case the Academy’s formal Complaints & Appeals Process will be followed.

### **Appendix A – Identifying Harassment and Discrimination**

- Behaviour which may be considered as harassment or discrimination may include:
- Treating another unfavourably or in an offensive manner based on differences of disability, impairment, gender, sexual orientation, race, religion, culture, carer responsibilities, lawful associations.
- Unwelcome verbal, written, social, physical or sexual behaviour which may reasonably be expected to cause embarrassment, offense, discomfort, upset, fear or intimidation.
- Verbal and written (includes via electronic medium): name calling, offensive language, disparaging remarks, unreasonable and continued criticism. Sending images which are unwelcome or inappropriate. Continual unjustified, unconstructive and/or unnecessary comments about a person’s personal life, appearance, work performance.
- Social: bullying, disparaging comments in front of others or behind a person’s back, threatening, exclusion, isolation, ‘ganging up’.
- Physical: fighting, pushing, gestures, invasion of personal space, following/stalking.
- Sexual: deliberate and unwelcome or inappropriate physical contact (patting, pinching, brushing, hugging, touching, kissing, rubbing) considered sexual in nature; sexually orientated comments, messages, jokes, images or gestures; unwelcome questions or comments about private life, sex-role stereotyping; staring or ogling;
- Interference with a person’s work space, work materials, equipment or property, apart from what would be considered necessary for ongoing work in the particular area or as part of normal student work;
- Persistent following within, to or from the Academy (stalking);
- Requests for sexual favours or inappropriate personal attention.
- Offers of reward for sexual favours.
- Intimidation that suggests the victim will be disadvantaged in some way if an inappropriate request is not complied with.