

## Equal Opportunity and Diversity Policy

### Abstract

The University of Technology Sydney is committed to equal opportunity in education and employment for students and staff.

It aims to provide an environment which fosters equity and fairness and recognises, respects and values the diversity of its student and staff.

This policy sets out the responsibilities of all members of the University community to implement equal opportunity and diversity principles and to refrain from bullying, discrimination and harassment. The policy also sets out the consequences of any breach of the Policy.

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	Policy amendment approved	27/05/2015
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Approved by	Council Meeting 12/2, 18 April 2012 Resolution COU/12-2/31	
	Latest amendment: Director, Governance Support Unit (see change history for details)	
Implementation Officer	Director, Equity and Diversity Unit	
Relevant to	All staff and all students	
Related documents	<a href="#">Policy on the Prevention of Harassment</a> <a href="#">Code of Conduct</a> <a href="#">Workplace Behaviour Statement</a> (HR Manual 7.4) <a href="#">Student Charter</a> <a href="#">Student Rules</a> <a href="#">Handling Staff Grievances Vice-Chancellor's Directive</a> <a href="#">Handling Staff Grievances — Supervisors Guidelines</a> (HR Manual 6.3) <a href="#">Policy on Handling Student Complaints</a> <a href="#">Handling Student Complaints — Procedures for Managers</a> <a href="#">Indigenous Education and Employment Policy</a> <a href="#">Access and Inclusion Plan 2015–2019</a> <a href="#">Workplace Adjustment Procedures for Staff Members with a Disability</a> (HR Manual 8.7)	

	<a href="#">Risk Management Policy and Procedures</a> <a href="#">Staff and Students with Carers' Responsibilities</a> <a href="#">Vice-Chancellor's Directive</a> <a href="#">Admissions Policy and Procedures</a> <a href="#">Assessment of Coursework Subjects Policy and Procedures</a>
Legislation	<a href="#">University of Technology Sydney Act 1989 (NSW)</a> <a href="#">Anti-Discrimination Act 1977 (NSW)</a> <a href="#">Australian Human Rights Commission Act 1986 (Cwlth)</a> <a href="#">Racial Discrimination Act 1975 (Cwlth)</a> <a href="#">Sex Discrimination Act 1984 (Cwlth)</a> <a href="#">Disability Discrimination Act 1992 (Cwlth)</a> <a href="#">Disability Standards for Education (2005)</a> <a href="#">Equal Opportunity for Women in the Workplace Amendment Act 2012 (Cwlth)</a> <a href="#">Age Discrimination Act 2004 (Cwlth)</a> <a href="#">Fair Work Act 2009 (Cwlth)</a> <a href="#">Work Health and Safety Act 2011 (NSW)</a>
File number	UR07/631
Superseded documents	Equal Opportunity Policy

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### 1. Purpose

This Policy provides the framework for the implementation of equal opportunity at UTS, to ensure compliance with Commonwealth and New South Wales anti-discrimination legislation. It aims to provide a work and study environment that fosters equity, fairness and respect for social and cultural diversity and that is free from unlawful discrimination, harassment, bullying and vilification.

## 2. Scope

At UTS all staff and students (as defined in [Attachment 1](#)) have a responsibility to contribute to the achievement of a productive, ethical, safe and equitable study and work environment. This responsibility also extends to visitors to the University, contractors and consultants and other people aligned with or external to UTS with whom students or staff interact as part of their work or study, eg in work experience, industrial and clinical placements or exchanges.

For students, this Policy relates to all aspects of university life, including enrolment, teaching and classroom environment, course design, curriculum, assessment, interpersonal relationships and study-related functions and activities, on and off campus.

For staff, this Policy relates to all aspects of employment including recruitment and selection, academic progression and promotion, job classification, professional and career development, supervision, interpersonal relationships and other work-related behaviour and activities, on and off campus.

## 3. Definitions

Definitions of key terms are provided in [Attachment 1](#).

## 4. Policy principles

Consistent with its vision, goals and organisational values UTS is committed to the promotion of the following principles:

- (a) providing access to opportunities in education and employment at UTS through processes which are free of discrimination, as defined in [Attachment 1](#) of this Policy
- (b) respecting and appreciating the diversity of its staff and students which contributes so richly to the teaching, learning, research and creative endeavours of the University
- (c) selecting, progressing and promoting staff and selecting and assessing students on merit, using fair and transparent processes
- (d) recognising that historic and ongoing disadvantage creates barriers to access and progression in education and employment for students and staff from equity target groups, as defined in [Attachment 1](#) of this Policy
- (e) recognising the rights of staff and students to raise complaints in good faith under UTS complaints procedures, without fear of retaliation or victimisation
- (f) integrating equal opportunity and diversity principles in all policies and practices.

## 5. Policy statements

### 5.1 Policy implementation

The University will implement this Policy through:

- (a) developing and implementing targeted arrangements, programs and special measures to:
  - (i) improve access, participation, retention and success of students from under-represented equity target groups
  - (ii) improve employment outcomes for staff from equity target groups
- (b) taking all reasonable steps to prevent discrimination, bullying, harassment and vilification on grounds specified under state and federal anti-discrimination legislation and on any other grounds determined by UTS Council (refer to [Attachment 1](#) for information on current grounds)

- (c) providing staff and students with access to the University's complaint system to address equal opportunity related complaints
- (d) seeking to promote work and study practices and cultures that recognise and value the diversity of backgrounds and perspectives within the University community
- (e) communicating to staff and students the University's expectations, and their responsibilities, under this Policy and, for staff under the [Code of Conduct](#) and [Workplace Behaviour Statement](#) (HR Manual 7.4) and, for students, as outlined in the [Student Charter](#) and the Student Rules ([Section 2.1](#) and [Section 16 Student misconduct and appeals](#))
- (f) monitoring and reporting on UTS equity performance against identified University priorities and legislative requirements.

## 5.2 Breaches of this Policy

The procedures for dealing with complaints from staff and students about behaviour and actions which breach this Policy are contained within the following:

- (a) for complaints made by staff under the [Handling Staff Grievances — Vice-Chancellor's Directive](#). Managers and supervisors should also refer to [Handling Staff Grievances Supervisors Guidelines](#) (HR Manual 6.13)
- (b) for complaints made by students, under the [Policy on Handling Student Complaints](#). Managers and supervisors should also refer to [Handling Student Complaint Procedures for Managers](#).

Action may be taken against students or staff who are found to have discriminated against, harassed or vilified other students, staff or other campus participants. Action may also be taken against staff or students who are found to have victimised others for lodging complaints or participating in complaint processes.

In the case of staff, such action may include disciplinary action for 'misconduct' or 'serious misconduct' under the applicable enterprise agreement. In the most serious cases such action may result in termination of employment, appointment or engagement.

Breaches of the Policy by students may constitute 'misconduct' under [Section 16](#) of the Student Rules and in the most serious cases may result in permanent exclusion.

Action may also include the imposition of sanctions such as exclusion from UTS grounds, premises, activities or associations if the Policy is found to have been breached.

Breaches of this Policy may also constitute unlawful behaviour under state and/or federal legislation and may result in action being taken against individuals by the relevant statutory authority and/or external agency.

Further information about the University's policy in relation to harassment and bullying is outlined in the [Policy on the Prevention of Harassment](#) and in the [Workplace Behaviour Statement](#) (HR Manual 7.4).

## 6. Roles and responsibilities

All staff and students are accountable for ensuring that their own behaviour complies with the University's commitments and relevant state and federal legislative requirements, as outlined in this Policy and other related documents referred to in the Policy.

### 6.1 All staff and students are expected to:

- (i) inform themselves of UTS policies and procedures in relation to equity and diversity and, for staff, to undertake relevant training as appropriate
- (ii) seek to treat others fairly, with respect and without discrimination or harassment, and

- (iii) report breaches of this Policy according to the processes outlined under the UTS student and staff complaint procedures.

**6.2 Staff with supervisory and management responsibilities should also:**

- (i) seek to ensure they undertake their roles fairly, and treat their staff and /or students with respect and without discrimination or harassment
- (ii) do what is reasonably practical to identify, prevent or address discrimination and harassment in the workplace and/or learning environment
- (iii) assist staff and/or students from equity target groups as required, through special measures or by making reasonable adjustments for students and staff, in accordance with relevant policies and procedures. These include the [UTS Disability Action Plan](#) (PDF) and the [Staff and Students with Carers' Responsibilities Vice-Chancellor's Directive](#), as well as the [Workplace Adjustment Procedures](#) (HR Manual 8.7) (for staff), and the policy and procedures on the [Assessment of Coursework Subjects](#) (for students)
- (iv) inform staff and/or students of their responsibilities under this Policy and encourage them to comply with the requirements of this Policy
- (v) seek to deal fairly and equitably with equity related complaints from staff and/or students by following the correct procedures outlined in the UTS student and staff complaints procedures, and
- (vi) monitor and report on any breaches of this Policy to the Director, Equity and Diversity.

**6.3 The Equity and Diversity Unit** coordinates widening participation, social inclusion and equal employment initiatives at UTS, and is responsible for:

- (i) advising and assisting the University to meet its key equity targets and equal opportunity obligations under federal and state legislation
- (ii) developing and implementing educational access and employment equity programs and policies
- (iii) providing advice and guidance to staff in relation to local level implementation of equity and diversity policy and practice
- (iv) promoting awareness of rights and responsibilities relating to the maintenance of an equitable and inclusive work and study environment
- (v) providing advice and assistance on the management and resolution of equity related complaints
- (vi) consulting with faculties, staff and students through specialist committees such as the Equity Reference Group of Council and the Equity and Diversity Advisory Committee, and
- (vii) monitoring and reporting on the University's equity performance under relevant state and federal legislation.

**Accountable Officer:** Provost

**Implementation Officer:** Director, Equity and Diversity Unit

**Other positions and committees:** Director, Human Resources; Equity Reference Group; Equity and Diversity Committee

## **7. Advice and support for staff and students**

Staff and students experiencing discrimination or harassment can obtain advice and assistance from a staff member in their faculty, centre or work/unit, or can contact the following areas:

**Equity and Diversity Unit** (for students and staff)

website [www.uts.edu.au/about/equity-and-diversity/overview](http://www.uts.edu.au/about/equity-and-diversity/overview)

**Human Resources Unit** (for staff)

website [www.uts.edu.au/staff](http://www.uts.edu.au/staff)

**Student Services Unit** (for students)

website [www.uts.edu.au/current-students/support](http://www.uts.edu.au/current-students/support)

Students may seek advice and advocacy or representation through the **UTS Students' Association**.

Staff may, if they choose, seek advice, assistance and/or representation from their chosen **union** or other representative.

### **External agencies which can also provide information and advice**

Information and advice can also be obtained from the following external agencies:

**Australian Human Rights Commission (AHRC)**

website [www.humanrights.gov.au](http://www.humanrights.gov.au)

**New South Wales Anti-Discrimination Board**

website [www.antidiscrimination.justice.nsw.gov.au](http://www.antidiscrimination.justice.nsw.gov.au)

**Fair Work Commission**

website [www.fwc.gov.au](http://www.fwc.gov.au)

**NSW Ombudsman**

website [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

**WorkCover Authority NSW**

website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

## 8. Acknowledgements

UTS would like to acknowledge the following universities whose policies helped inform this document: RMIT, Newcastle, UNSW, Melbourne, Monash, ANU.

## 9. Version control and change history

Date	Version	Approved by, resolution no. (date)	Amendment
15/06/2000	1	Council COU/00/58	
15/08/2007	2	Council COU/07-4/80	Formatting in accordance with UTS Policy Framework template. HEWRR compliance amendment.
18/04/2012	3	Council COU/12-2/31	Formatting in accordance with UTS Policy Framework template. Amendments to update in light of changes in NSW and Commonwealth Anti-Discrimination legislation.
14/08/2015 (effective date)	3.1	Council, COU/14-5/106 (15/10/2014)	Consequential changes to align with changes to the Student Rules.
		Director, Governance Support Unit (GSU) (11/12/2014)	Changes (approved under Delegation 3.17) to implement 2014 Senior Executive restructure.
		Director, Governance Support Unit (GSU) (27/05/2015)	Changes (approved under Delegation 3.17) to update references to the role of Registrar (part of the 2014 restructure).

## **Attachment 1 – Definitions of key terms**

### **BULLYING**

Bullying is repeated, unreasonable behaviour directed towards a staff member or student, or a group of staff members or students, which can create a risk to health and safety. Unreasonable behaviour in this context means behaviour that a reasonable person, having regard to the circumstances, would see as victimising, humiliating, undermining or threatening.

Bullying can occur face-to-face, over the phone, via email, instant messaging or mobile phone technologies including text messaging and through other forms of social media. It may be intentional, where actions are intended to cause distress, but it may also be unintentional, where actions, which were not intended to cause distress, do cause and should reasonably have been expected to cause that effect.

A single incident of unreasonable behaviour is not bullying although it may have the potential to escalate into bullying and therefore should not be ignored. Some acts of bullying may also constitute unlawful discrimination or harassment.

### **COMPLAINT**

Complaint under this Policy means a grievance or complaint made to the University by a student or staff member regarding unlawful discrimination and harassment, including sexual harassment or other discriminatory harassment, bullying or victimisation, as defined in the relevant UTS complaint procedures.

### **DISCRIMINATION**

Discrimination can be either direct or indirect. Under NSW and federal legislation, discrimination on the basis of certain characteristics or grounds is unlawful (see Grounds below).

#### **Direct discrimination**

Direct discrimination occurs when, in the same or similar circumstances, a person treats, or proposes to treat, someone less favourably because they have certain characteristics or belong to a particular group of people, than they would treat someone who doesn't belong to that group, or who belongs to a different group of people.

In relation to a person with a disability, direct discrimination also occurs if the University does not make, or proposes not to make, reasonable adjustments for that person, and where the failure to make a reasonable adjustment has the effect, because of the disability, of that person being treated less favourably than a person without the disability in the same or similar circumstances.

#### **Indirect discrimination**

Indirect discrimination occurs when a rule, practice or policy appears to be neutral but in effect has a disproportionate impact on a particular group of people. Indirect discrimination occurs when a person imposes (or proposes to impose) a requirement, condition or practice:

- (a) that someone from a particular group does not or cannot comply with, and
- (b) that has or is likely to have the effect of disadvantaging the person from that particular group, and
- (c) that a higher proportion of people who are not from that group do, or can, comply with, and
- (d) that is not reasonable in the relevant circumstances.



In relation to persons with an impairment or disability, indirect discrimination also occurs if:

- (a) the University requires, or proposes to require persons to comply with a requirement or condition, and
- (b) because of the impairment or disability, the person could comply if the University made reasonable adjustments, but the University did not do so, and
- (c) the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the impairment or disability.

This provision does not apply if the requirement or condition is reasonable, having regard to the circumstances of the case.

## **GROUND**

Discrimination or harassment on any of the following characteristics or grounds is prohibited under relevant NSW and federal legislation and at UTS:

- (a) age
- (b) breastfeeding
- (c) family or carer's responsibilities
- (d) impairment or disability (including behaviour that is a symptom or manifestation of a disability)
- (e) marital or relationship status
- (f) political conviction
- (g) pregnancy or potential pregnancy
- (h) race, colour, descent, nationality, ethnic, ethno-religious or national origin
- (i) religion
- (j) sex
- (k) sexual orientation or preference
- (l) transgender status
- (m) actual or imputed characteristics of any of the attributes listed above
- (n) association with a person identified by reference to any of the attributes listed above

and any other grounds determined by UTS Council.

Under the Australian Human Rights Commission Act 1986 (Cwlth), there are a number of further grounds of discrimination in the area of employment or occupation: criminal record; medical record; national extraction or social origin and trade union activity. However discrimination on these grounds is not made unlawful under the Act and the grounds do not apply where discrimination is necessary because of the inherent requirements of a particular job.

## **HARASSMENT**

Unlawful harassment means any unwelcome, offensive, abusive, belittling or threatening behaviour that humiliates, offends or intimidates another person or group of people and occurs because of a characteristic or ground specified under anti-discrimination legislation.

**Sexual harassment** is defined under legislation as any unwelcome sexual advance or request for sexual favours or other unwelcome conduct of a sexual nature, that makes a person feel offended, insulted, humiliated or intimidated and which a reasonable person, having regard to all the circumstances, would have anticipated that the person would be offended, humiliated or intimidated.

## **EQUITY TARGET GROUPS**

For **staff**, equity groups identified for affirmative action programs in NSW are: Indigenous Australians; people with disabilities; people of racial, ethnic, and ethno-religious minority groups and women, particularly in areas where they are underrepresented.

For **students**, equity groups identified under federal government (DEEWR) policy include people from low socio-economic status backgrounds (low SES); people from non-English speaking backgrounds (NESB); people with disabilities; people from regional and remote areas; Indigenous Australian students and women in fields study where there is a gender inequality or imbalance.

### **INDIGENOUS AUSTRALIANS**

Indigenous Australians in this document specifically refers to the Indigenous people of Australia who are otherwise known as 'Aboriginal and/or Torres Strait Islanders'.

### **SPECIAL MEASURES**

Special measures enable actions to be implemented to advance substantive equality for individuals who belong to groups, which have experienced past disadvantage because of laws, rules, stereotypes and attitudes.

They include **reasonable adjustments** for staff and students with disabilities.

**Reasonable adjustments** in the workplace (workplace adjustments) are changes introduced into a workplace that take account of a person's disability, which can apply to all stages of employment. Workplace adjustments are based on reasonably accommodating the disability of the staff member so that they are able to meet the inherent requirements of their job without causing unjustifiable hardship to the University. They can involve changes to the physical environment such as the provision of special equipment, or organisational changes, such as an adjustment of working hours.

The University also makes adjustments and special arrangements to reasonably accommodate students with disabilities throughout their studies.

### **STAFF**

Staff under this Policy refers to all UTS employees; that is academic staff, support staff and senior staff. For the purposes of this Policy the term 'staff' also includes persons who are not UTS employees but are honorary appointees, contractors, agency staff, external members of university/faculty committees and any other people appointed or engaged by UTS to perform work or functions for UTS.

### **STUDENT**

Students under this Policy refers to all students including local, international and exchange students, who have been admitted to a course at UTS and are actively enrolled in subjects/study in that course, as defined under the UTS [Student Rules](#).

### **VICTIMISATION**

Victimisation is when a person subjects (or threatens to subject) another person to a detriment because that other person has made a complaint or been involved in a complaints procedure, or because the first person thinks the other person intends to make a complaint or be involved in a complaints procedure.

### **VILIFICATION**

Vilification is publicly inciting hatred, contempt or severe ridicule of another person on the grounds of their race, homosexuality, transgender status or HIV/AIDS status.