# POLICY: ANTI-DISCRIMINATION & HARASSMENT

**Policy Context:** This policy relates to:

<table>
<thead>
<tr>
<th>HE Standards Framework 2011</th>
<th>5.1; 5.2; 5.3; 5.4; 5.5</th>
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<tr>
<td>NVR Standards 2011</td>
<td>15.4; 20.1; 20.2</td>
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<tr>
<td>Legislation or Other Requirements</td>
<td>Tertiary Education Quality and Standards Agency Act 2011</td>
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<td></td>
<td>The Education Services for Overseas Students (ESOS) Act 2000</td>
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<td>National Vocational Education and Training Regulator Act 2011</td>
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<td>Fair Work Act 2009</td>
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<td></td>
<td>Educational Service (Post-secondary Education) Award 2010</td>
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<td>Equal Employment Opportunity Act 1987</td>
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<td>Equal Opportunity Act 1984</td>
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<td>Minimum Condition of Employment Act 1993</td>
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<td>Disability Discrimination Act 1992</td>
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©IIBT 2014 Anti-Discrimination & Harassment Policy v4.2
| Privacy Policy 1988 | Anti-Discrimination & Harassment Policy |
| Racial Discrimination Act 1975 |  |
| Sex and Age discrimination Legislation Amendment Act 2011 |  |
| Occupational Health and Safety Act 1984 |  |
| Workplace Health and Safety Act 2011 (effective in WA from 2013) |  |

**Other Policies**

- Equal Employment Opportunity Policy
- Human Resource Management Policy
- Performance Management Policy
- Privacy Policy
- Record Management Policy

**Forms and Other Documents**

- Employment Contract
- Job Description Form
- Complaints and Appeals Form

**Key Words (Meta Data)**

- Human Resource Management, staff recruitment, NES, staff qualification verification, Job description form, Enterprise agreement, CTE

**Definitions**

- Hyperlink to definition document

**Evidence**

- Evidence and all relevant forms and documents are stored in locked drive under U:\HUMAN RESOURCES and access will be limited to HR officer only;

**Policy Information:**

**Policy**

IIBT is committed to take all reasonable steps necessary to minimise the likelihood of harassment or discrimination occurring at the Institute and assist staff, students and related parties to deal with incidents when they occur.

IIBT will communicate this policy to staff, students and related parties and train key staff in managing cases of suspected or reported harassment or discrimination.

**Scope**

This policy applies to harassment and discrimination claims:

a. Made by students, staff or related parties against a student or staff member.

b. Made by students, staff or related parties against one of the Institute’s
<table>
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<th>PROCEDURES</th>
<th>IIBT will achieve this policy by</th>
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<td>• Acknowledging that all IIBT staff and students have the right to a learning/working environment free from discrimination and harassment.</td>
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<td>• Taking all claims of harassment and discrimination seriously, regardless of whether the alleged harasser is at fault, was acting with good intent or is aware of any wrong doing.</td>
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<td>• Giving advice to the persons alleging harassment or discrimination that the process in place for managing reported harassment and the potential challenges they may face as a result of pursuing allegations.</td>
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<td>• Early intervention will be taken where incidents are reported, suspected and/or evident by IIBT staff.</td>
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<td>• Where possible and appropriate attempts will be made to resolve matters informally.</td>
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<td>• The IIBT representative managing complaints must be impartial, where this is not possible another impartial and appropriate party must be identified to manage and/or consider the claim.</td>
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<td>• Persons against whom formal claims are made will be given the opportunity to hear and respond to the allegations against them.</td>
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<td>• IIBT 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 Institute’s process and policies.</td>
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<td>• Staff found to be carrying out harassment or discrimination against other staff or students may be subject to performance management or disciplinary action.</td>
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<td>• 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.</td>
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<td>• Where a reported case of harassment or discrimination is deemed by IIBT to be a critical incident, it will be managed in accordance with the Critical Incident Policy.</td>
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|            | • Under the Privacy Act 1988, individuals are entitled to the protection of their personal and private information. IIBT is
committed to maintaining this right to privacy in line with legal requirements, however, the Institute 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.

- 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 by a legal practitioner.

**Advice for Complainants**

- Persons who feel they are being subjected to harassment should consider the following:
  - Whether the behavior would reasonably be considered as harassment or discrimination.
  - Communicating clearly to the person that their behavior is unwelcome or unacceptable and may be reported if it continues.
  - Taking steps to avoid being alone with the harasser.
  - Keeping a detailed written record (with dates) of the events upon which a claim might be made.
  - Limiting discussion of the matter to trusted persons who can provide support or assistance. This may also include legal, medical professionals or counselors.

**Informal Reporting of Harassment or Discrimination - Stage I**

Informal action is usually appropriate when:

- The complainant wants to address the matter informally.
- The allegations are less serious.
- There is a possibility of stopping the problem quickly before it escalates.
- The persons involved are likely to have an ongoing working relationship.

Students experiencing harassment or discrimination should contact or be directed to the Student Advisor or in their absence an IIBT Counsellor.
IIBT Staff or related parties experiencing harassment or discrimination should consult the HR Coordinator or a trusted senior member of staff to discuss their situation.

At this stage the complainant may choose not to reveal the name(s) of the alleged harasser(s) or other details.

The staff member receiving the complaint will counsel the student or staff member whilst clarifying the claim and desired outcomes. They will explain IIBT's process for dealing with harassment and discrimination and discuss options to address the situation.

The complainant should be supported to identify and access appropriate avenues for coping with the situation, resolving the problem and/or preventing further harassment (this may include accessing an independent conciliator at any stage in the process).

Where the complainant is considering proceeding to a formal harassment claim, they should be referred to the HR Coordinator (or nominee) or Student Advisor to discuss the process and possible outcomes of a formal complaint.

The staff member in receipt of the complaint must schedule a follow-up appointment with the complainant for within five working days of the allegations being discussed with them.

**Making a Formal Harassment claim - Stage II**

To formally report harassment or discrimination the claim must be sent in writing and in confidence to the Student Advisor (for students) or HR Coordinator (for staff) or other trusted senior staff member detailing the incident(s) of harassment or discrimination, providing the name of the alleged harasser(s) or discriminating policy or process and the outcome they desire.

IIBT must acknowledge receipt of the letter in writing within in three working days, advising the complainant of the process and time frames involved.

Within five working days the staff member in receipt of the claim will organise a meeting with the complainant to gather further information on the nature of the claim and assess whether the complainant is in need of immediate assistance/support.

Within five working days of the meeting the person or persons accused of harassment or discrimination (the respondent) will be informed of the claims made against them and be given a timeframe of 10 working days
within which to respond to those claims.

After 10 working days the Institutes’ Director or nominee and the HR and/or Student Advisor/Welfare Manager will convene a meeting to consider the claim, the respondent’s response and decide on actions to be taken.

Both the complainant and respondent will be advised of the outcome within five working days of the decision.

**Options for resolving/addressing formal harassment claims**

Depending on the nature and seriousness of the claim any of the following processes may be initiated as an outcome of a formal harassment claim:

- Conciliation
- Mediation
- Mentoring
- Counselling
- Independent Investigation
- Student Misconduct
- Performance Management (including formal warnings) – staff only
- Reporting to Police
- Relocation – staff only
- Termination – staff or students
- Policy / Process Review

This list is provided as a guide only and does not limit other processes or actions being taken as a result of a formal harassment claim.

Both the complainant and respondent can appeal the outcome of a formal harassment claim in accordance with the Complaints and Appeals Policy.

**Privacy and making a Harassment or Discrimination claim - Record Keeping, Retention and Disposal of Records**

IIBT will take all steps required to ensure the confidentiality of any claim. Internal disclosure should be limited strictly to those employees who need to have access for official purposes.

Once formal procedures are invoked, details of allegations and investigatory notes are to be kept in confidential files separate to either
the complainant’s or respondent’s personal files.

Where a claim is proven, or where the outcome impacts on enrolment status (students) or employment status /arrangements (staff and related parties) of the complainant or respondent, the outcome may be recorded on the staff member’s or student’s file.

Records of claims will normally be kept for an initial period of two years. If no further complaints have occurred during this period the records will normally be destroyed.