

<h1>General Misconduct and Harassment Policy</h1>		BCA National Policy Manual	
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1. Purpose

This policy records BCA Nationals commitment to providing a workplace and educational environment which is free from harassment, bullying and discrimination, this includes sexual, racial or other any other type of misconduct. The policy also provides a clear definition of misconduct and sets out the obligations of staff and students. Any type of misconduct is considered to be unacceptable behaviour. This ensures that the workplace and educational environment is free from items or materials that, in the context of general community standards, may be considered offensive by other people.

2. Definition

Harassment in the workplace generally occurs when a person is subjected to conduct which is unwelcome or offensive and is serious or persistent to the extent that it has a detrimental effect on the person's ability to learn or perform their job role. Please see the guidelines below for specific examples.

3. Objectives of this policy

- To ensure the workplace is free from harassment and bullying.
- To ensure the company's rules relating to harassment and bullying are applied consistently across students and staff.

4. Policy

- The company is committed to ensuring all students and staff enjoy a working environment free from harassment. Our company has established expectations relating to business and personal behaviour which are expected to be followed by all students and staff. This includes showing respect for one another and, therefore, harassment will be considered a form of serious misconduct and will not be tolerated.
- As a result of BCA Nationals commitment, the guidelines on what constitutes misconduct and unacceptable behaviour have been developed.
- Harassment is proscribed by both legislation and by the company's Code of Conduct.
- As part of its commitment against workplace harassment and bullying, the company has a robust and effective procedure for dealing with any such complaints.
- Managers, staff, and trainers have a responsibility to ensure everyone is aware that harassment is unacceptable. Managers and trainers must also ensure the workplace is free from items or materials that, in the context of general community standards, may be considered offensive by other people.
- Detailed procedures have also been developed to ensure instances of alleged misconduct are handled swiftly and fairly, with students having recourse to an appeal process. BCA National reserves the right to involve law enforcement agencies for matters of serious misconduct (e.g., assault, drug use, theft and property damage).

5. Guidelines

BCA National ensures that its practices, policies and procedures are free from direct or indirect discrimination on all relevant legislative grounds as defined by, but not limited to, the following Commonwealth and State legislation:

- NSW Anti-Discrimination Act (1977).
- Racial Discrimination Act (1975).
- Sex Discrimination Act (1984).
- Disability Discrimination Act (1992).
- Age Discrimination Act (2004).

Harassment or unlawful discrimination against staff or students by any member of BCA National is unacceptable. Unlawful sexual harassment is one form of harassment, which the law does not allow. Unlawful sexual harassment includes, but is not limited to:

- pressure or demands for dates or sexual favours;
- unnecessary familiarity - for example, deliberately brushing against a person or constantly staring at a person;
- unwanted physical contact - for example, touching or fondling;
- sexual jokes or innuendo;
- offensive telephone calls, e-mails, social media and SMS messaging
- offensive sexual gestures;
- unwelcome comments or questions about a person's sex life;
- display or circulation of sexual material, including magazines, posters or pictures and messages; or;
- sexual assault.

Other types of unlawful harassment include, but are not limited to:

- verbal abuse or comments that put down or stereotype people because of their race, sexuality, pregnancy, disability, etc;
- jokes based on race, sexuality, pregnancy, disability, etc;
- mimicking someone's accent, or the habits of someone with a disability;
- offensive gestures based on race, sexuality, pregnancy, disability, etc;
- ignoring or isolating a person or group because of their race, sexuality, pregnancy, disability, etc; or
- display or circulation of racist or other offensive material.

Harassment may be by an employer or a representative of the employer, a co-employee, a client, a customer, a student or a contractor. In all cases it is unacceptable and will not be tolerated.

6. Procedure

If an employee feels they are being harassed, they should immediately approach their manager to discuss the situation. The manager should provide advice to the employee and ascertain what specific steps the employee would like the manager to take. The manager should refer to the Harassment Guidelines and the Harassment Complaints Procedure.

If a student feels they are being harassed they should immediately approach a BCA National representative to discuss the situation and to seek a resolution.

All harassment complaints will be investigated impartially, seriously, empathetically and in strict confidence, taking into account the privacy of all parties. During all stages of the General Misconduct procedure, the BCA National at which the complaint arose (“the College”) will take all reasonable steps to ensure that all students and/or staff involved will not be victimised or discriminated against. The reasons and full explanation in writing for decisions and actions taken will be provided to both the complainant and/or respondent at every stage of the complaint process, if requested. There is no cost to the complainant for utilising this compliant procedure.

Where appropriate, disciplinary action will be taken by the company and brought to the attention of the police.

Staff or students may also refer their complaint of harassment and discrimination to an external body, such as the Anti-Discrimination Board of NSW or the Human Rights and Equal Opportunity Commission at any time. At any stage, strategies used to resolve a complaint may include, but need not be limited to, mediation, counselling or conciliation meetings between the parties.

7. Penalty - Student

7.1 Intention of general misconduct

Where a BCA National staff member or trainer determines that a student has the intention to engage in general misconduct, the staff member may use their discretion to determine if the matter of the student’s misconduct can be managed with a verbal warning to the student to change their behaviour and/or surrendering any unauthorised materials.

7.2 Initial and minor general misconduct

Students who receive two or more verbal warnings or where the staff member determines a student’s misconduct cannot be managed with a verbal warning will be required to report to their Training Manager (or delegated authority) with the reporting staff member to recommend further disciplinary action. The Training Manager (or delegated authority) can take appropriate action to solve the matter. These actions may include (but are not limited to):

- a. For students for whom this is the first visit to the Training Manager (or delegated authority), a first official written warning signed by the National Training Manager and copied to the Training Manager (or delegated authority) is given to the student with a copy filed in the student’s file
- b. For students for whom this is not the first visit to the Training Manager (or delegated authority), other action may be required (e.g. a learning contract; regular reporting to the Training Manager (or delegated authority). Actions to be taken will be documented and given to the student with a copy filed in the student’s file.

A letter of warning signed by the National Training Manager and copied to the Training Manager (or delegated authority) will be sent to the student informing the student that a subsequent finding of minor or significant general misconduct may result in suspension or expulsion.

7.3 Initial and significant or repeated general misconduct

Where a BCA National staff member or the Training Manager (or delegated authority) determines that the student's misbehaviour goes beyond that which can be managed by a warning or other action listed above, then the staff member or Training Manager (or delegated authority) will activate the BCA National's complaints handling process. Examples of that type of misconduct include bullying, harassment, victimisation, assault, allegations of theft and/or property damage. At this point, penalties available to the Training Manager (or delegated authority) include suspension and expulsion. If a student is suspended, the Training Manager (or delegated authority) may allow the student to continue to work on assignments off campus.

Refer to the *Complaints and Appeals Policy* for details on the company's complaints handling process and the *Suspension and Expulsion Policy and Procedure* for details on suspension and expulsion.

8. Penalty - Staff

The manager and staff member will discuss the options and the desired outcomes. The manager will determine the next steps in the process. The manager should refer to the guidelines in this policy and the complaints procedure

All harassment complaints will be investigated impartially seriously, empathetically, and in strict confidence, taking into account the privacy of all parties.

Where appropriate, disciplinary action will be taken by BCA National and brought to the attention of police.

9. Appeal

A student or staff member may appeal the decision of the Training Manager (or delegated authority), and lodge a formal appeal as per the Complaints and Appeals Policy.

10. Further information

Any employee requiring further information about this policy should contact any member of the BCA National Management team. All discussions will be treated as strictly confidential.

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<i>Approved by</i>	Bruce Callaghan	Date: 30/03/2015
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