

# RTO Policy 3: Anti-Discrimination, Harassment and Bullying

# OWNERSHIP

This policy is the responsibility of CPA Australia’s Registered Training Organisation (**CPA Australia RTO**) working group (**CPA Australia RTO Working Group**).

## Scope

CPA Australia Ltd (**CPA Australia**) has established this policy to support the Australian Skills Quality Authority (**ASQA**) *Standards for Registered Training Organisations (RTO) 2015*. The policy has been developed and implemented by the CPA Australia RTO Working Group to support and provide clear instruction and guidance to program Candidates and CPA Australia personnel to regarding the fair treatment of all persons involved in the delivery of the RTO training program(s), in accordance with State and Federal legislation and best practice.

## Review and Maintenance

Maintenance and review of the CPA Australia RTO Anti-Discrimination, Harassment and Bullying Policy is the responsibility of the CPA Australia RTO Working Group. The CPA Australia RTO Working Group will maintain ongoing records of the elements and application of this Policy. The CPA Australia RTO Working Group will provide ongoing reports to all relevant stakeholders.

## Change Record

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\* This policy replaces the previous RTO CPA Policies; RTO CPA Harassment and Victimisation Policy #419292\_1, RTO CPA Discrimination Policy #422576\_1, RTO CPA Participant Discrimination Policy V1.1 #419192\_1

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# POLICY

## Our Commitment

CPA Australia aims to sustain a climate and culture for CPA Australia RTO Personnel and Candidates, where harassment and victimisation are unacceptable forms of behaviour.

CPA Australia's philosophy is that all CPA Australia and CPA Australia RTO Personnel, its members and Candidates have the right to be treated equally regardless of job status, age, race, background, educational opportunities, gender, sexual preference, marital and parental status, national or ethnic origin, religious or political beliefs, physical and mental impairment, social origin, political opinion, trade union activity, criminal record, medical history or HIV status (all of which are "protected characteristics" i.e. those characteristics protected by law). CPA Australia RTO Personnel and Candidates have the right to quiet enjoyment of the workplace and training environment in an environment which is free from discrimination, harassment or bullying behaviour of any sort. CPA Australia promotes acceptance and recognises the equality of all people by ensuring that all CPA Australia RTO Personnel and Candidates receive fair and equal consideration.

CPA Australia is committed to ensuring that its recruitment, promotion and other employment practices are based on merit and result in the appointment, and promotion, of the best person for the job in every case.

## Legislation

Applicable Legislation and Regulations used and referenced in this policy, (as updated and amended from time to time), includes but is not limited to the following:

### Federal Legislation

- Age Discrimination Act 2004 (Cth);
- Australian Human Rights Commission Act (1986) (Cth);
- Disability Discrimination Act 1992 (Cth);
- Racial Discrimination Act 1975 (Cth);
- Sex Discrimination Act 1984 (Cth);
- Work Place Gender Equality Act 2012 (Cth); and
- Fair Work Act 2009 (Cth).

### State Legislation

- Australian Capital Territory Discrimination Act 1991 (ACT);
- New South Wales Anti-Discrimination Act 1977 (NSW);
- Northern Territory Anti-Discrimination Act 1996 (NT);
- Queensland Anti-Discrimination Act 1991 (QLD);
- South Australia Equal Opportunity Act 1984 (SA);
- Tasmania Anti-Discrimination Act 1998 (TAS);
- Victoria Equal Opportunity Act 1995 (VIC); and
- Western Australia Equal Opportunity Act 1984 (WA).

## What is Discrimination?

All forms of discrimination are covered by this policy including discrimination against the protected characteristics stated above. Discrimination is unlawful and can take one of two forms, Direct Discrimination (**Direct Discrimination**) and Indirect Discrimination (**Indirect Discrimination**), as described in further detail below.

### Direct Discrimination

Direct Discrimination occurs when a person with a particular attribute is treated less favourably than a person without that attribute in the same or similar circumstances. For example:

- an advertisement for employment which specifies that a person under a certain age will not be considered for a role; or
- refusal to interview an applicant for a job because they are an Aboriginal or Torres Strait Islander

These are both examples of Direct Discrimination on the basis of a persons age or race.

### Indirect Discrimination

Indirect Discrimination occurs when a policy or practice which applies to everyone has an unequal or disproportionate effect or result on particular groups, such as women or a person who is disabled. For example;

- a policy which provides that training is available only on the weekend may indirectly discriminate against people who are unable to work on weekends for religious or cultural reasons, or due to parental responsibilities ; or
- a decision to only hire fluent English speakers, where this is not a genuine requirement for the position, will indirectly discriminate against people from a non-English speaking background.

## What is Harassment?

Harassment is any form of behaviour which is uninvited, unwelcome and which humiliates, offends or intimidates another person, or makes the workplace or training environment uncomfortable and unpleasant (**Harassment**). It can be verbal, written, visual or physical in form. Harassment is unlawful if it is sexual, or based on job status, age, race, background, educational opportunities, gender, sexual preference, marital and parental status, national or ethnic origin, religious or political beliefs, physical and mental impairment, social origin, political opinion, trade union activity, criminal record, medical history or HIV status. While harassment may not be intended to hurt another person, if it does it is unlawful (intent is irrelevant under the law).

Harassment has a detrimental effect on the workplace or training environment and often results in:

- A hostile workplace or training environment;
- Poor performance and job satisfaction / training results;
- Impaired health and increased stress;
- Lost career opportunities;
- Increase in staff turnover / high program dropout rates;
- Reduced productivity and efficiency; and
- Considerable costs for the organisation and the affected employee Candidate.

### Examples of Harassment

Harassment in the workplace/training environment can take many forms. It can be obvious, subtle, direct or indirect. Harassment can be verbal, written, physical or visual and includes innuendo. Further, examples of harassment are as follows:

- Sexual or suggestive remarks and references;
- Persistent and unwelcome requests to go out;
- Propositions (sexual invitations);
- Spreading rumours;
- Making fun of someone;
- Obscene telephone calls/letters/faxes/e-mail messages;
- Offensive jokes;
- Repeated questions about someone's personal life;

- Threats or insults;
- Name calling; and
- Use of inappropriate language.

#### Non-verbal Harassment

Examples of non-verbal harassment are as follows:

- Displaying sexually suggestive, offensive or degrading materials on walls, computer screen savers, e-mails or memos;
- Circulating humiliating or intimidating literature;
- Suggestive looks or leers;
- Unwelcome practical jokes;
- Unsolicited letters, faxes or notes;
- Mimicking someone;
- Following someone to and from work;
- Offensive hand or body gestures;
- Wolf whistling;
- Unnecessary physical contact; and
- Isolating someone.

#### Physical Harassment

Examples of physical harassment are as follows:

- Unnecessary physical contact (pinching, patting, touching, hugging against a person's will, kissing); and
- Pushing, shoving or jostling.

### Bullying Behaviours

A bully is a person who uses their strength or power to coerce others by fear or to persecute or oppress by force and threat. Bullying constitutes offensive treatment through vindictive, cruel, malicious or humiliating attempts to undermine an individual or groups of CPA Australia Personnel and/or Candidates.

Bullying behaviour may be obvious such as repeated shouting, swearing and spontaneous rages, often over trivial matters; personal insults and name calling; persistent criticism; spreading unfounded rumours; ignoring or excluding someone from the work / training group; persecution through instilling fear and making threats; groundless withdrawal of benefits; constantly undervaluing effort; public reprimands and humiliation; refusing to listen to another's point of view.

Less obvious behaviours include removing areas of responsibility; refusing to delegate; constantly changing targets or work deadlines; withholding work related information or supplying incorrect information; blocking applications for leave, training or promotion.

### Responsibility of CPA Australia RTO

CPA Australia RTO and its representatives are responsible for the health, safety and welfare of the CPA Australia RTO Personnel and Candidates who report to them. They must take special care to ensure that harassment and victimisation are not occurring at any stage during a Candidates progression through an education program. Potential problems should be addressed immediately by making it quite clear to harassers that such behaviour will not be tolerated.

CPA Australia RTO Personnel and Candidates should feel secure in the knowledge that if they do advise of a problem it will not be dismissed without a review and possible investigation of the complaint by a member of CPA

Australia RTO Personnel (e.g. the CPA Australia RTO Manager or a member of the CPA Australia RTO Working Group).

## Reporting an Incident

Candidates who feel they are being harassed or who witness the harassment of a fellow Candidate or CPA Australia RTO Personnel should immediately advise a CPA Australia RTO staff member or a member of the wider CPA Australia organisation so that the matter can be investigated.

## Investigation

The CPA Australia RTO Manager will ensure that harassment claims are thoroughly investigated as quickly as possible. All details of such an investigation will remain confidential. File notes or written records of an investigation will be kept on the Candidate's personal file, and may be released to another department within CPA Australia (i.e. Professional Conduct, Human Resources or Legal Counsel) if applicable.

## Resolution

If an allegation of harassment has been reported to the CPA Australia RTO Manager, the CPA Australia RTO Manager will report the incident to the CPA Australia RTO Working Group. The CPA Australia RTO Working Group will then aim to resolve the incident or allegation in accordance with this policy and CPA Australia's internal reporting procedures. Further, the following steps may be taken:

- all parties should be advised of the decision and the reasons for it
- if the claim is substantiated, immediate steps should be taken to prevent the behaviour from recurring
- a note of the complaint and its resolution must be made on the Candidates personal file; and
- offending behaviour should be closely monitored and a check made after a suitable period of time to ensure that the offending behaviour has stopped, that the solution is working satisfactorily and that the complainant is not being victimised in any way for having made the complaint.

## Disciplinary Action

Any person who is found to be in breach of the resolution imposed (as described above) as a result of an investigation (be it CPA Australia RTO Personnel or Candidates) may be subject to disciplinary action. Depending on the circumstances, disciplinary action for Candidates may range from a written warning, suspension or dismissal from the program or (for CPA Australia Members) referral to Professional Conduct. CPA Australia RTO Personnel may receive counselling, a verbal or written warning, transfer to another position within CPA Australia, suspension or even dismissal. The nature of the action to be taken will be determined by the CPA Australia RTO Manager in consultation with the CPA Australia RTO Working Group and other key stakeholders as identified in accordance with CPA Australia's internal reporting procedures.

## If the complaint is not substantiated

If, after thorough investigation, the complaint is not substantiated, the complainant has the right to pursue the matter through the CPA Australia RTO Complaints and Appeals process (please refer to the CPA Australia RTO Complaints and Appeals Policy) if they wish to take the matter further. For further information on this process please see the CPA Australia RTO Complaints and Appeals Policy available from the CPA Australia website.

## Procedure: Actions and Responsibility

Action	Responsibility
<p>CPA Australia RTO is committed to providing a learning and working environment free from discrimination, harassment or bullying behaviour, and to complying with relevant anti-discrimination legislation and guidelines.</p> <p>CPA Australia has implemented strategies to eliminate discrimination, harassment and bullying within the organisation. These include;</p> <ul style="list-style-type: none"> <li>• establishing a set of desired behaviours by which all staff and expected to act;                             <ul style="list-style-type: none"> <li>– Respect</li> <li>– Empowerment</li> <li>– Accountability</li> <li>– Cooperation</li> <li>– Honesty</li> </ul> </li> <li>• providing CPA Australia staff induction and annual professional development to all CPA Australia staff (including CPA Australia RTO Personnel) to ensure awareness and compliance with organisational policies and procedures governing anti-discrimination, harassment and bullying behaviour</li> <li>• encouraging the reporting of behaviour which breaches these policies</li> <li>• enactment of procedures relating to reporting, investigation, resolution and disciplinary action which are based on the principles of procedural fairness</li> <li>• treating all complaints in a sensitive, fair, timely and confidential manner</li> </ul> <p>CPA Australia will ensure all CPA Australia RTO Personnel and Candidates:</p> <ul style="list-style-type: none"> <li>• have access to information pertaining to anti-discrimination, harassment, bullying behaviour complaint resolution practices through;                             <ul style="list-style-type: none"> <li>– Candidate Handbook</li> <li>– access to CPA Australia RTO policies and procedures through the CPA Australia website</li> </ul> </li> <li>• are provided with confidential, impartial advice on the options available for dealing with such complaints</li> <li>• receive appropriate support during the resolution process.</li> </ul>	<p>CPA Australia RTO Personnel</p>
<p>All CPA Australia RTO Personnel will meet their obligations in this area by ensuring:</p> <ul style="list-style-type: none"> <li>• all Candidates are treated equally, fairly and without prejudice with regard to enrolment, support and assessment;</li> <li>• their behaviour contributes to a work and learning environment which is free from discrimination, harassment and bullying behaviour; and</li> <li>• they report any negative or unlawful behaviour to a senior member of CPA Australia staff or the Human Resources Business Unit Leader.</li> </ul>	<p>CPA Australia RTO Personnel</p>
<p>All Candidates have the responsibility to ensure:</p> <ul style="list-style-type: none"> <li>• they are familiar with CPA Australia RTOs policy on anti-discrimination,</li> </ul>	<p>Candidates</p>

Harassment and bullying behaviour;

- their behaviour is appropriate and consistent with the principles of equality, fairness and anti-discriminatory practices; and
- they do not engage in or condone any discriminatory, harassing or bullying behaviour by not reporting any incidents they observe.

## Associated Documentation

- Candidate Handbook
- CPA Australia Policies and Procedures
- CPA Australia Staff Induction Documentation
- CPA Australia RTO Complaints and Appeals Policy
- CPA Australia Complaints and Appeals form
- CPA Australia Complaints and Appeals register