

Student Grievance and Complaint Policy

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Scope

1. This policy applies to all students who have a grievance or complaint about unfair treatment, discrimination, harassment, sexual harassment and sexual assault, victimisation, vilification and/or bullying.
2. This policy also applies to international students who wish to make a complaint about an NTI education agent.
3. This policy cannot be used for a concern or complaint where there already exists a separate Nan Tien Institute (NTI) review, appeal or complaint procedure. See attached document
4. Matters specifically excluded from being dealt with under this policy are:
 - a) all student matters outside those listed above;
 - b) staff misconduct and unsatisfactory performance.
5. An NTI student who undertakes cross-institutional study at another education provider is considered a student of the host institution for matters directly relating to their studies at that host institution.
6. This policy and procedures do not remove the right of students to take action under Australia's consumer protection laws (including the ESOS Act 2000) nor do they replace or modify procedures or any other responsibilities which may arise under Australian law.
7. Where a matter is already under investigation by the Police or other external agencies such as NSW Anti-Discrimination Board, Australian Human Rights Commission or the NSW Ombudsman, NTI may cease or not commence action under this policy until those external investigations have concluded.

Definitions

Bullying	When an individual or a group of individuals repeatedly behaves unreasonably towards a person or group of people and that behaviour creates a risk to health and safety.
Complaint	A statement of dissatisfaction made by a student about the educational environment or learning experience under the direct control of NTI where a response or resolution is explicitly or implicitly expected or legally required.
Complainant	A student who has lodged a grievance or complaint.
Discrimination	<p>When someone is treated unfairly because they belong to a particular group of people or have a particular characteristic (for example gender, pregnancy, colour, ethnicity, descent, disability, sexual preference, religion, carer's responsibilities, marital status, social background, political beliefs, professional association activity, irrelevant criminal record or age).</p> <p>Indirect discrimination occurs when there is a requirement or rule that is the same for everyone but in effect disadvantages people from a particular group more than people from other groups – unless the requirement is reasonable in the circumstances.</p>
Education agent	<p>A person or organisation who recruits international students and refers them to education providers in Australia.</p> <p>For the purposes of this policy, an education agent is a person or organisation who has an agreement with NTI and is listed on NTI website.</p>
Frivolous	A complaint that is deemed to be groundless and trivial.
Grievance	Concerns or complaints about unfair treatment, discrimination, harassment, sexual harassment and sexual assault, vilification and/or bullying which are not otherwise managed under a separate policy, resolution or complaint procedure.
Harassment	Unwelcome behaviour that makes a person feel belittled, intimidated, offended or apprehensive, and that a reasonable person, taking into account all the circumstances, would expect to cause offence, intimidation or apprehension.
Investigator	A person with the authority to investigate grievances.
Mediation	A process that facilitates dispute resolution in which someone who has professional mediation skills helps the aggrieved parties reach a joint agreement that suits everyone concerned. The mediator is neutral, does not influence the outcome and helps parties to consider all possible solutions.
Respondent	The person whose action or behaviour is complained about in a grievance.
Sexual assault	Occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent, or if a child or young person under 18 years of age is exposed to sexual activities.
Sexual harassment	Any unwelcome behaviour of a sexual nature that makes a person feel offended, humiliated or intimidated, in circumstances in which a reasonable person, having regard to all of the circumstances, would have anticipated the possibility that the other person would be offended, humiliated or intimidated.
Unlawful	Any action related to matters prohibited by law.

Vexatious	An action or the action of a person that is brought forward without sufficient grounds purely to cause annoyance, harm or embarrassment to another person or persons.
Victimisation	Less favourable treatment of a person or a group of people for their participation in making, supporting or resolving a complaint of discrimination, harassment or vilification, whether the participation was actual, intended or presumed. This includes a person or persons who have agreed to be witnesses in relation to a complaint.
Vilification	Vilification is generally any act that: <ul style="list-style-type: none"> a) happens publicly as opposed to privately; and b) could incite others to hate, have serious contempt of, or have severe ridicule of a person or a group of people, because of their race, colour, nationality, descent, ethno-religious or national origin, sexual orientation or gender identity.

Policy Statement

8. NTI is committed to providing a safe, harmonious, supportive and productive environment for its students. NTI has a duty of care to students to resolve grievances and complaints promptly and with minimum distress. NTI has a legal responsibility to resolve equity-related grievances alleging unlawful behaviour.

GENERAL PRINCIPLES

9. It is NTI's objective to achieve a resolution of a complaint or grievance in the context of the following principles:
- a) grievances will be handled within an appropriate time frame and will be treated sensitively and impartially, having due regard to procedural fairness;
 - b) resolution of the grievance will be as close as possible to the source of the complaint unless it is serious, unlawful or not practical;
 - c) it is expected that all parties involved will approach proceedings with a desire to resolve the grievance cooperatively and in good faith;
 - d) individuals will not victimise or harass other parties involved in the matter;
 - e) confidentiality will be strictly observed by all participants and at all stages of the grievance procedure; and
 - f) complainants and respondents will be informed of the outcome where appropriate.
10. NTI may set limits on its handling of a complaint or grievance or discontinue any process if the student making the complaint or grievance engages in behaviour which, because of its nature or frequency, raises substantial health, safety, resource or equity issues or the complaint is frivolous, vexatious or lacking in substance.
11. A student making a complaint or grievance is expected to cooperate with the review of the complaint or investigation of the grievance. This includes providing all relevant information that the student has in their possession or knowledge at the time of making the complaint or grievance or as soon as possible thereafter.

12. Incidents that are sexual in nature are further defined under the NTI Prevention of Sexual Assault and Sexual Harassment Policy.

PRINCIPLES OF PROCEDURAL FAIRNESS AND NATURAL JUSTICE

13. NTI recognises that students have the legal and ethical right to:
- raise any concern or complaint related to unfair treatment, discrimination, harassment, sexual harassment and sexual assault, vilification, bullying and other such issues;
 - have that concern, problem, complaint or grievance dealt with confidentially, fairly, effectively and within an appropriate time frame.
14. All students have a right to a support person during any stage of the grievance process. The support person may be internal or external to NTI and can't hold a legal qualification.
15. A student whose capacity for self-advocacy is impaired because of disability, has the right to a non-legally trained advocate of their choice to represent them during the grievance process.
16. All relevant evidence must be considered, and matters that are not relevant will not be considered.
17. Investigators will observe the rules of natural justice in any action taken in relation to a complaint – this includes:
- informing all parties of the procedure being followed and providing them with information about relevant policies and procedures;
 - explaining to the complainant that the requirements of procedural fairness mean that their identity may be disclosed to the respondent;
 - informing the respondent of any allegation made against them and allowing time for a response;
 - providing the respondent with the opportunity to state their case, provide an explanation or put forward a defence;
 - conducting a factual investigation of the allegation, interviewing all parties and considering all relevant information; and
 - acting fairly, impartially and without bias by considering all relevant information and any mitigating factors.

CONFLICT OF INTEREST

18. Where it can be demonstrated that there is a conflict of interest or there may be a potential perceived conflict of interest:
- an investigator should refer the matter immediately to an alternative investigator or escalate to the next level of management;
 - a complainant or respondent may request an alternative investigator.

Systems and Procedures

GRIEVANCE PROCEDURE

19. Any NTI student may bring a complaint or grievance about an action or a decision relating to their

studies at NTI and falling within the scope of this policy. The policy provides three (3) stages to address grievances:

- a) informal discussion
 - b) formal grievance
 - c) external review
20. The initial step to resolve a complaint or grievance through informal discussion should be commenced by the complainant within twenty (20) business days of the action, incident or event which caused the grievance.
 21. A formal grievance must be lodged within forty (40) business days of the action, incident or event which caused the grievance.
 22. Where a student does not meet the deadline for initiating an informal discussion or lodging a formal grievance, but provides a written explanation with supporting documentation for the delay in the process, NTI President may waive the notification deadline.
 23. If a student submits a complaint or grievance anonymously, NTI may be limited in the actions it can take to resolve the grievance. If the student does not provide contact information, NTI may not be able to respond to them.
 24. A complainant may, at any time in the process, declare that the complaint or grievance is withdrawn. Such a declaration must be made in writing, even in the informal stage. It is not mandatory for a complainant to provide any reason for the withdrawal of a grievance.

Informal Discussion

25. This first stage is intended to provide an opportunity for complaints or grievances to be resolved quickly at the source, with the fewest number of people involved, and to avoid the grievance escalating in scope and impact.
26. The student should contact the person responsible for the decision, action or behaviour that has given rise to the complaint or grievance with details about the grievance. Should the student feel uncomfortable contacting the person whose behaviour, action or decision caused the grievance, they can contact any NTI staff member and attempt to resolve the complaint or grievance informally.
27. Should the grievance relate to discrimination, bullying, harassment, victimization or vilification by an NTI staff member or student, the complainant should proceed straight to the formal grievance process (clause 29).
28. Staff members dealing with an informal complaint will ensure that they:
 - a) listen and understand the nature of the complaint;
 - b) explore all the options and possible implications for resolving the issues with the complainant;
 - c) avoid behaviour that might be misinterpreted;
 - d) look for a resolution;
 - e) refer the matter immediately to an alternative NTI staff member if there is conflict of interest, as defined above.

Formal Grievance

29. If the informal discussion does not resolve the grievance, the complainant will lodge a formal written grievance with the NTI President. The written grievances are to be lodged via info@nantien.edu.au or via the Student Services Office at enquiry@nantien.edu.au.
30. Complainants who are unsure how to proceed may seek assistance and advice through the Student Services Office.
31. Any formal grievance must contain the details of the incident/issue that the grievance relates to and the desired outcome sought by the complainant.
32. NTI's President might investigate the grievance or might delegate this task to another NTI staff member or might appoint a committee for the assessment and investigation of the grievance.
33. Whoever investigates the grievance, in addition to the steps outlined above under informal procedure, will also:
 - a) seek and examine all documents and information relevant to the grievance;
 - b) provide the respondent with a copy of any written complaint or list of issues to be answered by the respondent;
 - c) interview parties relevant to the grievance;
 - d) evaluate the information and findings;
 - e) apply the correct standard of proof (i.e. balance of probabilities);
 - f) seek relevant documentation; and
 - g) record and document all matters relating to the grievance.
34. If NTI's President is not the person investigating the complaint, the delegated person or delegated committee will provide a detailed report to NTI President setting out evidence, facts and mitigating circumstances.
35. NTI's President will then make a decision as to the appropriate course of action, and both the complainant and the respondent will be given a written statement of the outcome, including reasons for a decision.

Appropriate Timeframes for an Investigation

36. The investigator(s) will commence the investigation within ten (10) working days of the complaint or grievance being lodged.
37. At the outset of the investigation, the investigator(s) will determine likely timeframes and inform both the complainant and the respondent.
38. If any variation to the timeframe is necessary during the course of investigating the grievance, the investigator(s) will inform both the complainant and the respondent.
39. Every effort will be made to handle and resolve grievances as quickly as possible. It would normally be realistic to resolve a grievance within eight (8) weeks. Grievances of greater complexity might take longer.

External Review

40. There are a number of avenues that may be followed by a student (whether this be the complainant or the respondent) who believes that a complaint has not been satisfactorily resolved within NTI.
41. NTI will advise students involved in a complaint or grievance of their right to access the external review

process.

42. If a student chooses to access the external review processes in accordance with this policy, NTI will maintain the student's enrolment while the complaint and review process is ongoing.
43. If the external complaint handling or appeal process results in a decision that supports the complainant or the respondent, NTI will immediately implement any decision and/or corrective and preventative action required.
44. External agencies may include:
 - a) Overseas Student Ombudsman
 - b) Fair Trading, New South Wales
 - c) Australian Human Rights Commission
 - d) Privacy Commissioner
 - e) NSW Ombudsman
 - f) NSW Anti-Discrimination Board
 - g) Police
45. External review may involve engaging a lawyer and/or lodging court proceedings. A student is free to exercise both of these options but does so at their own cost and risk.

GRIEVANCE OUTCOMES

46. Once the investigation has been conducted, appropriate resolutions to the grievance will be considered.
47. Wherever possible, a resolution should allow study or work to continue productively and harmoniously, and enable essential relationships to be restored, preserved and enhanced. Appropriate outcomes should be discussed with the parties in the course of an investigation.
48. If any allegations have been made and are substantiated, appropriate outcomes might include:
 - a) a requirement that the complainant receives an apology and/or the issue complained of is addressed or the behaviour modified;
 - b) remedial action (e.g. correction of records);
 - c) a requirement that the respondent undertake training or development;
 - d) measures to address any potential workplace or classroom repercussions;
 - e) mediation by a mutually accepted third party;
 - f) counselling with a trained professional for the complainant and/or respondent;
 - g) establishing a monitoring period to assess the progress of the strategies undertaken;
 - h) disciplinary action.
49. If the allegations are not substantiated, appropriate outcomes might include:
 - a) the complainant is provided with feedback to gain a better understanding of the situation so that his/her concerns are addressed;
 - b) measures to restore the work or study relationship such as facilitation or mediation by a trained professional.
50. If the allegations cannot be proved or disproved, appropriate outcomes might include:

- a) advice to both parties that no further action is required;
 - b) training and development for both parties;
 - c) measures to restore the work or study relationship such as facilitation or mediation by a trained professional;
 - d) negotiation of “behaviour arrangements” setting out how the parties will, or will not, behave towards each other in the future and what will happen if this does not occur;
 - e) establishing a monitoring period to assess the progress of the strategies undertaken.
51. During the investigation, if systemic issues are identified which involve NTI policies, requirements or practices, the grievance outcomes can include recommendations to address these issues. These recommendations will be appropriately submitted to NTI Planning and Review Committee (PRC) or NTI Education Committee.

REQUIREMENTS OF CONFIDENTIALITY

52. Maintaining strict confidentiality gives all parties confidence in the procedure, minimises the disruption caused by gossip and rumour, can prevent escalation of the situation and possible victimisation, and can minimise the risk of defamation claims.
53. Investigators of a complaint or grievance must comply with NTI’s Privacy Policy and inform all parties of their responsibilities in relation to confidentiality:
- a) Complainants – grievances should be discussed only with investigators, support person and with medical practitioners or counsellors who are bound by confidentiality codes. Complainants should be advised that, after lodgment of a grievance, discussion of the matter with any other person is inappropriate and not in their best interests because it may leave them open to defamation actions, as well as unduly complicating the matter.
 - b) Respondents – grievances should be discussed only with investigators, with their support person, and with medical practitioners or counsellors who are bound by confidentiality codes.
 - c) Investigators – should obtain the consent of the complainant before disclosing their identity to others, with the exception of the respondent, unless NTI’s duty of care or other obligations may be compromised if action is not taken. Investigators may discuss the matter in the context of getting advice from related parties.
 - d) Staff with supervisory responsibility – should take steps to manage situations where confidentiality has been breached.

RECORD KEEPING

54. Records and documents created in the course of investigating a grievance, as well as the outcome of the investigation, will be stored in the Grievance Register for a period of at least seven (7) years.
55. No records relating to a grievance will be stored in students’ personal files.
56. All parties involved in the grievance are obliged to keep records and documents in line with preserving confidentiality and respecting privacy in accordance with this policy, NTI Code of Conduct, NTI Privacy Policy and other relevant privacy legislation.

Legislation and Regulation

Anti-Discrimination Act, 1977 (NSW)

Australian Human Rights Commission Act 1986

Disability Discrimination Act 1992

Education Services for Overseas Students (ESOS) Act 2000

Higher Education Standards Framework (Threshold Standards) 2015

Higher Education Support Act 2003

National Code of Practice for Providers of Education and Training to Overseas Students 2018

Contacts

NTI President	info@nantien.edu.au
Admissions / Student Services Office	enquiry@nantien.edu.au
	(02) 4258 0740
Director, Student Services	enquiry@nantien.edu.au
	(02) 4258 0741
Overseas Student Ombudsman	www.ombudsman.gov.au
Fair Trading, New South Wales	www.fairtrading.nsw.gov.au
Australian Human Rights Commissioner	www.humanrights.gov.au
Privacy Commissioner	www.oaic.gov.au
Commonwealth Ombudsman	www.ombudsman.gov.au
TEQSA (Tertiary Education quality and Standards Agency)	www.teqsa.gov.au
NSW Anti-Discrimination Board	www.antidiscrimination.justice.nsw.gov.au
Police	000