

Date last reviewed	May 2016
Frequency of reviews	Every 3 years
Next review due	May 2019
Audience	All staff
Stakeholders	WHS Committee, College Executive, EO Contact persons
Related policies	Student sexual harassment policy, Grievance policy

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Introduction

Overview

This policy provides a framework for preventing and dealing with discrimination, bullying and sexual harassment. It outlines the commitment of Portside Christian College to a safe environment free of these behaviours.

Purpose

Portside Christian College is committed to providing a working and learning environment for its staff, students, parents, volunteers and visitors that is supportive, caring and free from wrongful discrimination, bullying and sexual harassment.

Discrimination, bullying and sexual harassment in employment can be unlawful under anti-discrimination, equal employment opportunity, workplace relations and human rights laws.

Wrongful discrimination, bullying and sexual harassment are unacceptable to the College and will not be tolerated under any circumstances. All members of the College community, particularly staff and students, are required to support and honour this commitment.

The College values of Christ-centred caring, Christ-centred learning, Christ-centred community and Christ-centred serving should be evident in the behaviour of staff and students.

The College requires that staff, students and other members of the College community treat each other with respect. Staff are expected to display appropriate professional behaviour in their dealings with each other, students, members of the College community, visitors and other people they meet as a part of their work with the College.

Application

This policy applies to full-time, part-time, casual, contract and voluntary workers at the College.

Equal Opportunity

Definition of Equal Opportunity

Equal Opportunity is a positive way of describing the absence of discrimination. Equal Opportunity means fair treatment for everyone. Fair treatment is:

- treating people as individuals without making judgments based on irrelevant personal characteristics
- creating a work environment free from discrimination, harassment, bullying and victimisation
- allowing all employees to work to their full potential
- making decisions based on merit

Definition of unlawful discrimination

Unlawful discrimination is unfairly treating people because of their particular **personal characteristics** (or because they belong to a certain group) that results in **loss or humiliation**.

Unlawful discrimination applies to all stages of **employment**, such as, job advertisements, applications, offers of employment, promotions, training, transfers and dismissal.

Discrimination can be direct or indirect. Indirect discrimination is treatment which appears to be equal but is unfair on certain people.

For discrimination to be unlawful it must also be **unreasonable**.

Personal characteristics

It is unlawful to unfairly treat people because of their:

- age
- sex
- chosen gender
- race
- disability
- sexuality
- marital or domestic partnership status
- social origin
- trade union activity
- pregnancy
- caring responsibilities
- identity of spouse
- religious appearance or dress
- political opinion
- religion
- irrelevant criminal record
- medical record

However, it is not discrimination if:

- A person can't adequately perform the tasks required by the job without endangering themselves or others, or can't respond to reasonably anticipated emergency situations.
- There is a genuine occupational requirement for a person to possess a particular personal characteristic.
- There is an exemption in the Act. For example, as a Christian organisation, it is not unlawful for the College to discriminate in relation to employees needing to be Christians who adhere to our Christian beliefs.

Bullying

Workplace bullying can have a significant negative impact on individuals and the workplace. Like all hazards in the workplace it needs to be managed. Everyone at work has a responsibility for work health and safety (physical and psychological) and a responsibility to ensure that workplace bullying does not occur.

Definition of workplace bullying

Workplace bullying is defined as **repeated** and **unreasonable behaviour** directed towards a worker or a group of workers that **creates a risk to health and safety**.

- **Repeated behaviour** refers to the persistent nature of the behaviour and can involve a range of behaviours over time. A single incident of unreasonable behaviour is not usually considered to be workplace bullying. However it may have the potential to escalate and should not be ignored.
- **Unreasonable behaviour** means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable. This can include behaviour that is victimising, humiliating, intimidating or threatening.

Workplace bullying does not only occur face to face. It can also be carried out in a variety of ways including through email, text messaging, internet chat rooms or other social media channels. In some cases, workplace bullying may occur outside normal working hours.

Workplace bullying can be directed at a single worker or group of workers and be carried out by one or more workers. It can also be directed at or perpetrated by other people such as parents, students and members of the public.

Examples of bullying behaviour

Bullying behaviour may involve, for example, any of the following types of behaviour:

- aggressive or intimidating conduct
- belittling or humiliating comments
- spreading malicious rumours
- teasing, practical jokes or 'initiation ceremonies'
- exclusion from work-related events
- unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- displaying offensive material
- pressure to behave in an inappropriate manner
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- denying access to information, supervision, consultation or resources to the detriment of the worker
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers

Bullying is **not**:

- Reasonable management action taken in a reasonable way. It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on a worker's performance. These actions are not considered to be workplace bullying if they are carried out lawfully and in a reasonable manner, taking the particular circumstances into account.
- Workplace conflict. Differences of opinion and disagreements are generally not considered to be workplace bullying. People can have differences and disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, in some cases, conflict that is not managed may escalate to the point where it meets the definition of workplace bullying.

Responses to allegations

Substantiated allegations

The actions taken will vary depending on the severity of the workplace bullying and can be aimed at both the individual and organisational level. Actions may include:

- obtaining an apology and a commitment that the behaviour will not be repeated
- providing coaching or training e.g. communication skills
- providing counselling support
- addressing organisational issues that may have contributed to the behaviour occurring
- providing a verbal or written warning
- regular monitoring of behaviour
- demotion, dismissal or other actions subject to workplace relations laws

A combination of strategies may be necessary to prevent workplace bullying from reoccurring.

If the issue is not resolved, a worker who reasonably believes they have been bullied at work may apply to the Fair Work Commission for an order to stop the workplace bullying (from 1 January 2014).

Unsubstantiated allegations

If an investigation finds a report of workplace bullying is not substantiated, assistance may still need to be provided to resolve outstanding issues. This may involve mediation, counselling or changing working arrangements. Refer to the *Conflict Resolution and Grievance Procedure Policy* for more information.

If the report is found to be vexatious or malicious, disciplinary action or counselling may be considered.

Sexual harassment

Definition of sexual harassment

Sexual harassment is sexual behaviour which makes people feel offended, afraid or humiliated and, in the circumstances, it is reasonable to feel that way. Both men and women can sexually harass or be harassed.

Mutual attraction or friendship with consent is not sexual harassment.

Sexual harassment can be verbal, physical, written or visual. Forms of sexual harassment may include:

- the distribution or display of offensive pictures, objects or written material
- repeated unwelcome requests for social outings or dates
- offensive comments about a person's physical appearance, dress, private life or sexual orientation
- jokes, intrusive questioning, messages or telephone calls of a sexual nature
- direct propositioning, or subtle pressure for sexual favours
- leering or unnecessary familiarity
- malicious gossip and/or exclusion on the basis of gender or sexual orientation
- unwelcome physical contact such as patting, pinching or touching
- language or body gestures that intimidate, cause fear and/or discomfort
- questions about sexual activity or sexual orientation
- sexual assault

Rights and responsibilities

It is the legal responsibility of the College and all its employees to take all reasonable steps to prevent discrimination, bullying and sexual harassment and victimisation.

Equal Opportunity law gives rights and responsibilities to employees, current and potential, and to employers.

Staff rights and responsibilities

Staff have:

- the right for employment decisions to be made on merit
- the right not to be discriminated against, sexually harassed or victimised at work
- the right to be protected by their employers from these behaviours
- the right to complain
- the right to work in an environment free of discrimination and sexual harassment
- the right to report to management if they are being harassed by anyone in the course of their work
- the responsibility not to discriminate against, sexually harass or victimise other staff or clients
- the responsibility to be familiar with Equal Opportunity policies and complaint procedures

Students and caregivers rights and responsibilities

Students and caregivers have:

- the right not be discriminated against, sexually harassed or victimised by College staff
- a responsibility not to harass staff

Employer rights and responsibilities

Employers have:

- the right to control, direct and monitor work performance
- the right to give legitimate comment on performance or work related behaviour
- the responsibility to provide a safe working environment, ensuring that the workplace is free from discrimination, bullying, sexual harassment and victimisation
- the responsibility to appoint Equal Opportunity Contact Person/s and make them known to staff
- the responsibility to provide training and education to staff on discrimination, bullying and sexual harassment issues
- the responsibility to encourage reporting of discrimination, bullying and sexual harassment
- the responsibility to take all reasonable steps to prevent discrimination, bullying and sexual harassment
- the responsibility to respond quickly, seriously and effectively to any complaints in a confidential manner
- the responsibility to investigate allegations promptly
- the responsibility to provide support to all parties involved

Equal Opportunity Contact Persons

Portside Christian College appoints Equal Opportunity Contact Persons to provide assistance and support to workers. Where possible, two Equal Opportunity Contact Persons will be appointed – a male and a female.

Equal Opportunity Contact Persons at the College are **David Lepore** and **Debbie Antoniw**.

An Equal Opportunity Contact Person is a point of contact for someone who perceives that they are being discriminated against, bullied or harassed. Equal Opportunity Contact Persons are able to:

- hear their complaint
- give them information on policies and procedures
- discuss options to resolve the problem
- refer them for more help if needed

The College will undertake to supply Equal Opportunity Contact Persons with appropriate training and professional development.

Dealing with discrimination, bullying or sexual harassment

The aggrieved person may:

- Approach the person to explain their concern either alone or with the support of Equal Opportunity Contact Person, Principal or Deputy Principal.
- Discuss the matter with the Equal Opportunity Contact Person, Principal or Deputy Principal.
- Make a formal complaint, verbally or in writing, to the Principal or Deputy Principal who will ensure that the complaint is dealt with immediately, confidentially, fairly and with protection from victimisation.
- Lodge a complaint with the Commonwealth Human Rights Commission, Equal Opportunity Commission or other relevant Government authority.

Victimisation

Victimisation is unfairly treating people for making a complaint or helping others to make a complaint, either within the College or to the Equal Opportunity Commission.

It is against the law to victimise a person who:

- has made a complaint or intends to make a complaint
- acts as a witness or intends to act as a witness
- supports a victim
- intends to support a victim

Investigating a complaint

When investigating a complaint the principles of natural justice (procedural fairness) should be considered:

- Persons who are the subject of a complaint must be fully informed of the allegations
- Persons who are the subject of a complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence
- The allegations should be properly investigated
- Persons who make an allegation cannot be involved in determining the outcome
- The confidentiality of all parties is of utmost importance

Child protection

Refer to the Student Sexual Harassment and Anti-Bullying policies.

Legislation

Relevant legislation will include but is not limited to:

- Equal Opportunity Act 1984 (SA)
- Racial Vilification Act 1996 (SA) and the racial victimisation provisions in the Civil Liability Act 1936 (SA)
- Whistleblowers Protection Act 1993 (SA)
- Sex Discrimination Act 1984
- Racial Discrimination Act 1975
- Disability Discrimination Act 1992
- Age Discrimination Act 2004
- Workplace Gender Equality Act 2012
- Australian Human Rights Commission Act 1986
- Commonwealth Privacy Act 1988 (including National Privacy Principles contained therein)
- Work Health and Safety Act, 2012
- Work Health and Safety Regulations, 2012
- Draft Code of Practice, Preventing and Responding to Workplace Bullying, 2012

References

Guide to preventing and responding to workplace bullying

Safe Work Australia, 2013

Sample Equal Opportunity Policy

Equal Opportunity Commission, Government of South Australia, 2016

Change history

Review Date	Amendments
July 2008	<ul style="list-style-type: none">• Policy first approved as Sexual Harassment policy
May 2009	<ul style="list-style-type: none">• Minor changes
September 2014	<ul style="list-style-type: none">• Name changed to 'Bullying, Discrimination and Sexual Harassment' policy• Equal opportunity and bullying definitions and actions included
May 2016	<ul style="list-style-type: none">• Additions made in line with the new 'Sample Equal Opportunity Policy'• Prepared for College Board approval

Policy dissemination and training

Who	Method	Frequency	Details
All staff	Group training	Every 3 years	Training is required for all workgroups at the College
Parents/Guardians	College Newsletter	Every 3 years	This policy must appear on the College website

Distribution

Information from this policy should be included in the following documents:

- College Handbook
- Staff Handbook
- ELC Handbook
- OSHC Handbook
- College website