



Sapphire Coast Anglican College

ANTI-DISCRIMINATION, SEXUAL HARASSMENT AND BULLYING POLICY AND PROCEDURES

2017

Policy Document Information

Policy Name:	Anti-Discrimination, Sexual Harassment and Bullying Policy and Procedures
Author:	D. Price
Compliance	
Board of Studies	Registered and Accredited Individual Non-government Schools (NSW) Manual Section 3.6.2 (Safe and Supportive Environment) Section 3.7.1 (Discipline) Section 3.10.1 (Reporting on changes made to policies)
Department of Education Science and Technology	Safe Schools Framework Guiding Principles Key elements of good practice.
Legislative requirements	Sex Discrimination Act 1984 (Commonwealth) Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth) Anti-Discrimination Act 1977 (NSW) Anti-Discrimination Amendment (Miscellaneous Provisions) Act 2004 (NSW)
Other Policy Relationships	Code of Conduct; Pastoral Care Policy; Roles and Responsibilities Complaints and Grievances (Conflict Resolution) Policy
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Introduction

This policy is mandatory for all personnel working in any capacity at Sapphire Coast Anglican College. It provides mechanisms to handle anti-discrimination, sexual harassment and bullying complaints and clearly states it is totally unacceptable for any person at the College to experience any form of harassment.

This document provides information about behaviours that can be considered harassment, the options that a person who is experiencing harassment can choose, and the procedural steps to be taken when responding to a person who makes an harassment complaint. It also details the responsibilities of different parties should an allegation be made and provides complaint report proformas as appendix documents.

All staff members must ensure students have a safe and supportive environment. A safe environment for students is one where the risk of harm is minimised and students feel secure.

Harm relates not only to dangers in the built environment, involving such matters as architecture and construction, lighting, space, facilities and safety plans, but also refers to violence, physical threats, verbal abuse, threatening gestures, sexual harassment and racial vilification.

A supportive environment facilitates and enhances the social, academic, physical and emotional development of students. *(Registered and Accredited Individual Non-government Schools (NSW) Manual Section 3.6.2)*

2 Rationale

Abuse towards any other person, whether it is physical or verbal, is an affront to God. God calls upon us to honour all men and women because we have been all created in His image. Biblical principles clearly condemn discriminatory behaviour. Sapphire Coast Anglican College is committed to a school environment, which is free from discriminatory and harassing behaviours. In making this commitment the school expects that all staff and students will maintain appropriate standards of behaviour and will respect individual differences.

In particular, staff and students should not be subjected to behaviour, practices, policies or processes that may constitute unlawful discrimination, harassment of a sexual or other nature, victimisation or

vilification.

This policy exists to provide an effective proactive mechanism in facilitating the fair resolution of complaints regarding anti-discrimination, sexual harassment and bullying in relation to the actions of any person working at Sapphire Coast Anglican College.

3. Guiding Principles

It is expected that each person working at Sapphire Coast Anglican College will uphold Christian and College values and comply with the law to:

- a) Uphold the dignity and respect of the individual.
- b) Promote the principle of equal opportunity.
- c) Refrain from any behaviours that impinge negatively upon a person's dignity and rights, morale and work effectiveness.
- d) Contribute to a quality of life through respect and tolerance.
- e) Protect cultural and social diversity.
- f) Engender fairness and respect in relationships.

The principles of *natural justice* will apply to decisions made under this Policy. The two fundamental principles of *natural justice* are:

- a) Those making a decision are not biased
- b) Each person who has a complaint against them will be given a fair opportunity to be heard in response to the specifics of the complaint.

Privacy legislation will apply to all records generated under this policy document.

All complaints must be treated with the utmost confidentiality. This does not affect the complainant's right to seek external assistance. It is important when handling a complaint's information that confidentiality of all parties concerned is respected. Information will be shared only on a 'need to know' basis and as necessary to comply with the requirements of this policy as required by law. Information will be regarded as confidential if:

- a) Information has the 'necessary quality of confidence' in that any

unauthorized use would be detrimental to a party.

- b) It was shared or confided under circumstances where there was a special need for trust such as between the delegated Harassment Officer (delegated by the Principal) and the complainant or between the Principal and the alleged offender.

It is against the law for a person to be victimised. Victimisation occurs if a person is treated detrimentally because they made or were involved in a complaint of discrimination, bullying or sexual harassment.

Victimisation under this policy extends to the person who made the complaint, the person against whom the complaint is made and any other party involved in the handling of the complaint. Victimisation under this policy and the law can be the basis of another complaint.

Harassment may breach a number of laws including:

- a) Contract.
- b) Negligence (failure to provide adequate duty of care).
- c) Criminal law.
- d) Statutory laws of NSW and the Commonwealth such as Discrimination Law Amendment Act, 2002; Sex Discrimination Act 1984; Human Rights and Equal Opportunity Commission Act 1986; Anti-Discrimination Act (NSW) 1976; Anti-Discrimination Amendment-Miscellaneous Provisions Act (NSW) 2004; Racial Discrimination Act 1975; Disability Discrimination Act 1992; Privacy Amendment (Private Sector) Act 2000.
- e) Any relevant standards and codes of ethics.

4. Policy Statement

The Board of Sapphire Coast Anglican College is committed to provide for each person working, or studying, at the College an atmosphere of safety, based on mutual respect and dignity.

Any complaint of harassment (including unlawful discrimination, bullying and sexual harassment) will be handled by procedures that provide a prompt response, in an effective manner, ensuring confidentiality and non-victimisation of all involved parties.

5. Definitions – Discrimination

The definitions contained in this policy are framed with reference to specific legislation and concern unlawful discrimination. Not all unacceptable behaviours may be considered "discriminatory", but will still be proscribed by other school policies or rules, such as, for example, those covering work performance issues, staff or student misconduct or the principles enshrined in the Code of Conduct.

- a) **Discrimination** is unfair or inequitable treatment on the basis of the characteristics and attributes listed in the section *Characteristics or Attributes*.
- b) **Harassment** is behaviour, comments or images that are unwelcome, offensive or intimidating and that, in the circumstances, a reasonable person should have expected would be offensive or intimidating.
- c) **Victimisation** is any unfavourable treatment of a person as a consequence of their involvement in a grievance under the College's grievance procedures. Unfavourable treatment may include such things as adverse changes to their work or study environment, denial of access to resources, work opportunities or training, or ostracism.
- d) **Vilification** is the public incitement of hatred, serious contempt or severe ridicule of a person on the basis of the race of that person. Vilification does not include, for example, legitimate academic debate about issues that might include discussions of race.

6. Forms Of Discrimination

Direct discrimination: treating someone in an unfair or less favourable way because of one or more characteristics or attributes.

Indirect discrimination: an unnecessary rule or requirement that is the same for everyone but has the effect of disadvantaging individuals and groups sharing the same characteristics or attributes.

Systemic or institutional discrimination: covert or hidden discrimination against particular groups (often unconscious) built into the seemingly neutral practices and policies of an institution or organisation.

Characteristics Or Attributes

The following are the main attributes covered by anti-discrimination legislation:

- Sex, pregnancy or potential pregnancy
- Race or colour
- National or ethnic origin
- Marital or carer status
- Breastfeeding requirements
- Sexual preference or orientation
- Disability, including HIV Aids status
- Age
- Religious or political beliefs
- Membership or non-membership of an industrial association
- Family responsibilities

7. Obligations on Staff, Students and Parents

All staff, students and parents are expected to contribute to the removal of discrimination and harassment from Sapphire Coast Anglican College.

All members of the school community can actively participate by:

- Speaking up. People should be made aware that discriminatory and/or harassing behaviour is unacceptable.
- Promoting mutual respect between individuals, irrespective of whether they are students, parents or members of staff.
- Fostering informed attitudes and behaviour, which support the prevention of discrimination objectives.

8. Sexual Discrimination

Sexual discrimination occurs when a person is treated less fairly than another person because of their sex or marital status or because they are pregnant. This is direct discrimination. Indirect discrimination can also occur when a requirement that is the same for everyone has an unfair effect on some people because of their sex, marital status, pregnancy or potential pregnancy.

The Sex Discrimination Act 1984 makes sex discrimination against the law. The Act gives effect to Australia's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women and parts of International Labour Organisation Convention 156. Its major objectives are to:

- Promote equality between men and women
- Eliminate discrimination on the basis of sex, marital status or

pregnancy and, with respect to dismissals, family responsibilities

- Eliminate sexual harassment at work, in educational institutions, in the provision of goods and service, in the provision of accommodation and in the administration of Federal programs.

Accordingly, Sapphire Coast Anglican College expects that all staff and students will maintain appropriate standards of behaviour and will respect individual differences.

9. Sexual Harassment

Complaints of sexual harassment will be dealt with promptly, strictly confidentially, sympathetically and impartially by the Principal with due regard for the sensitivity of the issue and the privacy and rights of the individual concerned.

If a student or staff member experiences such conduct, confidential advice and assistance is immediately, or as soon as possible, available from Principal.

a) Sexual Harassment - Definitions

- i. Sexual harassment is any unwelcome conduct, including comments, attention or contact of a sexual nature, that a reasonable person would have anticipated would cause the person subjected to that conduct offence, humiliation or intimidation. It can be verbal, physical, written or visual.
- ii. Activities conducted in the context of mutual attention or consenting friendship do not constitute sexual harassment.
- iii. Examples of sexual harassment may include:
 - The distribution or display of offensive pictures or written material
 - Repeated unwelcome requests for social outings or dates
 - Offensive comments about a person's physical appearance, dress or private life (excepting constructive or correctional comments by the Principal with regard to appearance, dress or life style)
 - Jokes, intrusive questioning, messages or telephone calls of a sexual nature

- Direct propositioning or subtle pressure for sexual favours
- Leering or unnecessary familiarity
- Unwanted physical conduct, such as patting, pinching or touching; or sexual assault
- Persistent questions or insinuations about a person's private life
- Offensive phone calls, letters, e-mail messages or the negative use of social media.

b) In relation to sexual harassment it is against the law to victimise a person who:

- Has made a complaint
- Intends to make a complaint
- Acts as a witness
- Intends to act as a witness
- Supports a victim or; intends to support a victim.

A person is *victimised* if threatened, harassed, harmed or subjected to any form of detrimental action.

10. Unreasonable Behaviour

Difficulties can arise in determining what behaviour goes beyond the boundaries for what is “welcome”. Staff should be careful not risk being misunderstood and thus becoming the subject of complaint. Some people find particular types of behaviour offensive when others would not. *The behaviour must always be considered from the point of view of the person receiving it. Innocent intention is no defence to sexual harassment.*

Put simply, no one should tolerate sexual harassment.

Staff at Sapphire Coast Anglican College will make every effort to:

- Create a working and learning environment that is free from sexual harassment and where all members of the school community are treated with dignity, courtesy and respect
- Implement training and awareness raising strategies to ensure that all staff and students know their rights and responsibilities
- Provide an effective procedure for complaints based on the principles of natural justice
- Treat all complaints in a sensitive, fair, timely and

confidential manner

- Guarantee protection from any victimisation or reprisals
- Encourage the reporting of behaviour which breaches the sexual harassment policy
- Promote appropriate standards of conduct at all times.

Accordingly, Sapphire Coast Anglican College will take every reasonable step to ensure that all staff and students should enjoy a working environment free of all forms of discrimination, including sexual harassment. No employee or student, either male or female, should be subjected to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical.

11. Further Procedures

11.1 Responsibilities

Each person working at Sapphire Coast Anglican College has responsibility for:

- a) Becoming conversant with this policy
- b) Promoting equality and a working environment free from any form of harassment
- c) Encouraging a person who is subjected to harassment to approach the Principal or delegate (who shall act as Harassment Officer within the organisation).

The Principal has responsibility for:

- a) Implementing this policy and, in conjunction with the College Senior Staff providing necessary professional development to ensure staff cognizance.
- b) Receiving harassment reports
- c) Exercising discretionary intervention at any stage, in accordance with the Guiding Principles of this policy.
- d) Notifying the College Board and relevant authorities, if complaints are warranted under the law.

11.2 Initiating a Complaint

Any person working at Sapphire Coast Anglican College (ie: the complainant) who believes they have a bonafide complaint is encouraged to immediately, or at the earliest convenient time to consult with the Principal. The Principal will be able to provide information regarding the options available to the

complainant. If the complaint is against the Principal, the Head of Senior School shall be informed and will be required to notify the College Board as soon as possible, requesting direction or managerial oversight of the complaint process.

11.3 Complaint Options

Options available to the complainant include:

- a) Taking no further action
- b) Choosing an internal informal option whereby they may speak to the person against whom the complaint has been made either individually or in the presence of a witness or the Principal.
- c) Choosing an internal formal option whereby they will complete a formal written complaint utilizing Appendix 1 and Appendix 2 documents.
- d) Conducting of a formal investigation by the Principal utilizing Appendix 3, 4 and 5 documents.
- e) Choosing to lodge an external formal option whereby they may decide to pursue external legal remedies such as the Anti-Discrimination Board of NSW.