

# Staff Bullying, Harassment and Discrimination Policy



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## 1. CONTEXT

Saint Ignatius' College Riverview (the College) is a Catholic, Jesuit boarding school for boys from Year 5 to Year 12. Situated on the beautiful Lane Cove River in Sydney NSW, it has an enrolment of over 1600 students. The College is conducted by the Society of Jesus and is part of a worldwide network of Jesuit schools and universities.

Established in 1880, the College is committed to an education for each student that proposes Christ as the model for human life by promoting the spiritual, academic, social, physical and experiential growth of its students.

The educational program at the College is dedicated to the holistic formation of the human person and does so through the pursuit of 'human excellence'. We seek to form, in companionship with parents, young men who are highly competent, committed, compassionate and with a developed conscience. We seek to form young men who are for and with others.

The purpose of the College policies and procedures is to provide a framework which ensures that the safety, individual care (*cura personalis*) and dignity of each person is paramount.

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## 2. PRINCIPLES

The purpose of this Policy is to provide direction to staff regarding their obligations with respect to complying with the relevant law on unlawful discrimination, harassment and bullying as it pertains to the workplace. As the College may be vicariously liable for a claim made by an employee with respect to unlawful discrimination, harassment or bullying it is important that staff understand and are familiar with the concepts and obligations under the Policy.

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## 3. PURPOSE

The purpose of this Policy is to make employees aware of:

- what 'unlawful workplace discrimination', 'harassment' and 'bullying' mean;
- the procedures the College has in place to deal with workplace complaints relating to discrimination, harassment and bullying; and
- who employees can speak to at the College if they wish to make a complaint.

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## 4. SCOPE

This policy applies to all employees, contractors and volunteers engaged by the College and applies to behaviour:

- in the workplace, including while working outside normal working hours;
- while undertaking work activities including interaction with parents or other third parties, and while working away from the College (e.g. College trips or sport activities); and
- at work-related events e.g. conferences and social functions.

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## 5. POLICY

Everyone at Saint Ignatius' College Riverview has the legal obligation not to discriminate against, or harass for any unlawful reason, or bully for any reason any employee, agent, contractor, supplier, volunteer, parent, student or visitor.

The College expects all staff members to treat each other and other people with whom they come into contact as representatives of the College with respect and courtesy.

## 5.1 Unlawful Discrimination

There are a number of Federal and State laws which presently make discrimination unlawful on a variety of grounds (unlawful reasons) including:

- sex, marital or relationship status, pregnancy, breastfeeding or family responsibilities;
- sexuality or sexual preference;
- race, colour, descent, nationality, national origin, ethnicity or ethno-religious origin;
- religious belief or activity;
- political belief or activity;
- trade union activity;
- disability or impairment;
- transgender status or gender identity;
- age;
- responsibilities as a carer; or
- service in the voluntary Defence Forces.

Discrimination can occur in the recruitment process, during the course of employment or upon termination of employment. Discrimination can also occur in the provision of goods or services. Staff members should not discriminate against co-workers, contractors, volunteers, parents and students.

Discrimination can be direct or indirect.

### 5.1.1 Direct Discrimination

Direct discrimination occurs where someone is treated less favourably because of their sex, age, racial group etc. An example of direct discrimination is when an employee misses out on an internal promotion because they are considered too old for the job.

### 5.1.2 Indirect Discrimination

Indirect discrimination occurs where everyone is treated on the same terms according to a rule, policy or directive but which has the effect of being less favourable to people of a particular sex, age group, race, religion etc and which is not reasonable in all the circumstances. An example of indirect discrimination would be a College policy stating that the junior school will not engage part time teachers – this would impact on teachers who may wish to work part time due to carers' responsibilities and would most likely exclude a large proportion of women – and this restriction is not reasonable.

There are exceptions from anti-discrimination law which may apply in some situations – for example, because of the requirements of a particular job. It may be reasonable for only women to supervise in a girls' boarding school.

## 5.2 Unlawful Harassment

Unlawful harassment is a type of unlawful discrimination. In general, unlawful harassment is any form of conduct or behaviour which affects a person that:

- is unwelcome (not wanted) or uninvited (not asked for); and
- is based on one of the unlawful reasons; and
- a reasonable person would have anticipated might humiliate, offend or intimidate the person exposed to the conduct.

Types of unlawful harassment include, but are not limited to:

- sexual harassment;
- verbal abuse or comments that degrade or stereotype people because of their race, sex, sexuality, pregnancy, disability, etc;
- jokes based on race, sex, sexuality, pregnancy, disability etc;
- mimicking someone's accent, or the habits of someone with a disability;
- offensive gestures based on race, sex, sexuality, pregnancy, disability, etc;
- bullying a person because of their race, sex, sexuality, pregnancy, disability, etc;
- ignoring or isolating a person or group because of their race, sex, sexuality, pregnancy, disability, etc; or
- display or circulation of racist, pornographic or other offensive material (including in electronic format).

Harassment might not be unlawful, if it is not based on one of the unlawful reasons. However, the College expects staff to treat each other and other people with whom they come into contact as representatives of the College with respect and courtesy.

In some cases, a single action or incident can create unlawful harassment. In other cases, there may need to be a persistent pattern of behaviour before unlawful harassment has occurred.

### 5.3 Unlawful Sexual Harassment

Unlawful sexual harassment is one form of harassment which the law does not allow. A person sexually harasses another person if:

- the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person; or
- engages in other unwelcome conduct of a sexual nature in relation to the person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person exposed to the conduct would be offended, humiliated or intimidated.

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;
- offensive sexual gestures;
- unwelcome comments or questions about a person's sex life;
- display, circulation of sexual material, including magazines, posters or pictures (including in electronic format);
- sending email or text messages which contain sexual content or tone; or
- sexual assault.

It is important to understand that some of these forms of sexual harassment are also criminal behaviour and may be treated as a criminal offence.

Mutual attraction between people is not sexual harassment. Conduct which is welcome or consensual is not unlawful, and friendships (sexual or otherwise) which develop between people who meet at work are a private concern provided they do not impact on the workplace or the College.

However, great care should be exercised before engaging in conduct thought or believed to be welcome. All staff should remember that some people may not feel comfortable communicating to another that a

certain behaviour is offending them and is not welcome. This may be because of their personality or may be because they are too worried about the possible impact on their employment if they complain. It is each staff member's responsibility to ensure that there is no engagement in conduct which is not welcome. Similarly, it is an employee's responsibility to communicate to the other person if they do not feel comfortable with their behaviour, or at least to raise the issue with a manager or supervisor or some other appropriate person.

It should also be remembered that even conduct which is welcome may not be appropriate in the workplace. For clarification about whether conduct is appropriate, speak to a Head of Department, Chief People Officer or the Principal.

Further, any personal friendships that develop should not adversely impact on the College, work responsibilities or on the performance or productivity of co-workers.

#### 5.4 Bullying

Workplace bullying is repeated, unreasonable behaviour directed toward a staff member, other individual, or group that may cause harm, including risks to health and safety.

Unreasonable behaviour means behaviour that a reasonable person having regard to all the circumstances would expect to humiliate, intimidate or threaten another person. Such behaviour can include an individual's or group's actions or practices which humiliate, intimidate or threaten another person.

Bullying may also amount to unlawful discrimination or harassment.

The following types of behaviour, particularly if directed towards an individual repeatedly, may amount to bullying:

- demeaning language;
- threats;
- verbal abuse;
- outbursts of anger or aggression;
- physical or verbal intimidation;
- excluding or isolating; and
- ganging up.

Other types of behaviour may also constitute bullying.

Performance management and directions in relation to the performance of work or conduct required by the College are not bullying or harassment.

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## 6. EXPECTATIONS AND OBLIGATIONS

All employees at the College has the legal obligation not to discriminate against, or harass for any unlawful reason, or bully for any reason any employee, agent, contract worker, contractor, supplier, parent, student or visitor.

An employee must give thought to how their behaviour will be viewed by the person or people they are dealing with. It is not a legally acceptable defense to say that you did not mean or intend to humiliate, offend or intimidate somebody else.

It is sometimes difficult to know whether a staff member will find a colleague's behaviour acceptable. What is offensive to one person may not be offensive to another. Staff should be careful not to risk being misunderstood and, as a result, becoming the subject of a complaint.

## 6.1 Victimisation

A staff member must not victimise a colleague because they have made, or propose to make, a complaint of unlawful discrimination, harassment or bullying or because they have provided information in relation to a complaint.

## 6.2 Action in Response to Bullying, Harassment and Discrimination

Employees who feel they are being unlawfully harassed, discriminated against or bullied, should take action to resolve the problem, including:

- not ignoring circumstances where they feel they are unlawfully being discriminated against, harassed or bullied, thinking it will go away. Ignoring the behaviour could be taken as tacit approval by the person causing the harassment, discrimination or bullying;
- when comfortable, ask the person to stop or make it clear that the behaviour is offensive or unwelcome. Maybe the alleged discriminator, harasser or bully is not aware that his/her behaviour is intimidating or unwelcome and will stop once they are told;
- speak with the Head of Department/ Faculty in the first instance to seek guidance on how to do this; and/or
- raise the issue as a complaint with either the Chief People Officer or the Principal under this policy, as soon as possible after the incident(s) has occurred.

If an employee feels they are being victimised in response to having made or propose to make a complaint of unlawful discrimination, harassment or bullying or because information has been provided in relation to a complaint, the staff member should raise the issue as soon as possible with either the Chief People Officer or the Principal.

If the issue is about the Principal, then the issue should be raised as a grievance with the Chair of the College Board under this policy.

## 6.3 Discretion

Care should be taken in regard to discussing the matter with a trusted friend or colleague. Accusations of unlawful discrimination/harassment can harm the reputation of those involved and could lead to legal action for defamation.

Matters of this kind must be dealt with confidentially on a need to know basis. Do not discuss this matter generally with colleagues or members of the College community. It is in everyone's best interests if rumours are not allowed to spread.

## 6.4 College Response to a Complaint

All complaints will be treated seriously and generally in accordance with this policy. The College will determine the most appropriate method of dealing with the grievance. This could include (among other things):

- requesting further information from the complainant;
- requesting information from other co-workers or third parties;
- meeting with the complainant or others involved in the grievance;
- reviewing and responding to the grievance or arranging for an appropriate person to review and respond to the grievance; or
- facilitating a meeting between the complainant and the person(s) that the grievance is about.

On receipt of a grievance the College will generally take the following steps:

- determine the best method of handling the grievance;

- advise the complainant of the likely steps that will be undertaken by the College in relation to the grievance;
- advise the person(s) of the nature of the grievance and seek their response;
- collect any additional information the College considers necessary to properly review the grievance; and
- advise both the complainant and the person(s) that the grievance is about of the College's response to the grievance and if appropriate, any proposed action to be taken.

However, there may be circumstances in which some of the steps outlined above are not appropriate and the College will determine, in its absolute discretion, on a case by case basis the most appropriate method of handling the grievance.

The College will take whatever action it considers appropriate if there has been unlawful discrimination or harassment or bullying, including disciplining or dismissing offenders.

A complainant should also be aware that if they lie about or exaggerate a complaint, the College will view this as a very serious matter, and the complainant may be disciplined or dismissed.

## 7. DEFINITIONS AND ACRONYMS

<b><i>Discrimination</i></b>	Treating one person or group less favourably than another or causing them disadvantage.
<b><i>Unlawful Discrimination</i></b>	Discrimination which law has defined as unacceptable.
<b><i>Victimisation</i></b>	Subjecting a person to some detriment, for example, ostracising an employee or excluding them from an opportunity or activity.

## 8. RELATED POLICIES & SUPPORTING DOCUMENTS

<b>Related Legislation</b>	<ul style="list-style-type: none"> <li>- Anti-Discrimination Act 1977</li> <li>- Australian Education Act 2013</li> <li>- Australian Human Rights Commission Act 1986</li> <li>- Children and Young Persons (Care and Protection) Act 1998</li> <li>- Community Relations Commission and Principles of Multiculturalism Act 2000</li> <li>- Crimes Act 1900</li> <li>- Disability Discrimination Act 1992</li> <li>- Fair Work Act 2009</li> <li>- Independent Commission Against Corruption Act 1988</li> <li>- Work Health and Safety Act 2011</li> <li>- Privacy and Personal Information Protection Act 1998</li> </ul>
<b>Related Policies</b>	<ul style="list-style-type: none"> <li>- Complaints Handling Policy</li> <li>- Staff Code of Conduct</li> <li>- Work Health and Safety Statement</li> </ul>
<b>Related Procedures</b>	<ul style="list-style-type: none"> <li>- Complaints Handling Procedures</li> </ul>
<b>Related Documents</b>	<ul style="list-style-type: none"> <li>- Australian Province Code of Conduct</li> </ul>

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## 9. DOCUMENT CONTROL

POLICY	Staff Bullying Harassment and Discrimination Policy
RESPONSIBLE OFFICER	Chief People Officer
CONTACT OFFICER	Chief People Officer
APPROVED BY	Principal
VERSION NUMBER	3.0
SUPERSEDED VERSION NUMBER	2.0
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