

## Bullying and Harassment (including Sexual Harassment) Policy and Procedure

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<b>NESA</b>	Registered and Accredited Individual Non-Government Schools (NSW) Manual - 3.9.3.	
<b>Church</b>	St Peter's Anglican College Ordinance 2000 South Coast Anglican Schools Ordinance 2009	
<b>Relevant legislation/guidelines</b>	WHS Act 2011 WHS Regulation 2017 (NSW)	
<b>Related documents</b>	Staff Code of Conduct Work Health Safety Policy and Procedure Complaints Policy and Procedure Investigations Policy and Procedure Whistleblower Policy and Procedure	
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## Commitment

St Peter's Anglican College (SPAC) (the College), as an agency of the Anglican Diocese of Canberra and Goulburn, recognises the *Staff Code of Conduct* as the determining guide to this policy.

We are committed to promoting and maintaining a culture where our people are able to work in a positive and supportive environment that is free from bullying and harassment. Further, Commonwealth law binds employers to take all reasonably practical steps to manage bullying and harassment in the workplace. Failure to take steps to prevent and address bullying and harassment could constitute a breach of the law and may have repercussions for the College, the Diocese and our people.

## Purpose

This document outlines the College's policy on bullying and harassment (including sexual harassment) in the workplace. It should be read in conjunction with the *Complaints Policy* and Procedure.

## Scope

This policy applies to all employees, contractors, clients 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. excursions or sport activities); and
- at work-related events eg conferences and social functions.

The Principal has overarching responsibility for this document.

## Definitions

A **complainant** is a person who makes a complaint or has a concern in relation to behaviour associated with bullying or harassment in the workplace.

**Discrimination** is defined as treating one person or group less favourably than another or causing them disadvantage. Unlawful discrimination is discrimination which law has defined as unacceptable. 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; or 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.

**Staff** refers to all teaching, support and other staff members, collectively or individually depending on context. For the sake of brevity and as in common spoken parlance, the word 'staff' is generally used throughout this and related documents in place of 'staff members'.

**Repeated behaviour** refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

**Unreasonable behaviour** means behaviour that could reasonably be considered to be humiliating, intimidating, demeaning, undermining or threatening to an individual or group of individuals. It can be overt or covert, inflicted by one person or groups.

## Policy

The College is an equal opportunity employer that promotes fair, equitable and respectful behaviour in the workplace. Workplace bullying or harassment on the basis of race, gender, disability or any other reason is unacceptable and will not be tolerated.

The College aims to:

1. create a working environment which is free from bullying and harassment and where all workers are treated with dignity, courtesy and respect;
2. implement training and awareness raising strategies to ensure that our people know their rights and responsibilities;
3. provide an effective procedure for complaints based on the principles of natural justice;
4. treat all complaints in a sensitive, fair, timely and confidential manner;
5. guarantee protection from any victimisation or reprisals;
6. encourage the reporting of behaviour which breaches this policy; and,
7. promote appropriate standards of conduct at all times.

## Bullying

Bullying is repeated, unreasonable behaviour that is directed towards a person or group of persons at a workplace, which creates a risk to health and safety. Bullying may be intentional or unintentional. It can take place between:

1. an employee and a manager or supervisor;
2. co-workers;
3. an employee and any other person in the workplace such as a client or service provider.

## Examples of Workplace Bullying

The following are examples of workplace bullying:

- verbal, written or physical abuse or threats;

- humiliation through sarcasm or through belittling someone's opinions;
- denying opportunities for training, promotion or interesting work;
- deliberately denying access to information, consultation or resources;
- setting tasks that are unreasonably beyond a person's ability;
- setting timelines that are difficult to achieve, or constantly changing deadlines;
- intimidating behaviour such as yelling, screaming, threatening or 'standing over';
- repeated 'put-downs' or displays of aggression;
- behaviour that intends to punish such as isolation, exclusion from workplace activities and 'ganging up', constant criticism or insults.

### Upwards Bullying

Upwards bullying is a term to define the bullying and harassment by staff of their immediate supervisor or other members of College management. Upwards bullying will not be tolerated.

Examples include:

- repeated undermining and defiance of legitimate authority;
- repeated public and private questioning of legitimate decisions;
- repeated resistance to direction;
- repeated imputation of malign motive in every management decision;
- repeated informal complaint to senior staff members that has the effect of undermining reputation but without triggering formal proceedings;
- active involvement of students in management issues;
- conspiratorial behaviour and conversation at work;
- conspiratorial behaviour and conversation at work, socially and online that has the effect of social and workplace isolation and the destruction of established friendships; and
- the solicitation, circulation and perpetuation of gossip, rumour, innuendo and exaggerated descriptive language about the personal character of the individual in authority.

### What is NOT considered to be Bullying

There are things that happen at work that are not considered to be workplace bullying, even when these experiences may be slightly uncomfortable. The following 'reasonable management actions' are not considered to be bullying:

- counselling because of concerns about work performance;
- allocating reasonable levels of work in keeping with others in the work area;
- applying harsh conditions that are in keeping with *Work Health Safety* standards, when these are applied to everyone else in the workplace;
- changing a roster in a reasonable way, even if an employee does not like it;
- asking an employee for a medical certificate when they are taking sick or carers' leave;
- giving an employee critical feedback about their work when this is done in privacy and in a respectful manner;
- moving an employee to a different work area when this is in keeping with their duty statement and they have been consulted prior to the move;
- being left out of meetings when they are not relevant to a person's work;

- good natured interactions with peers, such as joking, laughing and telling stories between colleagues when it is not directed at anyone and does not contain offensive content;
- an employee is asked by a work colleague for a date and the work colleague respects the employee's wishes if they decline;
- an employee is respectfully told by a colleague that they are bothering them or holding up their work;
- someone disagrees with an employee's opinion in a respectful way;
- accidentally being overlooked in a social invitation (as long as this were not a consistent or repeated occurrence).

## Harassment

**Workplace harassment** is any behaviour or conduct which has no legitimate workplace function and which makes one feel offended, humiliated, intimidated, or uncomfortable at work because of the race, colour, relationship status, nationality or ethnic origin, spirituality, gender, disability, sexual preference or some other characteristic. It is repeated (but not always), unwelcomed, unreciprocated, uninvited behaviour that is verbal, written or physical in nature.

It can take place between:

- an employee and a line manager;
- co-workers;
- an employee and any other person in the workplace, for example, a client or service provider.

The following are examples of workplace harassment (including sexual harassment):

- unwelcome practical or sexual jokes;
- circulating or displaying written or pictorial material that is offensive or belittling;
- unwelcome, suggestive looks, physical contact or requests for sexual favours;
- the use of unsuitable language;
- derogatory or dismissive comments;
- spreading gossip and rumours;
- gestures that are insulting or belittling.

There does not have to be an intention to offend or harass a particular individual for behaviour to be considered workplace harassment. Different social or cultural backgrounds may lead a person to perceive the same conduct differently.

## Responsibilities

**Line managers** are responsible for:

- monitoring the work environment to ensure that acceptable standards of conduct are observed at all times and identify and manage any issues with appropriate support; and
- treating all complaints seriously and taking immediate action to investigate and resolve the matter.

**Personnel** are responsible for:

- their own health and safety;
- complying with this policy;
- speaking up and offering support to anyone who is being harassed or bullied and letting them know where they can get help and advice (they should not, however, approach the bully or harasser themselves); and
- maintaining complete confidentiality if they provide information during the investigation of a complaint.

Personnel must always consider how their behaviour will be viewed by the person or people with whom they are dealing. One can harass someone, bully someone or unlawfully discriminate against someone even without intending to do or say anything offensive. It is not a legally acceptable defence to say that you did not mean or intend to humiliate, offend or intimidate somebody else. It is sometimes difficult to know whether a person will find one'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.

## Procedure

The following options for resolving complaints are intended to remove the risks of bullying and harassment in the workplace using a planned and systematic approach to the management of this workplace hazard. The three resolution options for complainants are:

1. Personal complaint option
2. Informal complaint option
3. Formal complaint and investigation process

These options are not necessarily a sequential processes. That is, it is not a requirement that a complainant cannot choose to access one particular option unless they have already attempted to resolve the matter using the preceding option.

Complainants are encouraged to use personal and informal complaint options before making a formal complaint resulting in a formal investigation.

If the personal and informal processes fail to resolve the matter, then it should be escalated to the formal complaint process.

It is important to note that any situation of concern can be discussed with a line manager, a deputy principal or Principal without the issue becoming formal.

## Trauma Informed Approach

Often incidents can cause trauma to an individual creating disempowerment further exacerbating trauma. A trauma informed response recognises the impact of trauma and prioritises the physical, psychological and emotional safety of all the parties associated with a disclosure or report. It recognises the importance of empowerment and choice for those who have experienced sexual assault, sexual harassment, discrimination, bullying, harassment or assault. Additional information can be found in [Sexual Harassment \(A Code in Practice\) – Australian Human Rights Commission](#).

## Personal Complaint Option

Personal options open to a person who is experiencing bullying at the workplace include:

1. Reporting the situation to a line manager but doing nothing themselves. The line manager is then responsible for identifying and minimising any risk without implicating the complainant.
2. Speaking to a line manager or the Principal for advice and support.
3. The complainant may approach the bully/harasser directly, with or without necessarily informing the organisation that they have been subject to this behaviour. The College recommends a person do this only if they feel safe and confident in doing so and the person feels this action will result in resolution of the harassment/ bullying issue. The complainant needs to highlight to the bully/harasser that they object to the behaviour and that they do not want it repeated – the bully/harasser may become aware of their behaviour and resolve to change it. In case of the need for future reference, it is recommended that the complainant make a brief diary note relating to the conversation and outcome.

Outcomes of these personal options may include:

- An informal apology to the complainant from the bully/harasser and an elimination of the negative behaviour

## Informal Complaint Option

An informal resolution process aims to ensure that the bullying/harassment incident is resolved as quickly as possible. No investigation or disciplinary action will be taken as a result of an informal complaint. Rather, a no blame approach is used to assist the individuals involved to reach an outcome that will ensure appropriate conduct in the future. The main focus is to return the individuals to productive duties without further interruption and with no further bullying/harassment behaviour.

## Process

Complainant discusses the situation with their line manager, or the Principal. This support person can be independent of the specific work area or alternatively a mediator independent of the organisation can be organised.

1. Their role is to assess, guide and monitor a mediation/conciliation process.
2. No detailed records are kept however if an agreement is reached in mediation, this should be put in writing and signed by all parties.

Outcomes of the informal complaints process can be:

1. An informal apology to the complainant from the bully/harasser and the cessation of the negative behaviour.
2. Counselling and support for both parties.
3. Training and/or counselling to be undertaken by the alleged bully/harasser.
4. Continued monitoring by the line manager or other.

Should any staff be under investigation by the College, The Board and/or an outside agency the College Chaplain will be available as a support person. The person under investigation will also be able to access the EPA program. Staff feeling like they have been bullied will also have

access to the Chaplain and the EAP. The Pastoral Care of our staff will continue to be the highest priority during any investigation process.

### Formal Complaint and Investigation Process

The first step in lodging a formal complaint is for the complainant to advise their line manager (or other – see below) that they wish to lodge a formal complaint. If the complainant does not feel comfortable going to their direct line manager or the allegation relates to their line manager, a formal complaint can be made to:

1. the next line manager
2. Head of Junior School or The Director of Students and Planning (Senior School)
3. Another line manager. In the case of a complaint against the Principal, the allegation would be lodged with the Chairperson of the Board.

It is the responsibility of the person who receives the formal complaint to:

1. provide assistance to the complainant to submit the written complaint.
2. protect the complainant from reprisals.
3. ensure confidentiality is maintained.
4. involve the Principal to organise the investigation process as outlined in the Workplace Complaints Policy.

### Outcomes of the Formal Investigation Process

If substantiated, the investigator can recommend:

1. disciplinary action, which may include dismissal of the bully/harasser
2. formal training and/or counselling of the bully/harasser
3. counselling and/or training of the entire work group
4. a formal, written apology be given to the complainant
5. redressing of any inequities resulting from the bullying behaviour
6. a review of a particular current workplace policy/procedure

### Victimisation

For a workplace to be free from bullying and harassment it is essential that people feel comfortable raising legitimate concerns and having them addressed. This extends to those who may be called upon to provide information about a complaint made by a colleague. Victimisation refers to causing a person some detriment, for example, ostracising an employee or excluding them from an opportunity or activity, as a direct result of that person making a complaint or being involved in a complaint. A person should not be victimised 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.

### Compliance

Noncompliance with this procedure may result in disciplinary action up to and including dismissal.