



**CATHOLIC EDUCATION**  
COMMISSION OF WESTERN AUSTRALIA

Policy:	<b>Harassment, Unlawful Discrimination, Victimization and Bullying (Staff)</b>
Sub-Committee:	<b>Catholic Education Community Sub-Committee</b>
Originally Released:	<b>1997</b>
Date for Review:	<b>2018</b>

## 1. Rationale

In Catholic education, Christ is the foundation. All members of the Catholic education community are committed to reflecting Gospel values in everyday activities and personal encounters. The harassment of, unlawful discrimination against, victimisation or bullying of any person within Catholic education is contrary to the Gospel and the vision for Catholic education.

*‘Catholic schools offer a genuine educational choice in our pluralistic society. Catholic schools make a distinctive contribution to the provision of educational excellence in Western Australia. They do so within the context of Catholic teaching and practice’. (Mandate, 6)*

*‘Respect for the human person considers the other ‘another self’. It presupposes respect for the fundamental rights that flow from the dignity intrinsic to the person.’ (CCC, 1944)*

## 2. Definitions

### Harassment

*Harassment* is unwelcome and unwanted conduct that discriminates against, humiliates, offends or intimidates another person, including bullying, belittling, threatening, victimising and abusive behaviour, and which is based on any of the discrimination factors including gender, race, disability and age.

*Sexual harassment* is any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome, sexually-orientated behaviours. A person is taken to have sexually harassed another if they have made an unwelcome request for sexual favours or have engaged in other unwelcome conduct of a sexual nature; and

- the object of the advance has been disadvantaged in some manner regarding his/her employment or work; or
- the object of the advance believes that rejection or refusal of the advance/proposal/request/suggestion would disadvantage him/her in any way in connection with his/her employment or work

*Sexual harassment* can take many different forms and includes physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working environment. If the interaction is based on mutual attraction and is consensual, welcomed and reciprocated, it cannot be construed as sexual harassment.

*Racial harassment* is any threat, abuse, insult, taunt or other offensive behaviour directed at a person’s race or characteristic that relates generally to their race, such as nationality, ethnic background, colour, language proficiency (or lack thereof) or physical feature(s). As is the case for sexual harassment, racial harassment applies to people who believe they have been disadvantaged in some way because they have made it clear that they objected to such behaviour

or who reasonably held a belief that they might have been disadvantaged if they pursued this course of action.

*Disability harassment* is defined as discrimination or harassment against a person on the basis of one or more of the following characteristics:

- total or partial loss of the person's bodily or mental function
- total or partial loss of part of the body
- the presence in the body of organisms causing disease or illness
- the presence in the body of organisms capable of causing disease or illness
- the malfunction, malformation or disfigurement of a part of the person's body
- a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction
- a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour and includes a disability that:
  - a) presently exists
  - b) previously existed but no longer exists
  - c) may exist in the future
  - d) is imputed to exist

All other forms of unwanted and unwelcome behaviour on grounds covered by anti-discrimination legislation are dealt with as unlawful discrimination.

### Discrimination

*Unlawful discrimination* means treating one person less favourably than another, in the same or similar circumstances, on any of the grounds detailed in the Equal Opportunity Act 1984 (WA). These include:

- disability
- race
- sex/gender
- pregnancy
- marital status
- political conviction
- impairment
- family responsibility or status
- age
- religion
- gender reassignment

*Discrimination may be direct or indirect as follows:*

*Direct discrimination* occurs when a person receives less favourable treatment by comparison to another person in the same or similar circumstances as themselves on any of the grounds covered by anti-discrimination legislation. This includes discrimination that applies because of a characteristic that applies, or is assumed to apply, to the group to which that person belongs.

*Indirect discrimination* occurs when any rule, policy or practice is implemented that is not reasonable in the circumstances and which may, in effect, have a negative impact on a particular person or group of people.

Catholic schools are exempt from the discrimination provisions in the context of the employment of a staff member as detailed under the *Equal Opportunity Act 1984* where such discrimination occurs in good faith to avoid injury to the religious susceptibilities of adherents of that religion.<sup>3</sup>

### Victimisation

*Victimisation*, which is unlawful under State legislation, is defined as any unfavourable treatment

or threat of unfavourable treatment of a person because they have made, intend to make or have been involved in levelling a complaint of harassment or discrimination against a colleague.

### Workplace Bullying

Due to the effect on the safety and health of employees and others at the workplace, bullying is unlawful under the Occupational Safety and Health Act 1984 and where bullying involves assault or threat of assault, it may be referred to the police for investigation and resolution.

*Bullying* is generally defined as the tormenting of others via verbal, electronic, physical or more subtle methods of coercion such as manipulation. It may include one or more behaviours over time and involve one or more recipients.

*Workplace bullying* is repeated unreasonable or inappropriate behaviour directed towards a worker, or group of workers, that creates a risk to health and safety. Workplace bullying also involves misuse of power, be it actual or perceived, and may include subtle or obvious behaviours. There are two main types of workplace bullying:

- a) *Overt bullying* may include, but is not limited to:
  - the use of abusive, insulting or offensive language
  - behaviour or language that frightens, humiliates, belittles or degrades, including criticism, that is delivered via yells and screams
  - derogatory comments about a person's appearance, lifestyle or their family
  - teasing or repeatedly making a person the brunt of pranks or practical jokes
  - deliberate attempts to isolate a worker(s) from others
  - spreading destructive gossip and rumours about a person(s)
  - physical assault or threats
- b) *Covert bullying* may include, but is not limited to:
  - setting unreasonable timelines for task completion or constantly changing deadlines
  - constantly setting tasks that are below or beyond a person's skill level
  - ignoring or isolating a person
  - deliberately denying access to information, consultation or resources required for task completion

### **3. Scope**

This policy applies to all Catholic schools and Early Learning Centres, including boarding accommodation, in Western Australia.

### **4. Principles**

- 4.1 All Catholic schools in Western Australia have a legal and ethical responsibility to put in place procedures and processes that aim to create workplaces free from harassment.
- 4.2 Harassment is unlawful under Federal and State legislative provisions, not only during school hours or in the school grounds, but in any work-related context including conferences, work functions, school camps or field trips.
- 4.3 An employer may be held vicariously liable for conduct that constitutes harassment unless they can show that they have taken all reasonable steps to prevent inappropriate behavior occurring and managed incidents promptly.
- 4.4 A school may be held vicariously liable for the conduct of:
  - an individual staff member
  - a group of staff members
  - a student or group of students over the age of 16 (only relates to sexual

- harassment as per the *Australian Government Sex Discrimination Act 1984*)
  - a student or group of students (only relates to workplace bullying or violence as per the *Occupational, Safety and Health Act 1984*)
  - a visitor or group of visitors
- 4.5 The employer shall act in a timely manner upon being made aware of any instance of harassment.
- 4.6 Harassment constitutes misconduct which may result in disciplinary measures being initiated, including termination of employment.
- 4.7 The principles of natural justice shall be applied in all investigations of complaints of harassment. Therefore, all investigations shall be conducted in a fair, unbiased and transparent manner and all parties shall be kept fully informed of the progress of the investigation.
- 4.8 A concern or complaint that is determined to have been levelled with the intention of upsetting, annoying, undermining, slandering or to achieve retribution against others may be deemed malicious or vexatious and appropriate action taken.
- 4.9 Those in a supervisory/leadership role in the workplace have a legal right and responsibility to monitor workflow and to manage workplace behaviour and performance.
- 4.10 All staff have a responsibility to ensure that they do not promote or engage in behaviour that could constitute harassment and are encouraged to seek advice and report any incidents of such behaviour so that a process of resolution can be initiated.
- 4.11 All those involved in a situation of harassment share a responsibility to attempt to resolve issues in a non-adversarial manner.
- 4.12 Confidentiality is vital at all times when dealing with complaints of harassment.

## 5. Procedures

- 5.1 Each school shall develop and communicate to staff its own Harassment, Unlawful Discrimination, Victimization and Bullying policy based on the Catholic Education Commission of WA (CECWA) policy statement on Harassment, Unlawful Discrimination, Victimization and Bullying. It is not sufficient for a school to state that it complies with or uses the CECWA policy statement.
- 5.2 Each school shall appoint/elect a Contact Officer(s) to assist in preventing and dealing with harassment in the workplace through advice and information. An analysis of professional development needs shall be considered by the employer for the officer(s) to carry out the duties of this role. The Contact Officer's training shall be updated on a regular basis, at least each four years. The identity of the Contact Officer(s) shall be notified to staff through the school's normal communication channels on at least an annual basis as well as being included in the school's policy.
- 5.3 Where a formal complaint of harassment is made against the principal, the Contact Officer shall refer the matter directly to the Executive Director of Catholic Education or the Congregational Leader/Governing Authority. The Executive Director of Catholic Education or the Congregational Leader/Governing Authority shall appoint an Investigating Officer to deal with the matter. If the Executive Director of Catholic Education receives a complaint against a principal of an order-accountable school then the Executive Director shall refer the matter to the Congregational Leader or Governing Authority.

Note: If the complaint is made to the principal then the principal shall refer the matter back to the Contact Officer.

- 5.4 Each school shall take reasonable steps to prevent harassment by implementing the following strategies:
- obtain high level support from the school Leadership Team for implementing a comprehensive strategy to address harassment
  - develop, in consultation with staff, a written policy which prohibits harassment
  - regularly distribute and promote the policy at all levels of the workplace
  - ensure that the policy is discussed and reinforced at staff meetings
  - periodically review the policy to ensure it is operating effectively and contains up to date information
  - train staff holding leadership positions in ensuring that the workplace is free from harassment
  - ensure that leaders model appropriate standards of professional conduct at all times
  - include accountability mechanisms in position descriptions for leadership positions
  - ensure that selection criteria for leadership positions include the requirement that the appointee demonstrate an understanding of, and ability to deal, with harassment.
- 5.5 The harassment, unlawful discrimination, victimisation and bullying policy shall include:
- a strong opening statement on the school's attitude to harassment
  - an outline of the school's objectives regarding harassment
  - a clearly worded definition of the forms of harassment
  - examples of harassment-that are relevant to the particular working environment
  - a statement that harassment is against the law
  - a statement that for the purposes of an employment associated policy, harassment can occur in any work-related context
  - the consequences that can be imposed if the policy is breached
  - responsibilities of management and staff
  - information on where individuals can get help, advice or make a complaint
  - a brief summary of the options available for dealing with harassment
  - the name(s) of the Contact Officer(s) and their location within the school
- 5.6 Advice in relation to the handling of complaints can be sought from the Employment and Community Relations (ECR) Team of the Catholic Education Western Australia (CEWA) at any stage.
- 5.7 Should a formal complaint be made, the principal or delegate shall contact the ECR Team.
- 5.8 The procedures contained within the CECWA Harassment, Unlawful Discrimination, Victimisation and Bullying Procedures Manual shall be followed for complaints.
- 5.9 A staff member or student person who is found to have made a complaint on vexatious or malicious grounds shall have disciplinary action taken against them. A staff member will be subject to the CECWA Unsatisfactory Performance and Misconduct policy whilst a student will be subject to the behaviour management policy of the school.

## 6. References

Bishops of Western Australia 2009, *Mandate of the Catholic Education Commission of Western Australia: 2009-2015*

Catechism of the Catholic Church, 1997, 2<sup>nd</sup> edition, Doubleday, New York

*Equal Opportunity Act 1984 (WA)*

*Sex Discrimination Act 1984 (Cth)*

**7. Related Documents**

*Equal Opportunity Act 1984 (WA)*

*Racial Discrimination Act 1975 (Cth)*

*Disability Discrimination Act 1992 (Cth)*

*Industrial Relations Act 1979 (WA)*

CECWA Harassment, Unlawful Discrimination, Victimization and Bullying policy template

**8. Review History**

<b>Year of Review:</b>	<b>Reviewed by:</b>	<b>Amendments/Review</b>
1997	SPC	Originally Released
2002	SPC	Reviewed
2007	SPC	Reviewed
2008	SPC	Reviewed
2010	CEOWA	Reformatted
2013	CECWA	Reviewed
2017	CEWA Policy Group	Reformatted

**9. Next Review**

<b>Year:</b>	<b>Sub-Committee Responsible</b>
2018	Catholic Education Community Sub-Committee