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.

‘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.’

It is unlawful to harass, unlawfully discriminate against, victimise or bully a person within a workplace and, where a person experiences such actions, the employer may be legally responsible. It is not correct to assume that because such incidents are not being reported that they do not take place. Further, all those involved in a work place share a responsibility to promote an environment that is free from harassment, unlawful discrimination, victimisation and bullying.

PRINCIPLES

1. Nagle Catholic College is committed to ensuring that the working environment is free from harassment, discrimination, victimisation and bullying which will not be tolerated under any circumstances. Disciplinary action shall be taken against any employee (or agent) who breaches the policy.

2. Harassment, unlawful discrimination, victimisation and bullying are unlawful, 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. The employer may be held vicariously liable for the actions of employees that constitute harassment, unlawful discrimination, victimisation and bullying.

3. Immediate disciplinary action shall be taken against anyone who victimises or retaliates against a person who has complained of harassment, discrimination or bullying.

4. Nagle Catholic College will act in a timely manner upon being made aware of any instance of harassment, unlawful discrimination, victimisation or workplace bullying.

5. Harassment, unlawful discrimination, victimisation and workplace bullying are dismissible offences.

6. The principles of natural justice shall be applied in all investigations of complaints of harassment, unlawful discrimination, victimisation or bullying. 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.
7. A concern or complaint that is determined to have been leveled with the intention of upsetting, annoying, undermining, slandering or to achieve retribution against others may be considered to be malicious or vexatious and appropriate action taken.

8. Those in a supervisory/leadership role in the workplace have a legal right and responsibility to monitor workflow and to manage workplace behavior and performance.

9. All those involved in a workplace share a responsibility to act upon observed instances of harassment, unlawful discrimination, victimisation or bullying.

10. All those involved in a situation of harassment, unlawful discrimination, victimisation or bullying share a responsibility to attempt to resolve issues in a non-adversarial manner.

11. Confidentiality is vital at all times when dealing with complaints of harassment, unlawful discrimination, victimisation and bullying.

**DEFINITIONS**

**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*. These include:

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

Sex discrimination occurs when a person is treated less favourably because of his or her sex or marital status or because she is pregnant or potentially pregnant. It also includes being dismissed from employment because a person has family responsibilities.

Discrimination may be direct or indirect.

An exemption may apply to educational institutions established for religious purposes (Sect 73 of the Act).

**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 a 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.
HARASSMENT
Harassment is unwelcome and unwanted conduct that discriminates against, humiliates, offends or intimidates another person, including bullying, belittling, threatening, victimising and abusive behavior, 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 behavior 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, colour, language proficiency (or lack thereof) or physical features(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 behavior 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 behavior 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 unwelcomed behavior on grounds covered by anti-discrimination legislation are dealt with as unlawful discrimination.

VICTIMISATION
Under the Equal Opportunity Act 1984, victimization is unlawful. Victimisation 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 leveling 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*.

Bullying is generally defined as the tormenting of others via verbal, 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.

Where bullying involves assault or threat of assault, it may be referred to the police for investigation and resolution.

Workplace bullying is repeated unreasonable or inappropriate behavior 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 types of workplace bullying – overt and covert.

**Overt bullying** may include, but is not limited to:
- the use of abusive, insulting or offensive language
- behavior 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

**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

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**PROCEDURES**

1. The complaint procedures contained within the CECWA Harassment, Discrimination and Bullying Procedures shall be used when a complaint alleging harassment, discrimination or bullying is lodged by a staff member.

2. Nagle Catholic College has appointed/elected a contact officer(s) to assist in preventing and dealing with harassment, discrimination, victimization and bullying in the workplace through advice and information. Appropriate initial training and regular updating of this training for the Contact Officer is provided at the expense of the school.

3. The Contact Officer(s) for Nagle Catholic College is Robyn Gummery. The Contact Officer’s details shall be circulated on at least an annual basis for all staff shall be included in the Staff Handbook (where a Handbook exists).
4. Where a formal complaint of harassment, discrimination, victimisation or bullying is made against the Principal, the Contact Officer shall refer the matter directly to the Director of Catholic Education or the Congregational Leader. The Director of Catholic Education or the Congregational Leader shall appoint an Investigating Officer to deal with the matter. If the Director of Catholic Education receives a complaint against a Principal or an order-accountable school then the Director shall refer the matter to the Congregational Leader.

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

5. Where possible and appropriate, it is desirable to resolve complaints informally or through conciliation. In more serious or persistent cases, investigations shall proceed using the formal investigation procedures outlined in the CECWA Harassment, Discrimination and Bullying Procedures.

6. A staff member may wish firstly to seek confidential advice on how to deal with the situation. This may be from the school-based Contact Officer, a Consultant from the Catholic Education Office of Western Australia (CEOWA) Workforce Relations Team, the Independent Education Union, a counselor from the Employee Assistance Program, Equal Opportunity Commission, Human Rights and Equal Opportunity Commission (HREOC) or another appropriate source.

7. A staff member electing to address a situation personally may later decide to report the matter to the CEOWA via the Workforce Relations Team or Equal Opportunity Commission if dissatisfied with the outcome. Conversely, a staff member commencing a process may elect to withdraw the complaint.

8. A person experiencing harassment, discrimination, victimisation or bullying is advised to keep a record of what happened, including times, dates, witnesses, if any, of what was said and done.

9. The following options are available to staff members who feel they are being harassed, discriminated against, bullied and/or victimised as a result of making a complaint.

   - deal with the situation personally
   - seek resolution through conciliation
   - lodge a formal complaint with the Equal Opportunity Commission or with the Human Rights and Equal Opportunity Commission (HREOC).
   - make a formal complaint which will be dealt with via a formal investigative pathway.

References

1. *Catechism of the Catholic Church, paragraph 1944*