

Nunawading Christian College

Discrimination and Harassment Policy



Document Control

Revision Number	Implementation Date	Review Date	Description of Changes	Prepared By	Approved By
Zero	March 2022	March 2025	New Policy	Mark Roberts	School Exec School Council



Policy Statement

Nunawading Christian College (the College) is committed to providing an environment that is free from discrimination and harassment where all staff are treated with dignity, courtesy and respect. All staff have a right to work and study in an environment free from discrimination and harassment.

The College provides procedures by which all staff can have a complaint of discrimination and harassment addressed in a sensitive, fair, timely and confidential manner.

Policy Purpose

The purpose of this policy is to articulate the College's approach to addressing unlawful discrimination and harassment within the College Community.

Application of the Policy

This policy applies to all staff members, visitors, volunteers and contractors engaged or appointed by the College while on campus or engaged in College related activity.

What is Unlawful Discrimination?

- Unlawful discrimination is defined under state and federal legislation as treating someone or a group of people less favourably than another person or group because of a particular characteristic(s) e.g. race, sex, religion specified under anti-discrimination legislation. Unlawful discrimination can be either direct or indirect.
- Direct discrimination occurs when a person or group of persons is treated less favourably than another person or group of persons because of their background or certain personal characteristics. Direct discrimination is unlawful under federal discrimination laws if the discrimination is based on protected characteristics or grounds, as listed below. Some limited exemptions and exceptions may apply.
- Indirect discrimination occurs when there is an unreasonable rule or policy that is the same for everyone but has an unfair effect on people who share a particular attribute. Indirect discrimination is unlawful if the discrimination is based on protected characteristics or grounds, as listed below.
- Some limited exemptions and exceptions may apply. Indirect discrimination is not unlawful when the rule or policy is reasonable, having regard to the circumstances of the case.



Grounds for unlawful Discrimination and/or Harassment

- Race
- Sex
- Pregnancy/breastfeeding
- Disability
- Impairment
- Age
- Religion
- Sexual orientation
- Industrial, political or trade union activity
- Gender identity
- National extraction or social origin
- Intersex status
- Marital/relationship status
- Carer/family responsibilities

Vilification on the grounds of race, religion, sexuality or gender identity is also unlawful.

The grounds for unlawful discrimination and harassment are explained in the relevant Federal and State legislation, which is listed below.

What is Unlawful Harassment?

- Unlawful harassment is defined under federal and state legislation, as any form of behaviour where a person is made to feel intimidated, or humiliated because of a particular characteristic(s) eg, race, sex as specified under anti-discrimination or human rights legislation.
- Unlawful harassment can be verbal, written or physical, and has the intent or effect of creating an intimidating, hostile or offensive work and/or educational environment.
- Harassment can be a single incident, or repeated behaviour, and can occur even if the behaviour is not intended to offend. Silence does not mean that the behaviour is acceptable to the other person.

Examples of behaviours that may amount to harassment include:

- Asking intrusive questions about someone's personal life;
- Comments that put down or stereotype people;
- Offensive communications including digital communications (Facebook, twitter, e-mails), written, images and telephone.
- Derogatory or demeaning jokes intended to offend on the basis of stereotyped characteristics.



What is Sexual Harassment?

Sexual harassment is defined under the Federal Sex Discrimination Act 1984 as any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature in relation to the person harassed in circumstances where a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Examples of behaviours that may amount to sexual harassment include:

- Inappropriate remarks with sexual innuendos, smutty jokes or lewd comments;
- Suggestive remarks about a person's body or appearance;
- Persistent, unwanted requests for dates;
- Offensive hand or body gestures;
- Uninvited physical contact such as patting, pinching, touching or putting an arm around another person.
- Other acts or behaviours that may amount to an offence of sexual assault under relevant criminal legislation.

What is Sexual Assault?

Sexual assault is any unwanted, non-consensual sexual act in which a person is threatened, intimidated or forced to comply against their will, or where a person is unable to give consent because they are unconscious, asleep or incapacitated due to the effects of alcohol or other drugs.

Perpetrators of sexual assault may be known to the victim/survivor, or could be a stranger.

Behaviours that do not constitute Discrimination or Harassment:

The following behaviours do not constitute Discrimination or Harassment:

- Reasonable management practices, including performance management and discipline processes;
- A lawful and reasonable instruction to carry out reasonable duties and instructions;
- A direction to comply with College, rules, regulations and policies; and
- A poor assessment of a staff work/assessment is not discriminatory, provided the criticism is reasonable and constructive.



Victimisation

Victimisation is treating someone unfairly because that person, or someone they associate with, has made, or intends to make, a complaint under this policy. It is unlawful to victimise or penalise a person for making a complaint in good faith. We are committed to making sure that anyone who makes a complaint or assists in making a genuine complaint is supported and not penalised in any way.

Immediate disciplinary action will be taken against any employee who victimises or retaliates against a person who has made a complaint.

Vilification

Vilification is about a public act, such as a radio broadcast or publishing material on the internet that incites, encourages or urges other people to hate or have serious contempt for a person or group of people because they are or are thought to be, members of a particular group. Certain types of vilification are also against the law, for example racial vilification.

Roles and Responsibilities

The College has a responsibility to take all reasonable steps, consistent with its duty of care, to:

- ensure the health, safety and wellbeing of staff members, students, visitors, volunteers and contractors; support a working and learning environment that is free from discrimination and harassment;
- ensure staff members, students, visitors, volunteers and contractors are informed of this; and
- inform managers/supervisors of their responsibilities under this policy through the implementation of training and awareness raising strategies.

The Principal, the College Executive, Heads of Campus, and Supervisors have a responsibility to:

- make all reasonable efforts so that acceptable standards of conduct and behaviour are observed at all times within the workplace and/or classroom;
- undertake timely, corrective action to deal with behaviour that may be offensive or intimidating, even if a complaint has not been made, and
- ensure complaints are addressed promptly, fairly, sensitively and in accordance with Appendix A.



All staff members, visitors, volunteers and contractors have a responsibility to:

- ensure that at all times their behaviour is consistent with the expectations outlined under this policy and relevant Codes of Conduct;
- engage in good faith in the complaint management process as outlined in Appendix A, with the positive aim to achieve resolution of the complaint;
- ensure cooperation by remaining open to suggested options for resolution and engaging respectfully with those concerned as appropriate;
- respect cultural and social differences among colleagues and students;
- avoid vexatious and frivolous complaints and the vilification or victimisation of complainants; and
- treat all members of the College community with dignity and respect.

The role of the Adventist Schools Victoria (ASV) Human Resources General Manager is to:

- clarify whether the alleged behaviour may constitute unlawful discrimination, unlawful harassment, sexual harassment, bullying or victimisation;
- provide information about ASV's and NCC's policies, procedures and processes;
- advise the person of their rights and obligations under the College's policies and procedures and where information about the relevant legislation may be obtained;
- advise the person of the options available to them;
- encourage the complainant or respondent to seek support and provide referrals as appropriate; and
- explore strategies to resolve the matter.

Making a complaint of Discrimination and Harassment

Staff members, visitors, volunteers or contractors are encouraged, in the first instance, to attempt to resolve complaints of discrimination and harassment informally and at the local level.

The College's procedures for handling complaints are based on confidentiality, impartiality, procedural fairness, immunity from detrimental action and prompt resolution.

Confidentiality

The confidentiality of all parties involved will be maintained. Details of the matter should only be known by those directly concerned.

Impartial

All sides will have their chance to tell their side of the story. No assumptions will be made and no action will be taken until all relevant information has been collected and considered.



Free of Repercussions

No action will be taken against anyone for making a genuine complaint or genuinely helping someone make a complaint, provided the complaint is made in good faith. The Principal or delegate will take all necessary steps to ensure victimisation does not occur to anyone who makes a genuine complaint or who is involved in such a complaint.

Timely

All complaints will be dealt with as quickly as possible. The College, and ASV, reserves the right to act in the best interests of the Company by taking action deemed appropriate in the circumstances.

The relevant procedures for the resolution of grievances are outlined in Appendix A

Confidentiality and Victimisation

The parties to a discrimination and/or harassment complaint are required, at all stages of this policy and procedure, to maintain confidentiality in relation to the concern or complaint.

The parties must not disclose, by any form of communication, either the fact or the substance of the matter to anyone other than, as relevant, the staff representative or an Australian qualified counsellor or relevant medical practitioner.

A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in the resolution of a complaint.

Outcomes and Remedies

If a complaint is substantiated, then all aspects of the case must be taken into account when making recommendations for appropriate outcomes or remedies, including:

- the severity and frequency of the harassment;
- the weight of evidence;
- the impact on the complainant;
- the intention of the harasser(s);
- prior behaviour of, or documented warnings to, the harasser(s).

Where harassment is found to have occurred, a successful outcome to a complaint can be that this behaviour stops and more respectful behaviour is put in place. Where it is found that breaches of College policy or the law have occurred, remedies may range from an apology through to disciplinary action up to and including termination of employment, depending upon the circumstances of the case.



Frivolous or Vexatious Complaints

Vexatious complaints are considered serious misconduct.

Inaccurate, misleading, malicious or false accusations have negative consequences for the person(s) concerned, interpersonal relationships and the morale of the College Community.

A complaint made in bad faith, with the intent to cause distress to one or more persons, or as a practical joke, will not be tolerated at Nunawading Christian College, and will be dismissed.

For the purpose of this policy:

- Vexatious is defined as a claim made for the sole purpose of harassing or injuring another party.
- Frivolous is defined as a claim that has no merit whatsoever.

If a complaint is made against you

If a complaint of inappropriate behaviour is made against you, you have the right to:

- Be advised of the details of the complaint
- Respond to the allegations contained in the complaint
- Provide names of your own witnesses if there is an investigation into the complaint
- You can have a support person present during any discussions for interviews relating to the complaint.

Further Assistance

Any staff member who requires assistance in understanding this policy should first consult the ASV Human Resources Manager (ASVHR@adventist.org.au) who is responsible for the implementation and operation of these arrangements.

The following anti-discrimination laws apply to the College community:

- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Age Discrimination Act 2004 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013 (Cth)



- Victorian Equal Opportunity Act 2010
- Victorian Racial and Religious Tolerance Act 2001

The Australian Human Rights Commission (AHRC) is tasked with enforcing the above Federal legislation. Under these instruments, the AHRC has the power to investigate any complaints of alleged discrimination.

AHRC website: <https://www.humanrights.gov.au/>

AHRC complaints link: <https://www.humanrights.gov.au/complaints/make-complaint>

The Victorian Equal Opportunity and Human Rights Commission oversees the enforcement of the above State legislation. The Commission has the capacity to investigate complaints involving discrimination, sexual harassment, victimisation and vilification.

VIC Human Rights Commission website: <https://www.humanrightscommission.vic.gov.au/>

VIC Human Rights Commission complaints link:
<https://www.humanrightscommission.vic.gov.au/make-a-complaint>



APPENDIX A

PROCEDURES

Any employee who believes they are being subjected to unwanted attention, discriminatory conduct, bullying or other inappropriate behaviour should utilise the following process:

Step 1

If you are comfortable, try to resolve the matter directly with the other party involved.

Explain to the other person that their behaviour makes you feel uncomfortable and that you want it to stop. You may also seek advice from Adventist Schools Victoria (ASV) Human Resources.

Step 2

If the incident is unable to be resolved directly with those involved the grievance should be referred to a Head of Campus, Principal or ASV Human Resources. This step should also occur if you are uncomfortable raising the issue with the person or people directly.

Step 3

If appropriate the complaint is raised directly with the person or persons against whom the complaint is made in an attempt to resolve the matter informally by reaching an agreed resolution. It may also be appropriate, especially with issues of bullying, to instigate a mediation process by agreement with the parties.

If the matter is unable to be resolved at Step 3 or the person raising the complaint wants to make a formal complaint a detailed investigation of the alleged incident(s) will be carried out to assist in the resolution of the grievance. A complainant may be required to put the details of their complaint in writing. Witnesses may be called upon as part of the investigation. Any investigation will be kept confidential on a 'need to know' basis.

Step 4

If at any stage during the grievance procedure the complainant is not satisfied with the College's actions, employees can take their matter to the Human Rights and Equal Opportunity Commission, the Equal Opportunity Commission or any other relevant Authority.



Formal Investigations

If an employee makes a formal complaint of inappropriate behaviour the College will undertake an objective, confidential and thorough investigation with a view to making findings.

Once findings have been made steps will be taken to resolve the complaint. An independent external advisor may be used at the formal investigation stage depending on the circumstances. During a formal investigation, the following procedure will be applied.

- Upon receiving the complaint the Principal or other relevant member of the Leadership Team will document the complainant's account of the issues ensuring all the necessary information is obtained.
- A complainant may be asked how they see the matter being resolved.
- On completion of the detailed interview with the complainant the respondent to the complaint will generally be interviewed about the allegations.
- Depending on the circumstances of the complaint a respondent to a complaint may be suspended with pay to allow a formal investigation to occur. Even if suspended, a respondent to a complaint will be required to actively participate in the investigation process.
- All complaints will be treated with discretion and in a confidential manner.
- The respondent to the complaint will be given the opportunity to respond to the complaint.
- Witnesses, where appropriate/required will also be interviewed as part of the investigation process.
- If, after investigation, a complaint is substantiated, the Company will take appropriate action in response. This may involve disciplinary action which may result in termination of employment.
- If a complaint is unable to be substantiated, both parties will be informed and other action as deemed appropriate may be taken, such as providing awareness raising training.
- Where the complaint has not been resolved at employer level, the employee may request mediation/a hearing through the Australian Union Conference office of the Seventh-day Adventist Church.
- Any decision determined under this process shall be final and binding upon all parties.