



Policy Number:	COLLEGE 34
Policy Name:	Sexual Harassment Policy
Contact Officer:	Principal
Date Approved by Executive:	
Date of Next Review:	
Related Policies:	Bullying & Harassment Policy Complaints & Concerns Policy Employment Policy Code of Conduct

PREAMBLE

God is at the centre of our College...Mercy is the heartbeat of the Gospel. We encourage every student to grow in the fullness of life and realise their potential through the bread we break at school, the bread of relationships and the bread of conversation. Let us engage the heart and bring faith to life and life to faith (Thomas Groome).

LEGISLATION

This policy takes into account relevant legislative requirements within the state of Victoria, including the specific requirements of the Victorian Child Safe Standards as set out in *Ministerial Order No. 1359*. This policy applies to St Joseph's College staff, including employees, volunteers, contractors and clergy.

Further information relating to the Ministerial Order can be found at

<https://www.safeguardingservices.com.au/wp-content/uploads/2022/02/Ministerial-Order-1359.pdf>

1. PURPOSE

1.1 The Sexual Harassment Policy sets out the legal responsibilities and obligations of employees of St Joseph's College Mildura in relation to sexual harassment under the [Sex Discrimination Act 1984 \(Cth\)](#) and the [Equal Opportunity Act 2010 \(Vic\)](#). Sexual harassment in our workplace is an unacceptable form of behaviour which will not be tolerated under any circumstances. The college is committed to providing a safe, inclusive and respectful workplace, which is free from sexual harassment.

2. SCOPE

2.1 The policy applies to all:

- Employees;
- Volunteers;
- Students;
- Contractors;
- Visitors;
- Any other person not hereby mentioned.

2.2 The policy applies to all college campuses, including any location that employees or other persons listed above, may be considered to be carrying out duties in the course of their employment. This may include but is not limited to conduct that occurs:

- During any activity undertaken as part of the expected workplace procedures;

- In a work vehicle travelling to and from any location;
- At a team morning tea or lunch;
- At any after-hours work related social function (e.g. Christmas party);
- In an off-site professional development training;
- On a school excursion;
- At a conference;
- Across any IT channels including Email, Google Drive and all Social Media Platforms.

2.3 It is not the intention of this policy to interfere in personal lives and relationships. The college has an obligation to take reasonable measures to eliminate sexual harassment in the workplace. The effect of sexual harassment on those people involved can range from annoyance to deep distress and can lead to an intimidating, hostile and offensive work environment. This can contribute to reduced quality of work, low productivity and morale, distraction from work, absenteeism, poor health and high staff turnover.

3. PRINCIPLES

3.1 The guiding principles of this policy are to:

- Provide a safe working environment which is free from sexual harassment;
- Support diversity and inclusive work practices;
- Promote respect amongst all people in the workplace;
- Encourage fair and equitable treatment of all people in the workplace;
- Ensure employees have redress against sexual harassment in the workplace;
- Inform employees they may be personally liable if allegations of sexual harassment are substantiated against them.

4. WHAT IS SEXUAL HARASSMENT?

4.1 Sexual harassment is unwelcome conduct of a sexual nature towards another person which could reasonably be expected to make that other person feel offended, humiliated or intimidated.

4.2 A single incident is enough to be considered sexual harassment - it does not have to be repeated behaviour.

4.3 The person engaging in unwelcome behaviour does not have to intend to be sexually harassing the other person for the behaviour to be considered sexual harassment. Regardless of what was intended, sexual harassment is defined by the nature and the impact of the behaviour, not the intention behind it.

4.4 A key element of sexual harassment is that it is unwelcome. It is important to note that if a person does not object to inappropriate behaviour at the time; it should not be assumed that they are giving their consent. Consent exists where clear and unambiguous consent has been freely given and continues to be given.

4.5 Sexual harassment may include:

- Comments about a person's sex life or physical appearance;
- Comments of a sexual nature;
- Leering and staring;
- Unwanted touching such as brushing up against a person, fondling or hugging;
- 'Flashing' sexual organs, breasts or normally covered body parts;
- Sexual gestures or imitating a sexual act;
- Sexual propositions or repeated unwanted requests for dates;
- Making promises or threats in return for sexual favours;
- Sexual jokes;
- Offensive telephone calls, text messages or communications on social media platforms;

- Displays of offensive photographs, reading matter or objects;
- Sending jokes or graphics of a sexual nature by email, internet, fax or mobile phone;
- Unwelcome questioning about a person's private life;
- Offensive screen savers;
- Unwanted requests for sex;
- Stalking, sexual assault, indecent assault or rape (which are also criminal offences);
- Incidents relating to any aspect of employment, recruitment and selection, conditions and benefits, training and promotion processes and discussions around employment conditions and benefits.

4.6 Sexual harassment can also occur through electronic means (such as emails or text messages or by viewing pornographic websites) and through social media, regardless of whether the post was made during work hours or not. Where there is a link to employment, employees are subject to the same rules about sexual harassment in the virtual world as they are in the real world. As such, employees are required to use technology and social media responsibly in the workplace and in relation to anything or anyone associated with the workplace. This extends to the use of technology and social media outside the workplace where there is a strong connection to the employment relationship (for example, between colleagues where the foundation of the relationship is a common workplace).

4.7.1 The Equal Opportunity Act 2010 (Vic) addresses sexual harassment in Part 6. Section 92 (1) provides:

"a person sexually harasses another person if he/she/they -

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

4.7.2 Section 92 (2) provides:

"conduct of a sexual nature" includes –

- a) subjecting a person to any act of physical intimacy;
- b) making, orally or in writing, any remark or statement with sexual connotations to a person or about a person in his or her presence;
- c) making any gesture, action or comment of a sexual nature in a person's presence."

4.7.3 Similar provisions apply under the Sex Discrimination Act 1984 (Cth). Sexual harassment can also amount to discrimination on the grounds of gender under both the Commonwealth and State legislation. Further information regarding discrimination is available in the Department of Education & Training's Equal Opportunity and Anti-Discrimination Policy.

5. RESPONSIBILITIES OF THE COLLEGE

5.1 The college recognises its obligations under the Equal Opportunity Act and the Sex Discrimination Act to take reasonable measures to eliminate sexual harassment from its workplaces.

5.2 The college is committed to:

- Ensuring that there are clear processes in place for raising grievances and complaints;
- Taking action if the college is aware of any behaviour which could constitute sexual harassment, even if no complaint has been lodged. All employees, including the Principal, Executive and all other staff can be liable for the actions of others if they authorise, encourage or assist sexual harassment to occur in the workplace;
- Clearly communicating and promoting these processes amongst employees;
- Monitoring the implementation of this policy;
- Identifying potential risk factors and taking prompt, reasonable action to minimise those risks including:

- Managing organisational change in an inclusive and participatory way, e.g. consult with employees affected as early as possible and develop and maintain effective communication throughout the process;
- Implementing work systems to prevent the risk of sexual harassment, ensuring these systems maintain privacy and confidentiality of the data collected, and review and evaluate those systems, e.g. seek feedback from employees through School Climate Survey;
- Promoting positive working relationships in the college workplaces;
- Ensuring information and training to support the effective implementation of this policy is accessible;
- Reviewing the policy every two years or earlier as required, and communicating any changes or updates to the policy.

6. RESPONSIBILITIES OF MANAGEMENT

6.1 The Principal and the Executive Team are responsible for:

- Modelling appropriate behaviour;
- Monitoring the working environment to ensure as far as practicable that acceptable standards of conduct are maintained at all times and that sexual harassment is not tolerated;
- Promoting awareness of the avenues for advice and the complaints procedures with respect to sexual harassment as set out in this policy;
- Treating complaints and behaviour which may constitute sexual harassment seriously and taking immediate action;
- Treating complaints of sexual harassment with appropriate sensitivity and confidentiality;
- Ensuring that a person is not victimised for making, or being involved in, a complaint of sexual harassment;
- Providing contact details for Workplace Contact Officers to complainants or respondents;
- Ensuring that employees abide by the college values and the Code of Conduct.

7. RESPONSIBILITIES OF EMPLOYEES

7.1 The responsibilities of all employees is to:

- Comply with this policy;
- Report any incident of sexual harassment that they have experienced or witnessed;
- Participate in any training provided by the college, including completing the [Equal Opportunity eLearning module](#);
- Model appropriate behaviour, along with college Mercy Values and Ethos;
- Treat any allegations or complaints of sexual harassment with appropriate confidentiality;
- Ensure that a person is not victimised for making or being involved in a complaint of sexual harassment.

8. RESPONSIBILITIES OF THE WORKPLACE CONTACT OFFICERS

8.1 The Workplace Contact Officers at the college are Business Manager, David Lim and Human Resources Manager, Libby Fethers for colleagues experiencing harassment, discrimination, bullying, victimisation or family violence.

8.2 The responsibilities of Workplace Contact Officers are to:

- Be familiar with this policy including the procedures for dealing with allegations of sexual harassment;

- Understand the negative effects that sexual harassment can have in the workplace, and the importance of reporting;
- Act as a point of contact for a person considering making a complaint or seeking information about sexual harassment;
- Provide the person with information about the various options and avenues for advice and the complaints procedures;
- Understand that the role of the Workplace Contact Officer is to provide information about the processes and avenues for assistance, and does not extend to investigation, conciliation, making a judgement about what constitutes sexual harassment, or other intervention;
- Participate in any training related to carrying out these responsibilities provided by the college.

9. CRIMINAL OFFENCES

9.1 Some types of sexual harassment may also be unlawful under criminal law. These include indecent exposure, stalking, sexual assault and obscene or threatening communications, such as phone calls, letters, emails, text messages and posts on social networking sites.

9.2 Employees who believe they have been the victim of a criminal offence are encouraged to report the incident to Victoria Police as soon as possible, as well as reporting the matter to the Principal.

9.3 The college also has a responsibility to deal with allegations of sexual harassment even when the Police are or have been involved. This is to determine the appropriate action to be taken in the workplace. In relation to complaints involving employees, close liaison by the Principal, Executive Team, Catholic Education Office, Mercy Education Ltd and the Police is necessary at the outset. This is to ensure that the police investigation is not interfered with or compromised in any way.

10. REPORTING OR MAKING A COMPLAINT

10.1 The college takes any allegations of sexual harassment seriously. Employees can report or make a complaint about any instance of sexual harassment to the Principal, a member of Executive, or as per the Complaints & Concerns Policy.

10.2 The procedures for dealing with allegations or instances of sexual harassment and possible consequences regarding any breach of this policy are dealt within the college Complaints & Concerns Policy and Bullying & Harassment Policy. It is encouraged to use the internal complaints processes to first resolve any complaints relating to sexual harassment.

10.3 If a complaint of sexual harassment is made, or sexual harassment is observed or brought to the attention of the Principal or a member of Executive, it must be acted upon immediately and managed in a sensitive and confidential manner.

10.4 Where a complaint of sexual harassment is found to be substantiated, the consequences for the person against whom the complaint is made will depend on the particular circumstances. The consequences may include an apology, counselling, undertaking training, or disciplinary action which may include termination of employment.

10.5 At any time employees may also choose to take a complaint of sexual harassment to the following organisations:

Australian Human Rights Commission
1300 656 419 <http://www.humanrights.gov.au/>

Victorian Equal Opportunity and Human Rights Commission
1300 292 153 <http://www.humanrightscommission.vic.gov.au/make-a-complaint>

Victorian Civil and Administrative Tribunal

1300 01 8228 <https://www.vcat.vic.gov.au/>

Fair Work Commission

1300 799 675 <https://www.fwc.gov.au/>

Victoria Police (for criminal offences)

Contact your local station <https://www.police.vic.gov.au/>

An employee may also wish to contact their union for representation and support.

11. BYSTANDER INTERVENTION

11.1 Bystanders, including colleagues, who witness or are aware of sexual harassment, can play an important role in preventing sexual harassment in the workplace. When grounded in behaviours of integrity and respect, action taken by colleagues can positively impact on defining workplace culture. When safe to do so, bystanders that are aware of sexual harassment are encouraged to:

- Provide support to the colleague who is being subjected to sexual harassment;
- Formally or informally challenge concerning behaviour; and
- Report sexual harassment. The standard that people walk past is the standard that people accept. In some situations, a witness may wish to remain anonymous and where appropriate, anonymity will be provided. However, it may not be possible in all circumstances to keep the identity of a person, or people providing information, confidential. In some situations, it may be the case that full details of allegations are required for appropriate inquiries to be made or so that a respondent is afforded procedural fairness and natural justice.

12. INFORMATION OR CLAIMS WITHOUT SUBSTANCE

12.1 Employees found to have knowingly provided false information, or knowingly made allegations of sexual harassment without any substantive merit, may be subject to separate disciplinary action.

13. CONFIDENTIALITY

13.1 Disclosures of sexual harassment will be treated in confidence in order to protect an employee's privacy. However, in some instances, a matter may need to be escalated or referred without agreement from the employee, particularly in circumstances that may:

- Constitute a criminal offence;
- Constitute an Occupational Health and Safety risk;
- Require disciplinary action.

13.2 If a matter needs to be escalated or referred, the person handling the matter will notify the person who made the disclosure of who has been informed of the disclosure.

14. FURTHER APPLICATION

14.1 The college encourages this policy to be used by the college for volunteers, parents, students and contractors.

15. SUPPORT, ASSISTANCE AND FUTHER INFORMATION

15.1 Support is available to all employees involved in reporting and managing a complaint, even after the matter has been resolved as per the college Complaints & Concerns Policy.

15.2 The college encourages all employees to speak to the Principal or Executive member regarding any concerns they have regarding the conduct of any employee.

15.3 Employees are encouraged to contact the Converge International People Assist EAP Program. This service can be accessed on 1300 687 327. Please also refer to section 10.5 of this policy for other organisations that may be able to assist.