

POLICY TITLE: Access, Equity and Anti-Discrimination

Purpose

The purpose of this policy is to state Photography Studies College's (Melbourne) (the College) commitment to the principles of equal opportunity, the promotion of a non-discriminatory environment for students, staff, contractors and members of the public, and a culture free of sexual harassment and assault, discrimination racial and religious vilification, victimisation and bullying.

Policy

The following principles will guide the College in promoting equality of opportunity, access and an educational and working environment free from discrimination, bullying and harassment:

1. Access to the College's educational services and employment based on merit
2. Respect for, and courteous treatment of all staff, students and all persons in the College community
3. Sensitivity to the circumstances and needs of students and staff with disabilities
4. Leaders and senior persons role modeling the behaviour that is expected of others
5. Positive measures such as training and induction activities to promote the desired culture
6. Access to information and support are important to prevent and resolve sexual harassment and assault, discrimination, racial and religious vilification and bullying.
7. Complaints dealt with in a sensitive, impartial, timely and confidential manner,
8. Persons against whom complaints have been made are accorded natural justice through impartial procedures.
9. Protection against victimization of complainants

Procedure

College staff will actively promote equal opportunity by:

- i Modelling appropriate behaviour themselves;
- i Promoting this Policy within their work area;
- i Treating complaints seriously;

- ï Ensuring recruitment, selection and enrolment procedures are not discriminatory
- ï Promote this policy within their sphere of influence and to ensure that all persons understand the policy and its requirements
- ï Manage complaints of discrimination, harassment racial and religious vilification and bullying in a timely, confidential and fair manner.
- ï Consider practical and reasonable adjustments that may improve the opportunities for persons with a disability to participate and succeed in education or employment with Photography Studies College (Melbourne)

The College will ensure that students and staff do not engage in any act of victimisation of complainants and must not cause, instruct, induce or permit another person to commit an act of sexual assault, harassment, bullying or unlawful discrimination.

It is the responsibility of each staff member, and student not to engage in any form of sexual assault, harassment, racial and religious vilification, bullying or discrimination. In addition, staff members, and students must:

- ï Comply fully with this policy
- ï Respect the confidentiality all parties if they provide information during the investigation of a complaint
- ï Show respect and act in a courteous manner toward other staff, students and all persons in the Photography Studies College (Melbourne) community
- ï Not engage in discriminatory behaviour, harass vilify or bully other staff, students and contractors
- ï Cooperate with measures to implement this and related policies

Academic debate and artistic work engaged in good faith

The College is an academic institution providing a dynamic student experience helping graduates reach their creative potential and career aspiration. This involves staff, teachers', students and others engaging in free and open expression of ideas and views in the course of students learning. Consequently, students, staff and contractors are not engaging in racial or religious vilification where their conduct is reasonable and done in good faith:

1. in the performance, exhibition or distribution of artistic work; or
2. in the course of any statement, publication, discussion or debate made or held, or any other conduct engaged in for:
 - a. Any genuine academic, artistic, religious or scientific purpose, or
 - b. Any purpose this in the public interest, or
3. In making or publishing a fair and accurate report of any event or matter of public interest

Responding to complaints

Within the College, a complaint of sexual assault, harassment, bullying or discrimination may be lodged with the relevant Director or in the case of students, the Student Support & Engagement Coordinator. Where the complaint is against a Director then the Managing Director will appoint or designate an appropriately qualified person to act in the role.

The responsibility of the Student Support & Engagement Coordinator and relevant Director is to:

- Inform the individual of their right to complain under anti-discrimination regulations (including the right to take the complaint directly to the Human Rights and Equal Opportunity Commission, the National Training Complaints Hotline or the Fair Work Commission);
- Explain what constitutes sexual harassment, racial and religious vilification, bullying or discrimination and answer any questions;
- Provide information on the internal options that are available to deal with complaints;
- Discuss possible strategies the individual can use to deal directly with the grievance i.e. the self management strategies described in this Policy;
- Provide general information on the College's policy and procedures to any interested staff member, student or contractor.

Resolution of complaints

There are four ways in which complaints of discrimination, vilification, bullying and sexual assault and sexual harassment may be addressed.

1. **Self-management** – complainant deals directly with the person against which the complaint is directed.
2. **Informal** – complainant may ask a Director, or the Student Support & Engagement Coordinator (in the instance of student complaints of sexual assault or harassment) to be involved in 3-way discussion, mediation, training or other non-disciplinary action
3. **Formal internal**– investigation, finding and recommendation
4. **Formal external** – Human Rights Commission, Fair Work Commission, National Training Complaints Hotline

Self-Management

Self management is the process whereby students and staff seek to resolve their individual concerns or grievances directly with the person or persons with whom that they are dissatisfied. This step may not always be practical or appropriate but is important to include as it may lead to mutually empowering outcomes.

Informal

The primary aim of the procedure is to seek a resolution of the complaint through mediation by College) officers. The relevant Director will speak to the person subject to the complaint to determine the facts. Every attempt will be made by the Director to

seek a resolution that is mutually acceptable to the persons concerned. Informal procedures or mediation are usually appropriate where:

- The individual complainant wishes to pursue an informal resolution; or
- The parties are likely to have ongoing contact with one another and the complainant and the subject of the complaint wishes to pursue an informal resolution so that the working relationship can be sustained.

Formal Internal

Formal complaints must be submitted in writing detailing the background to the complaint.

Formal investigation procedures focus on deciding on the balance of probabilities, whether a complaint is substantiated, and identifying and implementing of appropriate action in response to formal complaints. Formal procedures are appropriate where:

- Conciliation / Mediation has failed;
- The complaint involves serious allegations of misconduct and informal resolution could compromise the rights of the parties;
- The complaint is against a Manager/Supervisor and formal procedures may help ensure that the complainant is not victimised or disadvantaged;
- The allegations are denied, the complainant wishes to proceed and an investigation is required to substantiate the complaint.

The formal resolution procedure will be conducted in accordance with the *Employee Grievance Resolution Policy* and/or the *Grievance Handling Policy and Procedure Academic and Non-Academic* or other procedure deemed as appropriate to the particular complaint or complainant.

Outcomes

Outcomes may include but are not limited to, the following:

- Rescission of decision(s) that have been found to be discriminatory
- Apologies;
- Adjustment of work systems, facilities, educational requirements, aids or assistance to accommodate the individual needs of the complainant
- Mediation with an impartial third party where the parties agree to a mutually acceptable resolution;
- Where agreed attendance at additional training and or counselling sessions
- Dismissal of the complaint;
- Disciplinary action against an employee that has breached this or other relevant College Policy;
- Termination of a contractor that has breached this or other relevant College Policy

- Disciplinary action against the person who complained (an employee/student) if there is evidence that the complaint was vexatious or malicious or unfounded.ⁱ

The outcomes of the complaint, the process followed, and any action taken must be recorded in writing and retained on file

Responsibility

Directors
Student Support & Engagement Coordinator

Reports to Board

Yearly reporting on performance indicators, except for instances of litigation, which must be reported to Board immediately. Regular data report on complaints received and action taken to resolve if identified as an area of high risk.

Definitions

Bullying - means repeated unreasonable behaviour directed toward an employee or a group of employees (including, for the purposes of this policy, contractors, service providers, students, customers and visitors when they are engaged in College activities) that creates a risk to health and safety. (See also the *Preventing Bullying Policy*). Bullying does not include reasonable management action carried out in a reasonable manner.

Discrimination – means according to the *Equal Opportunity Act 2010* (Vic)

- a. *Direct discrimination* will occur if a person treats, or proposes to treat, a person with a protected attribute (personal characteristic) unfavourably because of that attribute.
- b. *Indirect discrimination* occurs if a person imposes, or proposes to impose, a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with an attribute; and that is not reasonable.
- c. *Attribute* means
 - ï age
 - ï breastfeeding
 - ï lawful sexual activity
 - ï disability (including physical, sensory and intellectual disability, work related injury, medical conditions, mental, psychological and learning disabilities)
 - ï employment activity
 - ï family responsibilities,
 - ï parental status or as a carer
 - ï gender identity,
 - ï industrial activity
 - ï marital or relationship status
 - ï profession, trade or occupation
 - ï physical features
 - ï political belief or activity
 - ï pregnancy, potential pregnancy, breastfeeding

- ï race (including colour, nationality, ethnicity and ethnic origin)
- ï religious belief or activity
- ï sex, lawful sexual activity, sex characteristics, sexual orientation
- ï expunged homosexual conviction
- ï Spent conviction
- ï personal association with someone who has, or is assumed to have, one of these personal characteristics

Racial vilification – means, on the ground of the race of another person or class of persons, engaging in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.

Sexual assault and sexual harassment - See the Responding to Sexual Assault and Sexual Harassment Policy (Students) and Responding to Workplace Sexual Assault and Sexual Harassment

Religious vilification – means on the ground of the religious belief or activity of another person or class of persons, engaging in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.

Related Documentation

Policies

- ï Responding to Workplace Sexual Assault and Sexual Harassment
- ï Responding to Sexual Assault and Sexual Harassment (Students)
- ï Preventing Bullying
- ï Recruitment
- ï Disability Access
- ï Support for Students

Procedures Forms & Documents

Nil

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ⁱ Disciplinary action may result in warnings or dismissal of an employee and in the case of students' suspension or cancellation of their enrolment.
