

Harassment, Bullying and Discrimination Policy

Preamble

Tuggerah Lakes Community College Limited, encompassing TLK Community College and TLK Youth College, aims to create an environment free from harassment, bullying and unlawful discrimination thereby laying the foundation for a productive and positive workplace and educational setting. The Harassment, Bullying and Discrimination Policy sets down the relevant definitions, underpinning principles and the College's commitment to eliminating harassment, bullying and unlawful discrimination within the College.

Scope

This Policy is applicable to all staff, students and clients when engaged in activities at or associated with the College.

Complaints involving alleged criminal conduct or an alleged breach of any Australian law, may be referred to the Police or other relevant government authority. The College may suspend any action or investigation pending an investigation by the Police or government authority.

Where a complaint, raised through standard communication channels, is serious and could result in reprisals against a person or persons as a result of lodging a complaint, the College recommends the matter may be reported as a Protected Disclosure under the College's Whistleblower Policy.

The Harassment, Bullying and Discrimination Policy does not affect a student's, client's or staff member's rights under relevant legislation or the right to make a complaint to an external or regulatory authority.

Policy Statement

The College is committed to fostering the right of students, clients or staff to be free from harassment, bullying and/or discrimination while engaged in activities undertaken as part of study, employment or other forms of association with the College.

All members of the College community are to be treated with courtesy and respect in accordance with the College's Staff Code of Conduct and the Student Rights, Responsibilities and Code of Behaviour Policy. Harassment, bullying and/or discrimination will not be tolerated under any circumstances and the College will take all reasonable steps to eliminate harassment, bullying or discrimination of or by all members of the College community.

Should a complaint of alleged harassment, discrimination and/or bullying arise, the College will take appropriate action through application of the:

- Student and Client Complaint and Appeal (Consumer Protection) Policy when a student or client makes an allegation or
- Staff Complaint Resolution and Appeal Policy when a College staff member makes an allegation.

Harassment

Harassment is prohibited under Commonwealth and State legislation. Harassment occurs when someone is caused to feel intimidated, insulted, or humiliated because of:

- Age
- Disability
- Sexual preference
- Religion
- Skin colour or ethnicity
- Family or marital status
- Political opinion
- Employment status
- Gender including Pregnancy, Marital Status, Family/Carer's Responsibilities or
- Any other characteristic specified under anti-discrimination or human rights legislation.

Harassment can also occur when someone is working in a hostile or intimidating environment.

Examples of harassment include:

- Telling insulting jokes about particular racial groups or genders
- Sending offensive or insulting emails
- Displaying offensive posters or screen savers
- Making derogatory comments about someone's race or religion.

Sexual Harassment

Sexual harassment is prohibited. It includes any unwanted sexually related behaviour that, in the circumstances, could offend, humiliate or intimidate a reasonable person.

Examples of sexual harassment may include:

- Unwanted physical contact
- Offensive language of a sexual nature
- Propositions of a sexual nature
- Sexual jokes or remarks
- Obscene gestures and
- Displays of pornographic or sexually explicit pictures, drawings or caricatures.

Use of the College's computer system for the purpose of viewing, displaying or distributing material that is sexual in nature may also constitute harassing behaviour. Some forms of sexual harassment such as physical, sexual assault, stalking or indecent exposure may be considered criminal offences.

Usually harassment and sexual harassment constitute an ongoing series of events, however legally, just one act may constitute harassment. The intentions of the person in acting in a manner deemed to constitute harassment is considered irrelevant. Therefore a person may face a charge of harassment even though the person may not have intended to cause offence, humiliation or to intimidate.

Discrimination

Discrimination occurs when an individual or a group of people is treated less favourably or unfairly because of:

- Disability
- Race or religion
- Age or
- Gender including Pregnancy, Marital Status, Family/Carer's Responsibilities

The above list is not exhaustive.

Discrimination may occur during the following activities and circumstances:

- Recruitment and selection of employees
- Terms, conditions and benefits offered through employment
- Which employee or volunteer is offered training and the sort of training offered
- Which employee or volunteer is considered and selected for transfer, promotion, retrenchment or dismissal.

Discrimination in the workplace is contrary to the College's policies and values and is also unlawful.

Workplace Bullying

Workplace bullying is a form of harassment relating to a misuse or abuse of power in relationships between people in the workplace. It includes repeated less favourable treatment of a staff member or volunteer by another person or persons in the workplace. It includes behaviour that may be considered unreasonable in the circumstances and is deemed to intimidate, offend, degrade or humiliate a person.

Behaviour will be considered to be unreasonable based on what a reasonable person, having regard to all the circumstances (those that the alleged bully would reasonably be expected to know) would consider to be unreasonable.

Examples of Workplace Bullying may include but are not limited to:

Physical:

- Swearing
- Shouting and/or
- Slamming doors

Psychological:

- Silent treatment
- Assigning meaningless tasks unrelated to the position of the staff member and/or
- Deliberately withholding information needed for effective work performance.

The following do not constitute an act of bullying:

- Reasonable management action/s including:
 - Setting reasonable performance goals, standards and deadlines
 - Providing constructive feedback on work performance or behaviours and/or
 - Following counselling or disciplinary policies and procedures
- Differences of opinion
- Poor or bad management practices
- An interpersonal conflict or
- A one-off incident, for example, outburst of temper.

Victimisation

Victimisation is defined as a person or group of people retaliating or making reprisals including dismissing or harming the employment of those who submit a complaint about harassment, bullying or discrimination. Victimisation is prohibited behaviour and a person who is deemed to victimise others may be subject to prosecution similar to prosecution that applies to bullying or harassment.

Policy Application

Harassment, sexual harassment, bullying and discrimination are not confined to the physical place of work. Behaviour outside of the usual work environment may also be considered workplace harassment, sexual harassment, bullying and discrimination. Incidents occurring at workplace-related events, such as after work functions either formal or informal, Christmas parties, sponsored seminars and business trips, may be considered workplace issues.

The wide use of technologies such as mobile telephones, email and social networking sites also create spaces where harassment, sexual harassment, bullying and discrimination may occur.

Making a Complaint

The College is committed to ensuring appropriate and fair avenues for students, clients and staff to resolve complaints promptly and as close to the source as possible, with graduated steps for further discussions and resolution at higher levels of authority as necessary.

Any person who is, or has been, a student, client or worker may lay a complaint within a period of twelve (12) months after the last incident of harassment. This time lapse may be extended at the discretion of the Chief Executive Officer (CEO).

Students and Clients

Students or clients can raise a complaint via the *Student and Client Complaints and Appeals (Consumer Protection) Policy* available on the College's website at <https://www.tlkcc.com.au/>.

Initially a complaint or issue may be raised directly with the person concerned, the aim being to resolve the complaint or issue through feedback and/or effective dialogue. This should only be done when the student or client is comfortable in making a direct approach to the person involved or concerned.

If the person approached rejects the direct approach and/or the behaviour or attitude of the person does not change, or when the student or client is uncomfortable in making a direct approach, a written complaint may be made by submitting a *Complaints and Appeals Form*, available on the College's website at <https://www.tlkcc.com.au/> or from College reception.

The complaint resolution process may then follow the Student and Client Complaints and Appeals (Consumer Protection) Policy.

Staff

Staff can raise a complaint via the College's Staff Complaint Resolution and Appeal Policy, contained in the Staff Handbook available at <https://www.tlkcc.com.au/>.

Initially a complaint or issue may be raised directly with the person concerned, the aim being to resolve the complaint or issue through feedback and/or effective dialogue. This should only be done when the staff member is comfortable in making a direct approach to the person involved or concerned.

If the person approached rejects the direct approach and/or the behaviour or attitude of the person does not change, or when the staff member is uncomfortable in making a direct approach, a written complaint may be made by submitting a *Complaints and Appeals Form*, available at on the College's website at <https://www.tlkcc.com.au/> or from College reception.

The complaint resolution process may then follow the Staff Complaint Resolution and Appeal Policy.

Breach of Policy

Proven breaches of the Harassment, Bullying and Discrimination Policy may result in, but are not limited to, one or more of the following:

- Disciplinary action
- Dismissal as a worker or exclusion as a student
- Notification to an external agency and/or
- Criminal charges.

Contractors who engage in unacceptable behaviour may have their contract or engagement with the College terminated or not renewed.

Vexatious Complaints

Any person found to have made a report that is vexatious, including any complaint instituted without sufficient grounds and serving only to cause annoyance, may be subject to disciplinary sanction/s according to the circumstances of the matter.

External Sources of Assistance

Where no mutually acceptable resolution is reached, a student, client or staff member can seek advice and further help from the following:

- Fair Work Australia (Industrial matters), Telephone: 1300 799 675
- The WorkCover Authority of New South Wales, Telephone: 13 10 50
- Anti-Discrimination Board of New South Wales, Telephone: 1800 670 812
- Australian Human Rights Commission, Telephone: 1300 656 419.

Governing Legislation

Age Discrimination Act 2004 (Commonwealth)

Anti-Discrimination Act, 1977 (State)

Australian Human Rights Commission Act 1986 (Commonwealth)

Disability Discrimination Act 1992 (Commonwealth)

Racial Discrimination Act 1975 (Commonwealth)

Sex Discrimination Act 1984 (Commonwealth)

Work, Health and Safety Act 2011 (State)

Policy Forms

Complaints and Appeals Form

Related College Policies

Staff Code of Conduct

Student Rights, Responsibilities and Code of Behaviour Policy

Student and Client Complaints and Appeals (Consumer Protection) Policy.

Staff Complaint Resolution and Appeal Policy

Whistleblower Policy

Review

This Policy will be subject to periodic review and may be amended or updated when required.