



# Sexual Harassment Policy

## PURPOSE OF THE POLICY

The AIIC is implementing this policy to ensure that students and staff are able to work and learn in an environment free from sexual harassment.

### **Scope**

This policy applies to employees, volunteers, parents/carers, students, and people visiting the school site and outlines the steps for reporting incidents of sexual harassment, and explains how the school will respond.

### **Responsibility**

Principal

### **Point of Contact**

Principal

## LEGISLATION

The sexual harassment of staff/teachers and students is unlawful under the *Federal Sex Discrimination Act 1984*. This Act explicitly prohibits:

- (a) the sexual harassment of an adult student\* or potential adult student by staff/teachers or other adult students; and
- (b) the sexual harassment of staff/teachers by adult students or other staff/teachers.

(\* adult student refers to a student 16 years and over)

## DEFINITIONS

*Sexual harassment* is any unwelcome and uninvited comment, attention, contact or behaviour of a sexual nature that an individual or witness finds humiliating, offensive or intimidating. It can be verbal, physical, written or visual. Sexual harassment has nothing to do with mutual attraction or consenting friendships.

Examples of sexual harassment may include, but are not limited to:

- the distribution or display of offensive pictures or written material;
- repeated unwelcome requests for social outings or dates;
- offensive comments about a person's physical appearance, dress or private life;
- jokes, intrusive questioning, messages or telephone calls of a sexual nature;
- direct propositioning or subtle pressure for sexual favours;
- leering, patting, pinching, touching or unnecessary familiarity; and
- indecent exposure, sexual assault or rape.

## POLICY

### **Policy Statement**

(Name of College/School) is committed to providing all Staff/teachers and students with a working and learning environment free from sexual harassment. Sexual harassment is unacceptable and will not be tolerated under any circumstances.

All staff/teachers and students are required to honour and support this commitment.



# Sexual Harassment Policy

Staff/teachers or students who believe that they are being sexually harassed should make it known that the comments, attention, contact or behaviour is unwelcome and offensive. If the sexual harassment continues, or if you are unable or unwilling to handle the matter, you should contact:

- \_\_\_\_\_ Principal *or*
- \_\_\_\_\_ Senior Staff Member *or*
- \_\_\_\_\_ Designated Sexual Harassment Contact Officer

for information and advice, or to make a formal complaint.

Any complaints of sexual harassment will be treated seriously, and the victim of the harassment will be supported. In relation to sexual harassment it is against the law to victimise<sup>1</sup> a person who:

- has made a complaint
- intends to make a complaint
- acts as a witness
- intends to act as a witness
- supports a victim or
- intends to support a victim.

The School will promptly investigate all allegations of sexual harassment in as confidential manner as possible and take appropriate corrective action if warranted.

Any employee who is determined, after an investigation, to have engaged in sexual harassment in violation of this policy will be subject to appropriate sanctions up to and including termination.

## SCHOOL AND STAFF RESPONSIBILITIES

### The Staff/Teacher Role

As employees, all staff/teachers have a duty to ensure that any sexual harassment brought to their attention or personally witnessed, is addressed as soon as possible.

Legal precedents indicate that the onus rests with the employer to take all reasonable steps to prevent sexual harassment and victimisation through proactive education. The school provides annual professional development for all staff in relation to this policy, and regular information sessions to students via school assembly, newsletters or in personal development classes.

### Liability

The employer (individual or company) could be held primarily liable when

- they perform the act personally;
- a senior official representing the mind and will of the organisation performs an act; and
- an act is performed by a person who provides terms and conditions of employment or supervises day to day activities.

Vicarious liability extends only to employment relationships. This means educational institutions are not vicariously liable for the unlawful behaviour perpetrated by their students, but remain liable for sexual harassment of a student by a staff member. It could however be argued that an educational institution could be responsible for the sexual harassment of students by students under the general education provisions of the Act [21(2) (c)] by 'subjecting the student to any other detriment'. There is no case law in this area.

(Note: If the educational institution is not active in attempting to prevent sexual harassment, does not adequately address complaints of sexual harassment, or does not institute disciplinary action where it finds there has been sexual harassment and it continues, then liability may follow.)

<sup>1</sup> A person is victimised if threatened, harassed, harmed or subjected to any form of detriment.



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## POLICY RELEASE DETAILS

***Date of Policy***

January 2018

***Approved by***

Board

***Review Date***

In response to any changes to the law, or biennially