



**ALL SAINTS'
COLLEGE**

GRIEVANCE POLICY AND PROCEDURE

Purpose

All Saints' College is committed to providing a safe and fair workplace for its staff, which includes promoting our values of 'Empathy, Respect, Integrity and Courage' to foster positive and respectful personal relationships between all members of staff. However, as in any organisation, grievances may arise from time to time, and this policy sets out processes for addressing matters of concern expeditiously, confidentially and sensitively, and this includes information on how to make a complaint / submit a grievance, or how to respond to a complaint or a grievance.

Scope

The processes outlined in the policy are for all employees of the College, which includes staff who are employed on either a casual, part-time, fulltime, permanent, or fixed term employment contract, and also includes volunteers or contractors who are working at the College on College business.

This policy is not to be used to respond to complaints / grievances made by students, parents, or any external body, against any employees of the College. Complaints / grievances of this nature should be progressed via the 'Comments and Complaints Policy.'

This policy does not form part of a staff member's employment contract.

Defining a grievance

A grievance is a complaint about a problem or concern that is related to work or the work environment, and can include acts, omissions, behaviours, and processes that are believed to be unlawful, unfair, or contrary to existing policy.

Examples of employee grievances include, but are not limited to, complaints of unlawful discrimination, sexual or racial harassment, bullying, interpretation of awards and policies, and other matters that have an adverse effect on terms, conditions, and benefits of employment. Specific information on what constitutes unlawful discrimination, sexual or racial harassment or bullying is as follows.

Discrimination

What is discrimination?

Direct

This occurs when a person is treated less favourably than another person in the same or similar circumstances on one or more of the grounds and in one or more of the areas of public life covered by the Equal Opportunity Act 1984. For example, if a school did not employ a staff member because they are of a particular race.

Indirect

This occurs when an apparently neutral rule, policy, practice or procedure has a negative effect on a substantially higher proportion of people with a particular attribute or characteristic compared to people without that attribute or characteristic, and the rule is unreasonable in the circumstances. For example an unwritten school requirement that all students be Australian citizens. Such discrimination would be found unlawful unless it can be justified.

Systemic This occurs as a result of direct and indirect discrimination due to customary practices. For example, "This is how we do things around here".

Substantive equality Equal rules for unequal groups can have unequal results.

Different types of discrimination include:

- Sex (gender)
- Marital status
- Pregnancy
- Race (including race of relative or associate)
- Impairment (including impairment of a relative or associate)
- Religious or political conviction (or lack of conviction)
- Family responsibility or family status (in employment or education)
- Age
- Gender history
- Sexual orientation
- Breastfeeding
- Spent conviction

Harassment

What is harassment?

Harassment is unwelcome and unwanted conduct that discriminates against, humiliates, offends or intimidates another person, including bullying, belittling, threatening, victimising and abusive behaviour, and which is based on any of the discrimination factors including gender, race, disability and age.

Sexual harassment is unwelcome sexual advance or request for sexual favours or any unwelcome conduct of a sexual nature.

The intent of the behaviour is irrelevant, as it is the effect of the behaviour that matters. Examples of sexual harassment are:

- Jokes and innuendo
- Name calling
- Leering
- Practical jokes
- Invasive questioning
- Invasion of personal space
- Physical contact
- Display of sexually offensive materials – photographs/emails/screensavers etc

Racial harassment includes threats, abuse, insults and taunts based on a person's race or a characteristic belonging to, or generally believed to belong to, a particular race. This includes skin colour, descent, ethnicity, national origin or nationality.

The intent of the behaviour is irrelevant, as it is the effect of the behaviour that matters. Examples of racial harassment are:

- Racist graffiti, pictures, posters or written material that is offensive or obscene
- Offensive or mocking comments about some attribute or characteristic of another person's race
- Racist jokes
- Abusive messages and material on electronic mail or computer networks
- Insulting or threatening gestures
- Deliberate exclusion

Bullying

What is bullying?

Bullying at work can be defined as repeated unreasonable or inappropriate behaviour directed towards another person / other people that creates a risk to health and safety. Workplace bullying also involves misuse of power, be it actual or perceived, and may include subtle or obvious behaviours.

There are two main types of workplace bullying:

Overt bullying may include, but is not limited to:

- the use of abusive, insulting or offensive language
- behaviour or language that frightens, humiliates, belittles or degrades, including criticism, that is delivered via yelling and screaming
- derogatory comments about a person's appearance, lifestyle or their family
- teasing or repeatedly making a person the brunt of pranks or practical jokes
- deliberate attempts to isolate a worker(s) from others
- spreading destructive gossip and rumours about a person(s)
- physical assault or threats.

Covert bullying may include, but is not limited to:

- setting unreasonable timelines for task completion or constantly changing deadlines
- constantly setting tasks that are below or beyond a person's skill level
- ignoring or isolating a person
- deliberately denying access to information, consultation or resources required for task completion.

There are several avenues that can be taken to resolve a grievance.

Resolving a grievance

The College encourages an informal and amicable resolution of grievances through discussions, mediation and/or conciliation to achieve an agreed course of conduct and behaviour. However, depending on the circumstances, this may not always be achievable or appropriate, and as a consequence the following four options are provided for the consideration of staff to progress their complaint / grievance.

Option 1: Speak to the person involved

Whilst this may not be appropriate in all cases, it can be the easiest way of resolving an issue if an employee feels comfortable doing so. It is possible that the person who is subject of the complaint is not aware that their behaviour, actions or decision has caused upset, and by discussing the issue they will not only be made aware of the matter, but will also be afforded the opportunity to remedy the complaint / grievance.

Option 2: Seek advice about managing the problem - informally

In instances where the aggrieved staff member does not feel comfortable raising the issue directly with the person, but does not wish to make a formal complaint; the aggrieved staff member might consider discussing the issue with their line manager, a member of the Leadership Team, or the Director of Personnel and Policy. This process provides an aggrieved employee with an opportunity to discuss their concerns in a safe and confidential environment with a view of discussing the best manner to resolve the issue. An outcome of such a meeting may include:

- the scheduling of a mediation meeting between the aggrieved employee and the subject employee;
- the scheduling of a meeting between the Director of Personnel and Policy and the subject employee to bring the aggrieved employee's complaint to notice;
- a decision not to progress the matter any further; or
- a decision to progress the matter by formal grievance.

Option 3: Lodge a formal grievance

Staff members who wish to submit a formal grievance must notify the Principal in writing (an email will suffice) detailing the nature of the complaint / grievance, and the outcome being sought. The Principal, or the Principal's delegate, will meet with the aggrieved member of staff as soon as is practicable, which must be not more than seven days following the notification of the grievance or complaint.

Following the meeting the Principal may either:

- instigate an investigation into the matter;
- schedule a mediation meeting;
- take any other action deemed appropriate; or
- take no action if the grievance or complaint is considered to be vexatious, frivolous, malicious, or without merit.

The College will endeavour to resolve all grievances in a timely and amicable manner, and in the event an investigation is warranted natural justice will apply in all instances.

Option 4: Lodge a formal grievance externally

There are courts and tribunals situated throughout Australia that accept complaints from employees concerning particular grievances, such as equal opportunity commissions / tribunals that hear complaints of unlawful discrimination and racial and sexual harassment, and the Fair Work Commission that hears complaints concerning allegations of bullying in the workplace. Employees who wish to lodge an external grievance will need to seek advice concerning the manner in which to submit a complaint to the relevant body.

Understandably, the College would like the opportunity to address any grievance in the first instance, and on some occasions this is a prerequisite before lodging an external complaint. An employee who wishes to lodge an external grievance may wish to seek advice from the various government agencies, their union, or a legal practitioner.

Overview of the internal grievance resolution process

The College's response to complaints / grievances will be dependent upon the individual merits of each complaint, and as previously detailed this may include conducting an investigation, scheduling a mediation meeting, or by taking any other action deemed appropriate by the Principal (which includes taking no action).

In the event an investigation is warranted, the Principal will allocate the investigation to a member of the Leadership Team (LTM). They will make contact with the aggrieved staff member to discuss their complaint within two working days. The purpose of this meeting is for the LTM to become familiar with all the details of the complaint, which may include clarifying certain aspects of the written complaint, or ascertaining further information. Following this meeting the LTM will commence their investigation, which may include speaking with other employees, the subject of the complaint (hereafter named 'the Respondent') and/or assessment of any relevant electronic or hardcopy documents, or the collection and/or analysis of any other evidence deemed necessary.

The investigator will make a determination on 'the balance of probabilities' based on analysis of all the evidence collected during the course of the investigation, and the result of the investigation (inclusive of recommendations on how to resolve the matter) will be forwarded to the Principal.

The Principal will make a decision on how to resolve the complaint based on the content of the investigation report, and will also take into consideration any other matters deemed relevant.

The Principal, or Principal's delegate, will meet with the aggrieved employee and provide advice on the outcome of the investigation. The Principal will also provide written advice to the Respondent on the outcome of the investigation.

Responding to a formal grievance / complaint

The person who is the subject of the grievance is usually referred to as the ‘Respondent,’ and they will be provided with an opportunity to respond to the allegations either in writing or during a formal meeting.

In any event, the allegations will be brought to the Respondent’s notice in writing in the first instance, and the Respondent will then be invited to respond to the allegations either in writing, or verbally during a meeting held specifically to discuss the matter. In the event that a meeting is going to be held, the Respondent will receive written notification of the proposed time and date of the meeting, and the identity of the person / s who is / are going to attend the meeting.

Respondents are provided with an opportunity to have a support person attend the meeting with them. A support person’s role is to provide the Respondent with support during the meeting, which could include emotional support, taking notes, assisting the Respondent understand questions, or to help clarify issues.

Attending a meeting

The purpose of meetings of this nature is to provide the Respondent with an opportunity to respond to the complaint, which may include ascertaining their recollection / version of a particular event, or ascertaining what they (or someone else) said or did at a particular time.

In accordance with the College’s values, it is an expectation that staff members will be honest and truthful at all times, and in this regard the College is entitled to take disciplinary action (up to and including dismissal) against any employee who wilfully lies or provides misleading information.

After the Respondent has provided their response to the complaint, the meeting will be recessed. The meeting may be recessed for several minutes or several days, depending upon the complexity or seriousness of the complaint. After a decision has been made the meeting will be reconvened and the Respondent will be verbally advised of the outcome. Written correspondence detailing the outcome of the meeting will be provided to the Respondent within seven working days.

Confidentiality

All grievances are considered to be confidential, and it is expected that complainants, respondents, and any witnesses who are spoken with, will not discuss the grievance with anyone else in the workplace with the exception of their support person, the Principal or the Director of Personnel and Policy. Employees who wilfully breach confidentiality may face disciplinary action, up to and including dismissal.

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