



## Policy

- The basis of this policy is that all people are created in the image of God, are to be valued as individuals and are worthy of respect.
- St Martin's College is committed to promoting and providing a work and living environment which is fair and free of discrimination, harassment and bullying.
- St Martin's College is obliged to adhere to Diocesan Child protection policies and is committed to providing an environment that protects young people 18 years old and younger.
- St Martin's is obliged to adhere to the CSU Policy and Guidelines on Harassment and Bullying. These are included in this manual.
- Grievances or Complaints may be dealt with by Charles Sturt University's Complaints Procedures which may be viewed at <http://www.csu.edu.au/adminman/gov/gov.htm>
- The anti-discrimination policies and procedures of St Martin's College must be consistent with the following:

*Anti-Discrimination Act, 1977 (NSW)*

*Racial Discrimination Act, 1975 (C'th)*

*Sex Discrimination Act, 1984 (C'th)*

*Human Rights and Equal Opportunity Commission Act, 1986 (C'th)*

*Disability Discrimination Act, 1992 (C'th)*

*Equal Opportunity for Women in the Workplace Act, 1999 (C'th)*

*Age Discrimination Act, 2004 (C'th)*

*Occupational Health and Safety Act, 2000*

*Workplace Relations Act 1996*

*CSU Policy & Guidelines on Prevention of Harassment and Bullying*

*CSU Grievance Resolution Policy and Procedure*

## Procedures

- All new staff and students are to be advised of the St Martin's Anti-Discrimination Policy.
- All staff and students have the right to be treated fairly by the college, by the college staff and by the college students. Thus it is the responsibility of both staff and students to behave in a manner which is in accordance with both the CSU and St Martin's Policies.

- No printed material of a discriminatory nature may be displayed within the College.
- Equal Opportunity principles should be practised in the employment of staff and in the selection of new students.
- All staff must complete a “Working with Children Check” and a Prohibited Employment Declaration as well as undergo the Diocesan Child protection Training every 3 years.
- It is the responsibility of the HOC and the Board to ensure that St Martins is an environment free from discrimination, harassment and bullying, as well as an equal opportunity and affirmative action environment.

### **Grievance Process**

- Should any student, staff member or visitor have a complaint concerning harassment or discrimination the College will take the complaint seriously.
- Complaints may be lodged through the CSU complaints process (<http://www.csu.edu.au/adminman/gov/gov.htm>), through State and Federal Legal processes or with St Martins.
- Complaints must be lodged in writing with either the Head of College or the President of the St Martin’s College Board.
- No anonymous complaints will be acted on.
- All complaints should be treated in a confidential and discreet manner.
- The person lodging the complaint should be given the opportunity to discuss the complaint with either the Head of College or the President of the Board and to express what they would feel an appropriate response to their complaint.
- The Head of College has the responsibility to identify, prevent and address problems in the College, and to handle and resolve any type of grievance expeditiously, without prejudice or victimisation.
- The Board is responsible for the appointment of a Grievance/Discipline Committee. The Committee should consist of two College Board Members, who have a background that would assist in hearing and acting on grievances, and the Head of College. Should the complaint be directed at the HOC an alternative Board member should be appointed to the committee.
- Should the complaint be of a nature that requires disciplinary action the complaint is to be referred to the College Grievance Committee. The role of this committee is to determine an appropriate and just resolution to the complaint. This may involve counselling, fines, suspension or removal of a student from the college.
- Should the complaint be of a breach of state or federal law the complainant should be referred to the appropriate organising body and not be dealt with internally.



Title:

# Policy on Prevention of Harassment and Bullying

<b>Version</b>	2.0
<b>TRIM file number</b>	05/XXXX
<b>Short description</b>	A policy covering the University's commitment to preventing, and dealing with, harassment and bullying
<b>Relevant to</b>	Staff, students and visitors of CSU, and contractors working on campus
<b>Approved by</b>	Executive Committee of Council
<b>Responsible officer</b>	Manager, Equal Opportunity
<b>Responsible office</b>	Division of Human Resources
<b>Date introduced</b>	11 June, 1999
<b>Date(s) modified</b>	20 August 1999 30 May 2002 16 December, 2005 (resolution EXE 05/119)
<b>Next scheduled review date</b>	December, 2008
<b>Related University documents</b>	<a href="#">Guidelines on Prevention of Harassment and Bullying</a> Equal Opportunity Policy Grievance Resolution Policy and Procedure Code of Conduct Applicable industrial instrument (e.g. CSU Enterprise Agreement, Australian Workplace Agreement, contract of employment) Student General Misconduct Rule
<b>Related legislation</b>	<i>Anti-Discrimination Act, 1977 (NSW)</i> <i>Racial Discrimination Act, 1975 (C'th)</i> <i>Sex Discrimination Act, 1984 (C'th)</i> <i>Human Rights and Equal Opportunity Commission Act, 1986 (C'th)</i> <i>Disability Discrimination Act, 1992 (C'th)</i> <i>Equal Opportunity for Women in the Workplace Act, 1999 (C'th)</i> <i>Age Discrimination Act, 2004 (C'th)</i> <i>Occupational Health and Safety Act, 2000</i> <i>Workplace Relations Act 1996</i>
<b>Key words</b>	policy, harassment, sexual harassment, racial harassment, bullying

## 1. PURPOSE

- 1.1 The purpose of this policy is to set out Charles Sturt University's commitment to preventing harassment and bullying, the responsibilities of staff and students, and University sanctions against behaviour that constitutes harassment or bullying.
- 1.2 This policy has been adopted to meet the requirements of state and Commonwealth anti-discrimination and occupational health and safety legislation.

## 2. SCOPE

This policy applies to staff and students of Charles Sturt University. It also covers visitors to the University and contractors working on campus.

## 3. DEFINITIONS

3.1 **Harassment** refers to unwelcome behaviour that:

- (a) makes a person feel offended, belittled, intimidated or apprehensive; and that
- (b) a reasonable person, taking into account all the circumstances, would expect to cause offence, intimidation or apprehension.

Under state and Commonwealth anti-discrimination legislation, harassment on any of the following grounds is deemed to constitute discrimination:

- (a) age;
- (b) disability, including HIV/AIDS status;
- (c) homosexuality;
- (d) marital status;
- (e) pregnancy or potential pregnancy;
- (f) race (including colour; nationality, descent, and ethnic, ethno-religious or national origin);
- (g) responsibilities as a carer;
- (h) sex (including sexual harassment);
- (i) transgender (anyone who identifies as a member of the opposite sex by living or seeking to live as a member of the opposite sex, including a person assumed to have a transgender identity); or
- (j) personal association with a person who is identified by reference to any of the above attributes

3.2 **Bullying** can be described as unreasonable behaviour that intimidates, demeans or humiliates a person, putting their health, safety or welfare (including psychological welfare) at risk.

- 3.3 **Victimisation** refers to unfavourable treatment of a person because of their involvement in a complaint made under the University's grievance procedures or to an external body.

#### **4. RESPONSIBILITIES**

- 4.1 Staff and students are expected to maintain appropriate standards of behaviour and to respect the rights and differences of others.
- 4.2 Staff and students are responsible for the accuracy of any complaints they may lodge. Vexatious complaints are viewed seriously by the University and may lead to disciplinary action being taken against the complainant.
- 4.3 Managers and supervisors have a responsibility to:
- (a) become familiar with the University's Policy on Prevention of Harassment and Bullying;
  - (b) make sure that the staff and students they supervise understand that harassment and bullying will not be tolerated;
  - (c) ensure that acceptable standards of conduct are observed at all times in the classroom or workplace;
  - (d) take early corrective action to deal with behaviour that may be offensive or intimidating, even if a complaint has not been made;
  - (e) ensure that all complaints of harassment or bullying are dealt with promptly, fairly, sensitively and in accordance with University procedures;
  - (f) provide appropriate support and/or referral for support and advice;
  - (g) seek advice from the Manager, Equal Opportunity where necessary, in relation to any complaints of harassment or bullying they receive; and
  - (h) take steps to prevent victimisation and respond quickly to any complaints of victimisation which follow a complaint of harassment or bullying.

#### **5. STATEMENT OF COMMITMENT**

- 5.1 Charles Sturt University aims to provide a learning and employment environment that is free of harassment and supports the dignity and self esteem of every student and employee.
- 5.2 Harassment of staff, students or members of the public, in circumstances associated with University related activities, is unacceptable and contrary to the educational and employment policies of the University.
- 5.3 Incidents of harassment and bullying will be treated seriously and the following will apply:

- (a) complaints will be dealt with promptly and in accordance with principles of natural justice;
- (b) confidentiality will be maintained within the procedures for resolving complaints;
- (c) disciplinary procedures may be invoked in the case of serious or persistent harassment or bullying; and
- (d) victimisation as a result of a complaint will not be tolerated.

5.4 The University will ensure that both staff and students are informed of this policy and managers and other supervisory staff are aware of their responsibilities in accordance with this policy.

## **6. UNIVERSITY SANCTIONS APPLYING TO HARASSMENT AND BULLYING**

6.1 Any form of harassment (including bullying) may constitute misconduct and lead to disciplinary action under the relevant industrial instrument or Student General Misconduct Rule.

6.2 While the emphasis is generally on informal resolution of harassment complaints, more formal action by the University may be appropriate in instances where, for example:

- (a) there are repeated offences;
- (b) the alleged behaviour constitutes serious misconduct;
- (c) the complaint has been made in bad faith; or
- (d) the complainant has been victimised subsequent to a complaint being made.

6.3 Penalties for breaches of this policy may include: a directed apology, a formal reprimand, counselling, transfer, fine, demotion, dismissal, suspension or expulsion.

### **Table of amendments**

<b>Version number</b>	<b>Date</b>	<b>Short description of amendment</b>
1.2	20/08/1999	
1.3	30/05/2002	Policy amended to include section on bullying.
2.0	16/12/2005	Policy rewritten.  Detailed information on types of harassment and bullying and how to deal with harassment or bullying moved to guidelines.



Title:

# Guidelines on Prevention of Harassment and Bullying

<b>Version</b>	1.0
<b>TRIM file number</b>	05/XXXX
<b>Short description</b>	Guidelines on identifying and seeking resolution of instances of harassment or bullying.
<b>Relevant to</b>	Staff, students and visitors of CSU, and contractors working on campus
<b>Approved by</b>	Executive Director, Human Resources
<b>Responsible officer</b>	Manager, Equal Opportunity
<b>Responsible office</b>	Division of Human Resources
<b>Date introduced</b>	16 December, 2005
<b>Date(s) modified</b>	
<b>Next scheduled review date</b>	December, 2008
<b>Related University documents</b>	<a href="#">Policy on Prevention of Harassment and Bullying</a> Equal Opportunity Policy Grievance Resolution Policy Grievance Resolution Procedure Code of Conduct Applicable industrial instrument (e.g. CSU Enterprise Agreement, Australian Workplace Agreement, contract of employment) Student General Misconduct Rule
<b>Related legislation</b>	<i>Anti-Discrimination Act, 1977 (NSW)</i> <i>Racial Discrimination Act, 1975 (C'th)</i> <i>Sex Discrimination Act, 1984 (C'th)</i> <i>Human Rights and Equal Opportunity Commission Act, 1986 (C'th)</i> <i>Disability Discrimination Act, 1992 (C'th)</i> <i>Equal Opportunity for Women in the Workplace Act, 1999 (C'th)</i> <i>Age Discrimination Act, 2004 (C'th)</i> <i>Occupational Health and Safety Act, 2000</i> <i>Workplace Relations Act 1996</i>
<b>Key words</b>	guidelines, harassment, sexual harassment, racial harassment, disability harassment, sexual orientation, transgender status, bullying, vilification

## 1. INTRODUCTION

The University has a duty of care in relation to the health and safety of its staff and students. Harassment that occurs within Charles Sturt University or is related to University activities is of concern as it can create an intimidating, hostile, offensive or distressing work or study environment and impact on the health and well being of staff and students. Harassment may adversely affect the work or academic performance of staff and students and their ability to access opportunities and benefits relating to employment or education. It can also damage the integrity and standing of the University. In addition, some forms of harassment are unlawful.

## 2. PURPOSE

These guidelines are intended to assist with identifying the kinds of behaviour that may be defined as harassment or bullying and to outline options for resolving incidents of harassment or bullying.

## 3. SCOPE

These guidelines apply to staff and students of Charles Sturt University. They also cover visitors to the University and contractors working on campus.

## 4. DEFINITIONS

**Harassment** refers to unwelcome behaviour that:

- (a) makes a person feel offended belittled, intimidated, or apprehensive; and that
- (b) a reasonable person, taking into account all the circumstances, would expect to cause offence, intimidation or apprehension.

Under state and Commonwealth anti-discrimination legislation, harassment on any of the following grounds is deemed to constitute discrimination:

- (a) age;
- (b) disability, including HIV/AIDS status;
- (c) homosexuality;
- (d) marital status;
- (e) pregnancy or potential pregnancy;
- (f) race (including colour; nationality, descent, and ethnic, ethno-religious or national origin);
- (g) responsibilities as a carer;
- (h) sex (including sexual harassment);
- (i) transgender (anyone who identifies as a member of the opposite sex by living or seeking to live as a member of the opposite sex, including a person assumed to have a transgender identity); or
- (j) personal association with a person who is identified by reference to any of the above attributes

**Bullying** can be described as unreasonable behaviour that intimidates, demeans or humiliates a person, putting their health, safety or welfare (including psychological welfare) at risk.

**Vilification** refers to a public act that could incite or encourage hatred, severe ridicule or serious contempt for a person or group of people because of their race, homosexuality, HIV/AIDS status or transgender status.

## **5. THE GENERAL NATURE OF HARASSMENT**

In the context of the workplace, harassment is behaviour that is unnecessary to the performance of professional duties and that interferes with a person's right to work or study in a non-threatening environment.

Harassment may take verbal, written, physical or other non-verbal forms. It can encompass behaviour that is offensive or harmful, from personal comments to bullying and acts of aggression or physical violence.

## **6. SEXUAL HARASSMENT**

Sexual harassment refers to unsolicited, unwanted attention of a sexual nature that is demeaning, compromising, embarrassing or distressful to the recipient.

The law defines sexual harassment as occurring when a person makes an unwelcome sexual advance, an unwelcome request for sexual favours, or engages in other unwelcome conduct of a sexual nature that causes the recipient to feel offended, humiliated, or intimidated, and when this reaction is reasonable, given the circumstances.

In determining whether harassment has occurred, the intention of the person whose behaviour has caused offence is of less significance than the effect of their behaviour on the other person. The same behaviour may be perceived differently, depending on a person's age, gender or their social or cultural background. In addition, forms of sexual behaviour that may initially appear mild or trivial can cause severe distress in situations where there is a formal inequality of status between those involved.

Sexual harassment can occur as a single incident or a persistent pattern of unwelcome behaviour. It may be intentional or unintentional and is not confined by definition to any gender or sexuality. It can range from subtle behaviour to explicit demands for sexual activity or even criminal assault. Sexual harassment may include but is not limited to:

- (a) inappropriate remarks with sexual connotations, smutty jokes, or lewd comments;
- (b) intrusive questions or insinuations about a person's sexual activities or private life;
- (c) suggestive remarks about a person's body or appearance;
- (d) persistent, unwanted requests for dates;
- (e) persistent, unwanted declarations of affection;
- (f) subtle or explicit requests for, or offers of, sexual favours;

- (g) the display of sexually suggestive material in inappropriate contexts;
- (h) offensive written, telephone, or electronic mail or other computer system communications;
- (i) offensive hand or body gestures;
- (j) uninvited physical contact such as patting, pinching, touching or putting an arm round another person;
- (k) unnecessary close physical proximity, including persistently following a person;
- (l) indecent exposure; or
- (m) sexual assault.

Sexual harassment is of particular concern where it:

- (a) implicitly or explicitly imposes a condition on student admission, grading or academic progress;
- (b) implicitly or explicitly imposes a condition on staff recruitment, selection, appraisal or career progression;
- (c) interferes with academic or work performance; or
- (d) creates an intimidating or offensive learning or work environment.

Sexual harassment does not refer to relationships of mutual attraction that are based on genuine choice and consent. However, in situations of unequal power and authority, there is a danger that 'consent' might be based on fear, intimidation or perceived coercion because of the unequal status of the parties involved. For example, where a sexual advance appears to be reciprocated, it could still be viewed as harassment if the recipient had reasonable grounds for believing that a rejection of, or objection to, the sexual behaviour would disadvantage her/him in some way.

The University's Code of Conduct requires staff members to disclose to their immediate supervisor or other senior officer within their Faculty or Division details of personal relationships that may give rise to an actual, potential or perceived conflict of interest in the performance of their duties. Where an employee is involved in a close, personal, romantic or sexual relationship with a student in relation to whom the employee has academic or administrative responsibilities, the employee is required to make alternative arrangements for the carrying out of his or her academic or administrative responsibilities. This requirement is for the benefit of all parties concerned to differentiate clearly between personal and professional relationships.

It is helpful to distinguish between sexual harassment and **gender-based harassment**. The latter encompasses harassment or offensive conduct based on the gender of the recipient – that is, treatment that is sexist or in any other way denigrates or disadvantages a person because of their gender.

## **7. RACIAL HARASSMENT**

Racial harassment is characterised by the use of derogatory or offensive language and/or behaviour, with reference to the racial, ethnic, cultural or ethno-religious background of people or groups.

Racial harassment may include:

- (a) the display of racist cartoons, posters and graffiti, or distribution of offensive racially-oriented material;
- (b) repeated jokes or derogatory comments that make reference to ethnicity or racial characteristics;
- (c) derogatory remarks about a person's accent, culture, customs or religious observances;
- (d) racially oriented abuse or name calling;
- (e) negative stereotyping of particular ethnic groups;
- (f) repeated irrelevant reference to a person's racial, cultural or ethnic background;
- (g) practical jokes based on race or directed only at members of a non-majority ethnic group; or
- (h) bullying, intimidation, exclusion or physical violence, on the basis of the cultural or ethnic background of the recipient.

## **8. OTHER FORMS OF HARASSMENT**

The Disability Discrimination Act 1992 explicitly covers harassment as unlawful, on the basis of a disability, presumed disability or association with a person with a disability. This includes harassment of a person because they have, or are assumed to have, an illness or disease such as HIV/AIDS or viral hepatitis.

Harassment because of a person's gender, homosexuality, marital status, age or transgender status is also contrary to the law in contexts where it causes disadvantage, interferes with work or academic performance, or creates an intimidating or hostile work or study environment. In such cases, any one of the following actions may constitute harassment:

- (a) denigrating language or comments regarding a person's gender, sexual orientation, age or any other personal characteristic;
- (b) the display of written or pictorial material that denigrates or ridicules a person's gender, sexual orientation, age or any other personal characteristic; or
- (c) abusive behaviour such as bullying or intimidation because of a person's gender, sexual orientation, age or any other personal characteristic.

## **9. VILIFICATION**

State and Federal anti-discrimination legislation prohibit certain forms of vilification. Where the content ridicules or incites hatred or contempt for a person's race, homosexuality, HIV/AIDS status or transgender status, the following activities may be defined as vilification:

- (a) graffiti;
- (b) posters or stickers displayed in a public space;
- (c) statements or speeches made in public or published on the Internet;
- (d) statements or remarks in a newspaper, journal or other publication, or on radio, television or other widely accessed electronic media such as Internet or email;
- (e) abuse that happens in public; or
- (f) displaying slogans on badges or clothing in public.

## **10. BULLYING**

Harassment often takes the form of bullying. Bullying is generally characterised by a misuse of relative and/or assumed power. It is often, but not always, deliberate and it usually encompasses more than one act.

Bullying can be identified by repeated, persistent, aggressive behaviours that may escalate in severity over time, or a pattern of behaviour that causes disadvantage and/or distress. Bullying behaviours may include but are not limited to:

- (a) abusive or offensive language, insults, ridicule, sarcasm or intimidating remarks;
- (b) verbal or physical aggression – for example, shouting, throwing things, pushing or standing over someone;
- (c) spreading derogatory innuendo or rumours about a person;
- (d) teasing or regularly making a person the brunt of practical jokes/pranks, particularly after they have objected;
- (e) making phone calls or sending letters or e-mails that are threatening, abusive or offensive;
- (f) interfering with or damaging a person's property;
- (g) repeatedly criticising or making comments intended to discredit or undermine a person or devalue their work;
- (h) minimising or failing to acknowledge a person's contribution;
- (i) deliberately excluding someone from work-related or study-related interactions, social activities or networks;
- (j) deliberately withholding work-related/study-related information or resources or supplying incorrect information to an individual;
- (k) inappropriately threatening a student with low grades or a staff member with dismissal, disciplinary action or demotion;
- (l) creating unexplained job changes, setting meaningless tasks or tasks well beyond a person's job description;
- (m) setting unreasonable deadlines, impossible work targets or excessive work loads;

- (n) subjecting a person to constant surveillance or over-detailed supervision and unwarranted checking of performance;
- (o) denying access to training and development or career opportunities without justification; or
- (p) applying restrictive and petty work rules that diminish a person's control over the way in which their work is carried out.

Bullying should not be confused with the legitimate exercise of managerial, supervisory or teaching authority. It is not bullying for:

- (a) a supervisor, within the framework of University policies and procedures, to counsel an employee on their performance or institute proceedings for unsatisfactory performance, misconduct or dismissal or deal with complaints from others;
- (b) an academic staff member, as part of their teaching role, to counsel a student on academic matters or give constructive feedback on their academic progress or classroom-related behaviour; or
- (c) staff or students to express differences of opinion or difficulties they have with another member of the campus community, provided that it is done in an appropriate manner.

Differences of opinion, conflicts and problems in work/study relationships are part of campus life and do not in themselves constitute bullying.

## **11. OPTIONS AVAILABLE TO STAFF AND STUDENTS FOR RESOLVING COMPLAINTS OF HARASSMENT OR BULLYING**

Staff or students who believe they are being harassed or bullied should not ignore the problem. In the first instance, if they feel safe to do so, it may be sufficient to make it clear to the other person that their behaviour is unwelcome, offensive or distressing. If the employee or student does not feel comfortable with this approach or if it is not effective, they should seek advice or use the University's Grievance Resolution Procedure.

Visitors should use the University's Grievance Resolution Procedure.

Options available to staff, students or visitors for resolving complaints of harassment include:

- (a) advising the appropriate line manager or, in the case of students, the Head of School;
- (b) taking the matter up with another appropriate manager within the University, eg. Manager, Equal Opportunity or another senior HR staff member;
- (c) submitting a written complaint to the University Manager, Complaints;

- (d) contacting Student Services, a representative of the student association or an employee representative of their choice for advice, support or assistance (if a member of the University community);
- (e) seeking advice from the NSW Anti-Discrimination Board or Human Rights and Equal Opportunity Commission; or
- (f) in the case of assault or injury, contacting the Police.

Any difficulty in defining what constitutes harassment or bullying should not deter a person from seeking assistance to address behaviour that causes them distress, nor should they be deterred by embarrassment, intimidation or fear of publicity. The sensitivity of harassment complaints and the need for confidentiality will be respected.

Harassment or bullying can result in trauma and stress for the person who is the target of such behaviour. Counselling services are available through the Employee Assistance Program for staff or through Student Services for students.

#### **Table of amendments**

<b>Version number</b>	<b>Date</b>	<b>Short description of amendment</b>