

<b>Policy Owner</b>	College Director and Principal
<b>Contact Officer:</b>	Business Manager
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<b>Approved by:</b>	Senior Management Group
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<b>Related Documents:</b>	Appeals Policy Complaints Policy Incident Management Contacts and Procedures Equal Opportunity Policy Staff Grievance Policy Student Misconduct Policy Health and Safety Policy

## 1. Overview

- 1.1. Curtin College regard Bullying, Harassment and Discrimination as a serious breach of the College's Equal Opportunity Policy and a risk to occupational health and safety. Discrimination and sexual harassment are illegal and unacceptable.
- 1.2. The College will take all reasonable steps necessary to minimise the likelihood of harassment or discrimination occurring within the College and assist staff and students to deal with incidents when they occur.
- 1.3. The purpose of the policy is to provide the framework and process for dealing with Bullying, Harassment and Discrimination claims in a fair, equitable and consistent manner.
- 1.4. It is the responsibility of the College to communicate this policy and guidelines to staff and students and train key staff in managing cases of suspected or reported Bullying, Harassment or Discrimination.

## 2. Organisational Scope

- 2.1. These guidelines will apply to Bullying, Harassment and Discrimination claims:
  - made by students, staff or related parties against a student or staff member.
  - made by students, staff or related parties against a college policy or process.
  - regardless of whether the reported Bullying, Harassment or Discrimination occurred on- or off-campus.
- 2.2. Partner providers of Curtin College (Singapore, Sydney) are responsible for all Human Resource matters including recruitment and grievances as outlined in the specific Service Level Agreements.

## 3. Definitions

- 3.1. **Appeal:** In this context, an appeal relates to a request to review a decision or outcome resulting from lodgment of a Bullying, Harassment or Discrimination claim.
- 3.2. **Bullying:** refers to repeated, unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety. "Unreasonable Behaviour" is behaviour that a reasonable person, having regard to all the circumstances, would expect to humiliate, undermine or threaten. Bullying behaviour may occur in one-on-one interactions or it may take place in front of

others. Bullying may be direct or indirect – see Appendix A for examples of behaviour that may be deemed to be Bullying

- 3.3. **Claim:** for the purpose of this policy *Claim* refers to any claims relation to Bullying, Harassment or Discrimination.
- 3.4. **Complainant:** A person lodging a Bullying, Harassment or Discrimination claim, complaint or appeal.
- 3.5. **Discrimination:** may be direct or indirect. It occurs when a person treats or proposes to treat another person with a protected characteristic unfavourably because of that characteristic. It includes treating another person unfavourably or in an offensive manner based on disability, impairment, age, gender, sexual orientation, marital status, race, colour, religion, culture, pregnancy, family or carer responsibilities, political opinion, national extraction, social origin and lawful associations. See Appendix A for examples of behaviour which may be deemed to be sexual harassment.
- 3.6. **Enterprise Agreement:** refers to the current University Programs Division (UPD) WA Staff Enterprise Agreement for ongoing staff and/or current work contract for casual staff.
- 3.7. **Harassment:** covers a wide range of behaviours including, intimidation, bullying, coercion; which may reasonably be expected to offend, humiliate, embarrass, disturb or in some way threaten the person at whom it is directed. Harassing conduct includes:
  - Offensive, threatening, intimidating or demeaning behaviour directed at an individual or a group of people;
  - Any requirement that a person accept or engage in any form of sexual behaviour to gain an employment benefit or avoid some employment detriment;
  - Communication of a spoken or written nature and computer mediated material that shows hostility or aversion to individuals or groups in the community.See Appendix A for examples of behaviour which may be deemed to be harassment.
- 3.8. **Respondent:** A person responding to a Bullying, Harassment or Discrimination claim, complaint or appeal.
- 3.9. **Sexual Harassment:** refers to repeated, unwelcome and/or inappropriate behaviour of a sexual nature, in circumstances where a reasonable person, having regard to all the circumstances, would anticipate the possibility that the person being harassed would feel offended, humiliated or intimidated. See Appendix A for examples of behaviour which may be deemed to be sexual harassment.

## 4. Policy Principles

- 4.1. All staff and students have the right to a safe and productive learning/working environment free from Bulling, Discrimination and Harassment.
- 4.2. Any complaints will be treated confidential and will be dealt with fair and timely manner.
- 4.3. All claims will be taken seriously regardless of whether the alleged harasser is at fault, was acting with good intent or is aware of any wrong doing.
- 4.4. Persons alleging Bullying, Harassment or Discrimination will be advised on the process in place for dealing with reported incident and the potential challenges they may face.
- 4.5. Persons alleging Bullying, Harassment or Discrimination will not be discriminated against as a result of the claim.
- 4.6. Making a claim in bad faith or with malicious intent is considered to be a form of misconduct and will be dealt with according to Student Misconduct policy/Enterprise Agreement.

- 4.7. Early intervention will be taken where incidents are reported, suspected and/or evident to Curtin College staff.
- 4.8. Attempts will be made to resolve matters informally where possible and appropriate.
- 4.9. Persons handling complaints must be impartial. Where this is not possible an impartial and appropriate party must be identified to manage and/or consider the claim.
- 4.10. Persons against whom formal claims are made will be given the opportunity to hear and respond to the allegations against them.
- 4.11. The college reserves the right to report an incident to the relevant authorities and continue to deal with the matter in part or whole according to the College's process and policies.
- 4.12. Staff found to be Bullying, Harassing or Discriminatory against staff or student(s) may be subject to performance management or disciplinary action.
- 4.13. Students found to be Bullying, Harassing or Discriminatory against a member of staff or other student(s) may be subject to disciplinary action under the Student Misconduct Policy.
- 4.14. Where a reported case is deemed by the College to be a critical incident, it will be managed in accordance with the Critical Incident Policy.
- 4.15. Under the Privacy Act 1988, individuals are entitled to the protection of their personal and private information. Curtin College is committed to maintaining this right to privacy in line with legal requirements, however, the College may exercise its discretion and disclose information as necessary to prevent or lessen a serious and imminent threat to the life or health of a student, staff member or other person.
- 4.16. All parties have a right to representation by union officials if appropriate or a support person of their choice. Neither party, except with agreement of all parties, may be represented at this stage by a legal practitioner.

## 5. Policy Content

### 5.1. Advice for Complainants

5.1.1. Persons who feel they are being subjected to inappropriate behaviour should consider:

- Whether the behaviour would reasonably be considered as Bullying, Harassment or Discrimination (See Appendix A).
- Keeping a detailed written record (with dates) of the events upon which a claim might be made.
- Seeking professional advice / support. Curtin College has an independent employee advisory service for this purpose. Staff can ask their Line Manager or Human Resources for details of this service.
- Communicating clearly to the person that their behaviour is unwelcome or unacceptable and may be reported if it continues.
- Taking step to avoid being alone with the harasser.
- Limiting discussion of the matter to trusted persons who can provide support or assistance. This may also include legal, medical professionals or counselors.

### 5.2. Informal Reporting of Harassment or Discrimination - Stage I

- 5.2.1. Informal action is usually appropriate when:
  - The complainant wants to address the matter informally
  - The allegations are less serious
  - There is a change of quickly stopping the problem before it escalates
  - The persons involved are likely to have an ongoing working relationship
- 5.2.2. Students experiencing Bullying, Harassment or Discrimination should contact or be directed to the Student Advisory Manager or in their absence a Curtin University Counsellor.
- 5.2.3. Staff experiencing harassment or discrimination should consult their Line Manager or a trusted senior member of staff to discuss their situation.
- 5.2.4. The complainant may choose not to reveal the names of the alleged harasser(s) or other details during this stage.
- 5.2.5. The staff member receiving the complaint will counsel the student or staff member whilst clarifying the claim and desired outcomes. They will explain the college process for dealing with the claim and discuss options to address the situation.
- 5.2.6. The complainant should be supported to identify and access appropriate avenues for coping with the situation, resolving the problem and/or preventing further harassment (this may include accessing an independent conciliator at any stage in the process).
- 5.2.7. The person in receipt of the informal complaint will convene a meeting with the College Director and Principal or nominee, a Human Resource representative and relevant Line Manager(s) in order for the group to determine an appropriate course of action (if any) to address any issues arising from the claim.
- 5.2.8. Where the complainant is considering proceeding to a formal claim, they should be referred to the Navitas Human Resource Business Partner or Line Manager to discuss the process and possible outcomes of a formal complaint.
- 5.2.9. The counselling staff member should schedule a follow up appointment within 5 working days with the complainant.

### 5.3. Making a Formal Harassment claim - Stage II

- 5.3.1. To formally report inappropriate behaviour, the Claim must be sent in writing, and in confidence to the Student Advisory Manager (for students) or Line Manager (for staff) or other trusted senior staff member detailing the incident(s) of the inappropriate behaviour, the name of the person(s) responsible, the impact of the behavior, efforts taken to address the situation and the desired outcome / resolution.
- 5.3.2. The college will acknowledge receipt of the letter in writing within in 3 working days, advising the complainant of the process and time frames involved.
- 5.3.3. Within 5 working days the staff member in receipt of the claim will organize a meeting with the complainant to gather further information on the nature of the claim and assess whether the complainant is in need of immediate assistance/support.
- 5.3.4. Within 5 working days of the meeting the person or persons accused of inappropriate behaviour (the Respondent) will be informed of the claims made against them and be given a timeframe of 10 working days within which to respond to those claims.
- 5.3.5. After 10 working days the College Director and Principal (or nominee), Navitas HR Business Partner, Line Manager and/or Student Advisory Manager will convene a meeting with other

relevant individuals to consider the claim, the respondent's response and decide on actions to be taken.

- 5.3.6. Both the complainant and respondent will be advised of the outcome within 5 working days of the decision.
- 5.3.7. Options for resolving/addressing formal harassment claims
- 5.3.8. Depending on the nature and seriousness of the claim any of the following processes may be initiated as an outcome of a formal harassment claim:
  - Apology
  - Disciplinary action
  - Direction to keep parties apart, monitor behaviour, provide information, support or training
  - Conciliation
  - Counselling
  - Independent investigation
  - Mediation
  - Mentoring
  - Order to stop specified behavior and/or comply with this policy.
  - Performance Management (including formal warnings) – staff only
  - Reporting to Police
  - Relocation – staff only
  - Review Policy / Process
  - Student Misconduct
- 5.3.9. Termination – staff or students  
Please note this list is only provided as a guide and does not limit other processes or actions being taken as a result of a formal harassment claim.
- 5.3.10. Both the complainant and respondent can appeal the outcome of a formal claim in accordance with the Third Stage (External) process.

## 5.4. Third Stage – External

- 5.4.1. Complaints about administrative actions and decisions of the College can be made to the relevant Ombudsman, however the Ombudsman is generally the office of last resort. If you have not followed the steps laid down in the above procedures, the Ombudsman may ask you to do so before agreeing to investigate a complaint.
- 5.4.2. Complaints relating to inappropriate behaviour by staff in the workplace can be heard by the Fair Work Ombudsman (<http://www.fairwork.gov.au/employee-entitlements/bullying-and-harassment>) in accordance with the current Enterprise Agreement or work contract.
- 5.4.3. Complaints relating to inappropriate behaviour by international students can be heard by the Overseas Student Ombudsman (<http://www.oso.gov.au/>) in accordance with the Student Misconduct Policy

## 6. Administrative procedures

- 6.1. This policy and related documentation are accessible through the Curtin College website at: <http://www.curtincollege.edu.au>
- 6.2. The College shall take all necessary steps to ensure the confidentiality of any claim. Internal disclosure should be limited strictly to those employees who need to have access for official purposes.
- 6.3. Once formal procedures are invoked, details of allegations and investigatory notes are to be kept in confidential files separate to either the Complainant's or Respondent's personal files.

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- 6.4. Where a claim is proven or where the outcome impacts on the enrolment status (students) or employment status /arrangements (staff) of the complainant or respondent, the outcome may be recorded on the staff member's or student's file.
- 6.5. Records of claims will normally be kept for an initial period of 5 years. If no further complaints have occurred during this period the records will normally be destroyed.
- 6.6. This policy will be reviewed and updated every 2 years.
- 6.7. This policy and related processes will be communicated to staff via email and ongoing staff information sessions.

Version	Last changes:
V1.4	<ul style="list-style-type: none"><li>• Updated policy name to include "Bullying"</li><li>• Updated policy definitions</li><li>• Added items 4.2, 5.4.2 and 5.4.3</li><li>• Updated item 5.3.8</li><li>• Added section 7 – Administrative procedures</li></ul>

*Acknowledgement: Curtin College acknowledges use of ECU and Navitas together with materials from the Workplace Bullying presentation by Herbert Smith Freehills, the Australian FairWork Commission website and Australian Human Rights Commission website in preparing this document.*

## Appendix A – Identifying Bullying, Harassment and Discrimination

Bullying behaviour relates to repeated, unreasonable, behaviour which may create a risk of health, safety and wellbeing of another individual. Behaviour which may be considered to be bullying includes but is not limited to:

- yelling, screaming, abusive or offensive language, insults, inappropriate comments about a person's appearance, personal life or lifestyle;
- constant belittling opinions or unreasonable criticism of others;
- isolating individuals from normal work interaction without justification;
- impossible demands within the framework of existing work unit standards
- abusive emails

Under the law, Bullying applies to employees, contractors, apprentices, volunteers, etc., however for the purposes of this Policy, complaints may be lodged and penalties may apply for Bullying relating to student misconduct as well as staff misconduct.

In accordance with the law, any reasonable management actions relating to the management of an employee that is carried out in a fair way in the workplace is not deemed to be bullying. These actions can include but are not limited to:

- genuine and reasonable disciplinary procedures
- setting performance goals, standards and deadlines for an employee;
- deciding not to select an employee for promotion;
- constructive feedback informing or counselling an employee about his/her unsatisfactory work performance or inappropriate behaviours;
- criticism or comments relating to observable deficiency in performance or issues of concern;
- directing and controlling how work is done;
- implementing organisational and/or supervisory changes

Behaviour which may be considered as harassment or discrimination may include:

- Treating another unfavourably or in an offensive manner based on differences of disability, impairment, gender, sexual orientation, race, religion, culture, carer responsibilities, lawful associations.
- Unwelcome verbal, written, social, physical or sexual behaviour which may reasonably be expected to cause embarrassment, offense, discomfort, upset, fear or intimidation.
- **Verbal and written** (includes via electronic medium): name calling, offensive language, disparaging remarks, unreasonable and continued criticism. Sending images which are unwelcome or inappropriate. Continual unjustified, unconstructive and/or unnecessary comments about a person's personal life, appearance, work performance.
- **Social**: bullying, disparaging comments in front of others or behind a person's back, threatening, exclusion, isolation, 'ganging up'.
- **Physical**: fighting, pushing, gestures, invasion of personal space, following/stalking.
- **Sexual**: deliberate and unwelcome or inappropriate physical contact (patting, pinching, brushing, hugging, touching, kissing, rubbing) considered sexual in nature; sexually orientated comments, messages, jokes, images or gestures; unwelcome questions or comments about private life, sex-role stereotyping; staring or ogling;
- Interference with a person's work space, work materials, equipment or property, apart from what would be considered necessary for ongoing work in the particular area or as part of normal student work;
- Persistent following within, to or from the College (stalking);
- Requests for sexual favours or inappropriate personal attention.
- Offers of reward for sexual favours.
- Intimidation that suggests the victim will be disadvantaged in some way if an inappropriate request is not complied with.

*Note: Conduct may be deemed to be Bullying or Harassment or Discrimination even if the person did not intend to offend, humiliate or intimidate*