DUCHESNE COLLEGE

FAIR TREATMENT POLICY

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Authorised by	College Council	**Policy owner**	Head of College

INTRODUCTION AND PURPOSE

Duchesne College values diversity and equal opportunity. We aim to ensure that the College and our work are free from discrimination, unlawful adverse action, harassment (including sexual harassment) and bullying. The Duchesne College Council has zero tolerance for discrimination and harassment of any kind.

The College acknowledges its responsibility to ensure that its staff and students are made aware of what constitutes unacceptable behaviour within the College and that all staff and students are aware of their responsibility for ensuring the maintenance of proper standards of conduct within the College.

The College will do everything in its power to ensure that people are able to study, live and work in an environment where there is no harassment or discrimination. It also recognises the responsibility of senior staff to take a pro-active role in dealing with any manifestations of discrimination or harassment in accordance with this policy.

This policy is largely based on guidelines agreed by the Heads of Colleges at The University of Queensland.

SCOPE

This policy is applicable to all Duchesne College employees, students, contractors, volunteers and visitors. All people covered by this policy have a responsibility to:

- Comply with this Policy;
- Treat people with respect and courtesy;
- Respect each other's privacy;
- Avoid any offensive comments or behaviour;
- Comply with applicable laws; and
- Raise any concerns or questions about the understanding of, or non-compliance with, this Policy.

POLICY STATEMENT

Duchesne College considers discrimination, harassment (including sexual harassment), bullying, adverse action for prohibited reasons, and victimisation of any type to be unacceptable and aims to eliminate this conduct from the College as both a place of residence and a workplace.

All staff and students of the College have a positive duty to take reasonable and proportionate measures to eliminate unlawful discrimination, sexual harassment and victimisation. These practices are all prohibited under State and Federal legislation and are prohibited by the College. Any breach of these principles is unlawful, will not be tolerated and may result in disciplinary action being taken.

A person who discriminates, victimises, takes adverse action, bullies and/or harasses another person may be subject to disciplinary action, up to and including dismissal (in the case of an employee) or termination of Enrolment Contract (in the case of a student).

All College staff and students have a responsibility to:

- Monitor the working and living environment to seek to ensure that acceptable standards of conduct are maintained at all times;
- Model appropriate behaviour themselves;
- Promote these principles within their work area and the College community;
- Support the right of all students and other staff to have their complaint lodged, heard and respected;
- Refer a person who has a concern about matters covered by these principles to a senior College staff member who can provide initial advice;
- Take appropriate action if they observe or are informed about behaviour that may breach these principles. This could include advising such behaviour is unacceptable, that it must immediately cease and not recur, and further that it may result in disciplinary action being taken. The principles then be reiterated to the offending person.

Discrimination

Discrimination can be either direct or indirect and based on a person's attribute or perceived attribute, such as a person's age, gender, sexual orientation, disability or impairment, race, political or religious belief or activity, pregnancy, or marital, carer or parental status.

Unlawful discrimination

Direct discrimination occurs when a person treats, or proposes to treat, someone with an attribute or who is perceived to have the attribute, less favourably than someone without that attribute, or with a different attribute, in the same or similar circumstances.

Indirect discrimination generally occurs when a rule, practice or guideline appears to be neutral, but in effect has a disproportionate impact on a particular group of people who share a relevant attribute. It arises out of practices which are fair in form and intention but discriminatory in impact and outcome. Under the relevant legislation, indirect discrimination occurs when a person imposes (or proposes to impose) a requirement, condition or practice:

- That someone with an attribute does not or cannot comply with; and
- Has or is likely to have the effect of disadvantaging the person with the attribute; and
- That is not reasonable in the relevant circumstances.

This provision does not apply if the requirement or condition is reasonable, having regard to the circumstances of the case. In determining whether a person discriminates against someone, it is irrelevant whether or not it is intentional. Unlawful discrimination also includes discrimination against a person because they are an associate of someone with an attribute.

Vilification

The College aims to provide a supportive environment to people of all races and religions.

It is unlawful, to vilify a person or group of people on the basis of their religion, religious practices or race. Vilification involves engaging in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.

Sexual Harassment

Students and staff at the College have a right to live, work and study in an environment that is free from sexual harassment. Sexual harassment is unacceptable in all circumstances. Complaints about sexual harassment will be dealt with in accordance with the Grievance Management Procedure. Sexual harassment may be regarded as serious misconduct and may result in disciplinary action being taken.

What is Sexual Harassment?

Sexual Harassment happens if a person:

- subjects another person to an unwelcome and unsolicited act of physical intimacy; or
- makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person; or
- makes a remark with sexual connotations relating to the other person; or
- engages in any other unwelcome conduct of a sexual nature in relation to the other person;
- and the person engaging in the conduct described above does so:
    - with the intention of offending, humiliating or intimidating the other person; or
    - in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

Examples of sexual harassment include (but are not limited to):

- physical contact such as patting, pinching or touching in a sexual way;
- unnecessary familiarity such as deliberately brushing against a person;
- sexual propositions;
- unwelcome and uncalled for remarks or insinuations about a person's sexual or private life;
- suggestive comments about a person's appearance or body;
- sexually offensive phone calls;
- unwanted sexual attention using internet, social networking sites and mobile phones;

- indecent exposure;
- a publication such as sexually offensive emails or graphics; and
- sexually offensive screensavers or posters.

To determine whether sexual harassment has occurred from a legal perspective, it is necessary to ask whether:

- The behaviour was unwelcome;
- The behaviour was sexual in nature; and
- A 'reasonable person', having regard to all the circumstances, would anticipate that the complainant would feel offended, humiliated or intimidated by the other person's behaviour.

Sexual harassment is not sexual interaction, flirtation, attraction or friendship that is invited, mutual, consensual or reciprocated. This is because this is not 'unwelcome' behaviour and it would not be reasonable to anticipate that this behaviour would offend, humiliate or intimidate. Unwelcome behaviour is behaviour that is uninvited, unwanted, and unreciprocated by the recipient/s.

Sexual harassment can occur unintentionally. A person's intention or motive is not relevant when determining whether the alleged behaviour constitutes sexual harassment. It is not necessary for the person who has been harassed to have told the harasser that the behaviour was unwelcome for the behaviour to constitute sexual harassment.

Behaviour need not be repeated or continuous; a single incident or comment can amount to sexual harassment. Sexual harassment may be perpetrated or experienced by a person of any sex, gender identity or sexual orientation.

Sexual Assault

Sexual Assault is any unwanted, forced, coerced sexual act or behaviour without consent. It covers a broad range of sexual activity including, but not limited to groping, inappropriate touching of a sexual nature, forced sexual or indecent acts.

Sexual assault is unacceptable in all circumstances. Complaints about sexual assault may be regarded as serious misconduct, may result in disciplinary action being taken and may include reports to the Police.

Bullying

Staff members and students are required to treat students and members of staff with respect for their rights, duties and aspirations. Bullying is not an acceptable part of the College culture and impacts negatively on the humane and scholarly values inherent in the ideals of a modern university College.

It is the objective of Duchesne College, so far as is reasonably practicable, to:

- Prevent bullying;
- Provide a healthy and safe environment for staff and students;
- Manage all reported incidents of bullying through the Grievance Management Procedure; and
- Make staff and students aware of the assistance available to them in situations of bullying.

What constitutes Bullying?

Bullying is repeated, unreasonable behaviour directed toward a student or staff member, or a group of students or staff by student/s or staff member/s, which creates a risk to health and safety.

Bullying behaviour may be obvious and direct or extremely subtle and indirect. Such behaviour includes physical, visual, verbal and non-verbal behaviour. Examples of behaviour that could constitute bullying include:

- Physical or verbal abuse;
- Yelling, screaming or offensive language;
- Excluding or isolating a student or staff member;
- Deliberately withholding information that is vital for effective performance as an employee;
- Spreading rumours or innuendo about someone;
- Psychological harassment;
- Unjustified criticism or complaints;
- Intimidation;
- Assigning employees meaningless tasks unrelated to their job;
- Giving employees impossible jobs;
- Interfering with someone's personal property or equipment;
- Deliberately changing work arrangements, such as rosters and leave, to inconvenience particular employees.

Elements of bullying

Behaviour is considered 'repeated' if it occurs more than once. The requirement for the behaviour to be 'repeated' refers to the persistent nature of the behaviour and may involve a series of diverse incidents.

Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine, threaten, or intimidate another person.

Bullying is not:

- Reasonable comment, advice or administrative action (including negative feedback) from a staff member regarding job performance or behaviour;
- Reasonable management action;
- Reasonable disciplinary action;
- The implementation of organisational change;
- The allocation of work in compliance with systems; or
- Conflict or differences of opinion between individuals.

An example of reasonable management action (that would not be considered bullying):

- A staff member's work is routine. On a regular basis, the staff member falls behind schedule with her tasks. To help develop her skills and improve her performance, her supervisor recommends the staff

member attend a suitable training course. The staff member felt humiliated and singled out, even though her supervisor assured her that she intended to assist her.

Single incidents

Bullying is defined as repeated, unreasonable conduct that creates a risk to health and safety. A single incident of unreasonable behaviour that creates a risk to health and safety may have the potential to escalate into bullying and therefore should not be ignored.

A student or staff member with a concern about a single incident of bullying-style behaviour may raise this issue with their direct manager or any senior staff member.

Victimisation

Generally, victimisation is when a person subjects (or threatens to subject) another person to a detriment (which can include humiliation and denigration) because that other person has made a complaint. Victimisation can include physical, visual, verbal and non-verbal behaviour.

Victimisation also includes victimising a person because another person associated with the first person has made a complaint. For example, it is victimisation for a supervisor to penalise an employee because a friend of that employee made a complaint about the supervisor.

Serious misconduct and criminal behaviour

Serious misconduct and criminal behaviour may result in disciplinary action being taken against a student or staff member.

Complaints about serious misconduct or criminal behaviour will be dealt with in accordance with the Grievance Management Procedure; however it may be necessary to depart from that process depending on the seriousness of the alleged conduct. In all circumstances, ensuring that complainants are supported and that their safety and well-being are protected will be the first priority of the College.

Examples of behaviour that might amount to serious misconduct or criminal behaviour include, but are not limited to:

- Assault or physical violence;
- Extortion;
- Serious or repeated bullying, sexual harassment, discrimination, vilification or victimisation;
- Use or sale of illicit drugs;
- Threats to kill or inflict serious injury;
- Sexual offences;
- Sexual Assault;
- Sexting;
- Stalking a person;
- Using technology to menace, harass or cause offence to a person;
- Abuse of a position of power or responsibility within the College; or
- Theft, dishonesty or fraud.

Reporting serious misconduct or criminal behaviour

Where a staff member or student witnesses, becomes aware of or experiences serious misconduct or criminal behaviour, they are encouraged to seek advice and report the behaviour in accordance with the Grievance Management Procedures. However, due to the seriousness of alleged serious misconduct or criminal behaviour, the College may depart from the procedures set out in these Procedures. In certain circumstances, the College may have an obligation to report information to the Police.

DEFINITIONS

College Community – means current College students, staff, other workers, volunteers, official visitors, recognised individuals, honorary position holders, support position holders, and anyone else contractually bound to comply with this policy.

Procedural Fairness – is a principle that is applied by the College to ensure that decisions are made in accordance with the rule against bias and the hearing rule (i.e. a person is given an opportunity to present their case with knowledge of any prejudicial material that may be taken into account by the decision-maker).

RELATED DOCUMENTS

- Sexual Misconduct Policy and Procedures
- Employee Code of Conduct
- Student Code of Conduct
- Staff Handbook
- Student Handbook
- Incident Reporting Form

External

- *Integrity in the Service of the Church* (Catholic Church in Australia)
- *Towards Healing* (Catholic Church in Australia)

AUTHORISATION

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