

Harassment, Bullying and Discrimination Prevention Policy and Procedure

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Distribution List

To: All Staff
All Students
All RCDC contractors

Cc: Council members
Academic Board members

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1 Purpose

This policy has been formulated to provide a clear statement of the expectations of the staff, students and associated third parties of Raffles College Pty Ltd, trading as Raffles College of Design and Commerce (RCDC), in respect of conduct that may constitute unlawful harassment, bullying or discrimination.

RCDC is committed to ensuring a safe and healthy working and learning environment that is free from all harassment, bullying or discrimination, as required under the [NSW Anti-Discrimination Act 1977](#), the Commonwealth [Sex Discrimination Act 1984](#), and the [Fair Work Act 2009](#).

RCDC is committed to ensuring it is fully compliant with the requirements of the law, and states categorically that all forms of harassment, bullying and discrimination are inconsistent with the values of Australian society in general, and the College in particular, and will not be tolerated under any circumstances.

RCDC has a responsibility to do everything in its power to eliminate and/or reduce risks to the health and safety of its staff, student and third-party associates. All staff, student and third-party associates have a right to a work and study environment that is free from harassment, bullying, discrimination and violence. Staff, students and third-party associates must also accept responsibility for their actions towards others in the College, and must not take part in any harassing, bullying or discriminatory behaviour.

2 Scope

This policy applies to all staff, students and third-party associates of RCDC, and is applicable to all allegations of harassment and discrimination made by a student, teacher, non-teaching employee or third party, or against a student, teacher, non-teaching employee or third party, irrespective of whether harassment is alleged to have taken place within or outside RCDC premises, including work or study-related activities off campus such as conferences, field trips, or other course-related placements.

The policy owner is the Principal.

3 Definition of Terms

Behaviour includes actions of individuals or a group, and may involve using a system of work, teaching or assessment as a means of victimising, humiliating, undermining or threatening.

Unreasonable behaviour is that which a reasonable person, having regard to all the circumstances (those that the alleged perpetrator would reasonably be expected to know), would expect to victimise, humiliate, undermine or threaten its recipient.

Harassment is any type of behaviour that another person does not want, **and** offends, insults, humiliates or intimidates them, **and** targets them because of their ethnic background, sex, sexual orientation, gender identity, relationship status, medical condition, disability, age, carers' responsibility, political belief, or religious belief, **and** that, in the circumstances, a reasonable person should have expected would offend, insult, humiliate, or intimidate. Some types of harassment, such as sexual harassment and other forms of physical assault and/or stalking, are also illegal under criminal law. These types of harassment may result in criminal prosecution.

Sexual Harassment includes, but is not limited to, the following:

- Any sexual advances, requests for sexual favours, and/or verbal, non-verbal or physical conduct of a sexual nature made either explicitly or implicitly, in return for a term or condition of teaching/guidance, employment, participation or evaluation of a person's engagement in any RCDC activity;
- Any sexual advances and/or verbal, non-verbal or physical conduct such as loaded comments, remarks or jokes by letter, phone call, email, or any other communication medium, gestures, pornography, stares, physical contact or molestation, stalking, or sounds or display of a derogatory nature;
- Any physical touching or molestation, teasing, innuendo, taunt, physical confinement or act that impinges upon individual privacy;

- Any harassment that is based on a difference in sexual or gender orientation, identity or preference;
- Any act or conduct by a person in authority which denies, or would deny, equal opportunity in pursuit of education or career development, or otherwise making or participating in making the environment at RCDC hostile or intimidating to a person because of sexual differences;
- Any act or conduct committed by a third party in relation to a student, teacher or non-teaching employee, or vice versa, during the course of a person's engagement with RCDC.

(Sexual harassment excludes behaviour which is based simply on mutual attraction, friendship or respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment. Behaviour can become sexual harassment if the interaction changes from being based on mutual attraction, friendship or respect to non-consensual, unwelcomed and unreciprocated interactions.)

Bullying is repeated, unreasonable behaviour directed toward an individual, or group of individuals, which could create a risk to their mental or physical health or safety.

The following types of behaviour, when repeated or occurring as part of a pattern of behaviour, can constitute bullying:

- verbal abuse;
- excluding or isolating colleagues;
- psychological harassment;
- intimidation;
- assigning meaningless tasks unrelated to a person's responsibilities;
- giving impossible assignments;
- initiation practices;
- sabotaging another person's work;
- deliberately withholding information that is vital for effective performance;
- ridiculing other person's opinions, etc.

However, legitimate and appropriate actions to manage performance or discipline a staff member for misconduct do not constitute workplace bullying.

Generally, this policy is concerned with behaviour that is persistent and part of an identifiable pattern. The specific form of the behaviour need not be the same – bullying can involve diverse incidents (for example, verbal abuse, isolation and deliberate damage to personal property).

While a single incident of the behaviour described does not fall within the above definition, RCDC does not condone, and will not ignore, such incidents. Any concern should be reported and will be considered seriously.

Discrimination is any practice that makes a distinction between individuals or groups, so as to disadvantage some people and advantage others.

Teacher/Non-teaching employee is defined as any person employed by RCDC to whom this policy is applicable, including permanent, temporary, full-time and part time employees, or honorary associates, or persons engaged on a casual or project basis, and also those engaged through a contractor.

Complainant refers to a student or staff member of RCDC who has experienced, or believes that he/she has been a victim of, unlawful harassment, bullying or discrimination.

Respondent refers to a person against whom a complaint of unlawful harassment, bullying or discrimination is made, which may include another student, staff member, or a third-party associate of RCDC.

Third Party is defined as any person or persons not employed by RCDC, but, in the course of work related activities, interacting with RCDC students, teachers or non-teaching employees.

4 Policy Principles

4.1 The policy has been framed keeping the following objectives in view:

- To fulfil the directives of the Code of Practice for Employers, 2008 edition, requiring all employers to develop and implement a policy against harassment at the work places;

- To create and implement a mechanism for the prevention and redress of harassment, bullying and discrimination cases, and other acts of violence at the college;
- To ensure the implementation of the policy, in letter and spirit, through proper reporting of complaints and their follow-up procedures;
- To promote a social and psychological environment that raises awareness about harassment, bullying and discrimination in their various forms;
- To ensure that RCDC upholds its commitment to ensure an environment without harassment, bullying, discrimination or violence.

4.2 Accordingly, the following principles apply:

- All staff and students at RCDC have a right to work or study in an environment that is free from harassment or discrimination, and to be treated with dignity and respect, irrespective of their background, gender, beliefs or culture.
- All staff, students and third-party associates have a responsibility to ensure that they do not promote or engage in harassment, bullying or discrimination.
- All managers and supervisors, including academic staff in relation to their students, are actively responsible for intervening to prevent harassment, bullying and discrimination.
- All staff, students and third-party associates have a right to use RCDC's grievance procedure if they believe they have experienced harassment or discrimination.
- A breach of this policy may result in disciplinary action. Any victimisation of, or detrimental action towards, any person who raises a complaint of harassment, bullying or discrimination in accordance with this policy, will be treated seriously, and may result in disciplinary action. Any intentional misuse of this policy, including by knowingly making a false allegation of harassment, bullying or discrimination, will be treated seriously and may result in disciplinary action.
- RCDC is committed to resolving complaints regarding harassment, bullying and discrimination quickly, sensitively, fairly, confidentially, and with a minimum of disruption, and following the principles of natural justice.
- Harassment that is not 'unlawful' under anti-discrimination legislation, may nonetheless contravene RCDC's staff and student Codes of Conduct or this Policy, and will be dealt with accordingly.

5 Complaint handling procedure

RCDC strongly encourages you to report incidents of harassment, bullying or discrimination. However reporting is voluntary and not mandatory. Nevertheless, if a person decides not to report an issue, RCDC expects that this will be the end of the matter. In particular, the person must not seek to progress the issue informally (for example allowing the matter to be the subject of conflict with the alleged perpetrator, or of innuendo or gossip). Breach of this aspect of the policy may attract disciplinary sanctions.

Furthermore, it must be appreciated that raising an allegation of harassment, bullying or discrimination against another person is a serious matter. Regardless of whether the complaint is substantiated, the act of raising the complaint will have significant and often permanent consequences, both personally and professionally, for the other party. The Company will not tolerate abuse of the processes outlined below or the making of vexatious complaints.

A person who is subject harassment, bullying or discrimination, should follow the following process:

- 1 If you feel comfortable doing so, you should advise the other person, verbally or in writing, in a direct or firm manner that their behaviour is unacceptable. This may be enough to stop the unwelcome behaviour.
- 2 If the behaviour is serious or recurring, or if you are not comfortable raising the matter directly with the alleged perpetrator, you should make a report to your manager (or if your manager is the alleged perpetrator, make a report to the Human Resources Consultant). RCDC has established confidential procedures for handling reports of serious incidents. These procedures are based on the principle that the rights and privacy of both parties to the incident should be safeguarded. RCDC considers that it is important that any report is dealt with as promptly as possible, professionally and with sensitivity.

It is suggested that you keep diary notes of all incidents with names, dates, witnesses and any response you make in respect to the incidents.

If you make a report RCDC will either appoint an independent party to mediate the dispute or will initiate an investigation, or do both. The course adopted will depend on the severity of the incident and the wishes of the parties and RCDC.

At mediation, parties will be given the opportunity to discuss the incident and attempt to reach a mutually agreeable resolution. This could include an apology, an undertaking that the behaviour will not recur, physical separation within the workplace of the parties involved, and counselling and monitoring of the perpetrator.

One outcome of the mediation may be that the matter will be investigated.

Investigations can be conducted internally by the Workplace Health and Safety Committee or delegate, or by external bodies such as SafeWork NSW or, where criminal acts of violence may have been committed, the police.

If a complaint is to be investigated, both the alleged victim and the alleged perpetrator will be afforded natural justice. This means that:

- complaints will be investigated promptly;
- the allegations will be put to the alleged perpetrator;
- each party will be given a fair opportunity to express their version of events; and
- the alleged perpetrator will be treated as innocent unless the allegations are proven.

All file notes relating to the report will be kept in specially provided locked files. Only staff involved in particular processes under this policy will have access to these files.

Staff or students involved in harassment, bullying or incidents of discrimination may also be offered professional support services such as counselling or medical or health advice, as appropriate.

These guidelines may not be practical for every case, and RCDC or you may suggest more applicable resolution procedures.

Any person who has been found to have harassed, bullied or discriminated against another person may be disciplined. Such a finding will only be made after an investigation has been carried out under this Policy. The discipline will be appropriate to the severity of the offence, but may involve warning or dismissal. Any person who has been found to have made a report that is vexatious, or based on facts that the person should reasonably believe to be untrue, will also be subject to disciplinary sanction.

6 References

The following anti-discrimination laws apply to Australian society in general, and to the College community in particular:

- [Anti-Discrimination Act 1977 \(NSW\)](#)
- [Age Discrimination Act 2004 \(Cth\)](#)
- [Racial Discrimination Act 1975 \(Cth\)](#)
- [Sex Discrimination Act 1984 \(Cth\)](#)
- [Sex Discrimination Amendment \(Sexual Orientation, Gender Identity and Intersex Status\) Act 2013 \(Cth\)](#)
- [Disability Discrimination Act 1992 \(Cth\)](#)
- [Human Rights and Equal Opportunity Commission Act 1986 \(Cth\)](#)
- Australia Human Rights Commission, Code of Practice for Employers, Effectively preventing and responding to sexual harassment, 2008 edition, Human Rights and Equal Opportunity Commission October 2008; <https://www.humanrights.gov.au/our-work/sex-discrimination/publications/effectively-preventing-and-responding-sexual-harassment-0>
- Portner Press Pty Ltd; <http://www.portnerpress.com.au/the-bullying-guide/>