



# Lakeview Senior College

## Sexual Harassment Prevention Policy

### Rationale

Lakeview Senior College (LSC) is committed to providing a safe learning environment, free from sexual harassment. The college considers sexual harassment an unacceptable form of behaviour which will not be tolerated under any circumstances.

### Guiding principles

1. This policy applies to sexual harassment of students by other students and any other member/s of the school community. Both males and females can be subjected to sexual harassment from persons of the same or opposite gender.
2. In cases of sexual harassment which involve a staff member, as either the offender or the offended, disciplinary procedures will be implemented according to guidelines provided by the Department of Education and Early Childhood Development.

### Unlawful behaviour

Sexual harassment is unlawful behaviour under the Commonwealth [Sex Discrimination Act 1984](#) and the Victorian [Equal Opportunity Act 2010](#).

The Victorian [Equal Opportunity Act 2010](#) addresses sexual harassment in Part 6. Section 92 (1) provides:

*“a person sexually harasses another person if he or she -*

- a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person; or*
- b) engages in any other unwelcome conduct of a sexual nature in relation to the other person*

*in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.”*

Section 92 (2) provides:

*“conduct of a sexual nature” includes –*

- a) subjecting a person to any act of physical intimacy;*
- b) making, orally or in writing, any remark or statement with sexual connotations to a person or about a person in his or her presence;*
- c) making any gesture, action or comment of a sexual nature in a person’s presence.”*

Similar provisions apply under the Commonwealth Sex Discrimination Act 1984. Sexual harassment can also amount to discrimination on the grounds of gender under both the Commonwealth and State legislation.

## **School context**

Sexual harassment is prohibited in any school-related context, including school functions, even if they are outside normal school hours or outside the location of the primary school location.

The *Sexual Harassment Policy* applies to all people in the workplace including Department and school council employees, casual staff, volunteers, contractors, prospective employees, students and prospective students. It covers all persons in the workplace acting as agents of the Department. Every person in the workplace is responsible for maintaining a working environment free from sexual harassment and is potentially liable for his or her actions if sexual harassment occurs.

The responsibility for providing a school environment free from sexual harassment is discharged through principals, managers and school councils.

If a complaint of sexual harassment is made, or sexual harassment is observed or brought to the attention of a principal or manager, it must be acted upon immediately and managed in a sensitive and confidential manner. Teachers and principals have no option but to take action once a complaint is raised. Action will be taken against any person in the school found to have sexually harassed another person.

Sexual harassment in a school means that people will be offended, self-esteem and morale will be undermined and work effectiveness and learning ability will be impeded. Students and staff should not have to work in such an environment.

Sexual harassment is unacceptable and no incident is too trivial to warrant complaint.

## **Definition**

Sexual harassment is conduct of a sexual nature that is unwelcome. Sexual harassment can be physical, verbal, written or visual and may include statements or transmissions by phone, fax, video conference, internet and e-mail, and will vary in the degree and extent to which it causes affront and distress. Both males and females can be subjected to sexual harassment from either persons of the same or opposite gender.

It involves behaviour that could reasonably be expected to make a person feel offended, humiliated or intimidated. Even if the behaviour is not intended by the individual to be sexually harassing, it may still be unlawful.

## Categories of sexual harassment

There are 3 basic categories of sexual harassment

1. Subtle
2. Explicit
3. Criminal action

### 1. Subtle: (not always obvious)

Subtle forms of sexual harassment tend to be the most common. This may include:

- Leering, peering
- Sexual comments about a person's body or dress
- Smutty comments or jokes
- Questions about another's sexual activity
- Persistent comments about a person's private life
- Physical contact, eg: purposefully brushing up against another's body
- Belittling (degrading) comments based on sex – role stereotyping

### 2. Explicit: (obvious)

Explicit forms are easier to identify, as they often involve overtly offensive or intimidating behaviour. They include:

- Pinching, patting, touching, embracing, grabbing
- Repeated requests for dates, especially after refusal
- Smutty jokes and comments
- Sexually provocative remarks
- Displays of sexually graphic material / pornography
- Offensive gestures
- Making promises or threats in return for sexual favours
- Sending jokes or graphics of a sexual nature by e-mail, internet or text message
- Offensive posts including comments, pictures, videos via phone applications and or any social media
- Offensive computer screen savers
- Unwanted requests for sex

### 3. Criminal Action

Criminal action may include some of the above, but also covers:

- Indecent exposure
- Sexual assault
- Attempted or actual rape
- Sending obscene letters, emails, or making obscene phone calls
- Stalking
- Indecent assault

All complaints of sexual harassment should be treated as genuine, remain confidential and be acted upon immediately, free from any bias. Students will be assured of protection from further harassment when they make a complaint.

### **Subtle cases of sexual harassment**

In the event of subtle sexual harassment occurring in the classroom, the following procedures will occur:

- The classroom teacher will deal with the situation immediately or send the offender to the Team Leader / Year Level Co-ordinator.
- The teacher will write a report of the incident, which will be given to the Team Leader / Year Level Co-ordinator.
- The student will be interviewed by the Team Leader / Year Level Co-ordinator, and will be expected to give an assurance that this behaviour will not happen again.
- The Wellbeing Team will be notified of the incident and involved in meetings as appropriate.
- A report of the incident will be kept in both students' file.
- The offending student's behaviour will be monitored.
- Teacher to seek feedback to check the behaviour has ceased.

In the event of a second incident of subtle sexual harassment, the following procedures will occur:

- The offending student will be interviewed by Leading Teacher / Year Level Co-ordinator and Wellbeing Team.
- Parents of the offending student will be notified and required to attend a parent meeting.
- A contract will be drawn up for the student, which will be kept in the student's file along with a report of the incident.

In the event of a broken contract the following procedures will occur:

- The offending student will be removed from class until their parents or guardians attend an interview.
- An interview will take place with the student, parent or guardian, the Leading Teacher / Year Level Co-ordinator or SWC and an Assistant Principal.
- Disciplinary action will be enforced, including possible suspension.

### **Explicit cases of sexual harassment**

To deal with more serious forms of harassment (ie: explicit or criminal) a committee is to be convened within 24 hours of the incident being reported. Composition of the committee may include:

1. One representative of Principal Class
2. Leading Teacher / Year Level Co-ordinator
3. One representative of Wellbeing Team

In the event of any of these 3 people being unavailable, at least one of Leading Teacher / Year Level Co-ordinator and the Wellbeing Team must be present.

After investigation, if it is found that serious harassment did occur, then the following procedures are to be implemented:

1. Offending student(s) to be removed from class under supervision.
2. Parents of all the offending students involved are to attend an interview with the committee or members of the committee.
3. Suspension / Expulsion.
4. In cases of criminal physical assault of a sexual nature, police involvement is mandatory, according to Department of Education and Early Childhood Development.
5. Documentation of the incident must be accurately recorded and placed in the student's file.
6. Parents of the offended students will also be informed of the situation.

**Note:**

1. If it is found that any student has deliberately falsely accused another student of sexual harassment, then the accusing student will be dealt with as the offending student.
2. Parents of the harassed student will be notified as deemed appropriate.
3. Counselling will be provided to offending or harassed students when needed.

**Criminal cases of sexual harassment**

Sexual harassment may in certain circumstances constitute a criminal offence. A criminal offence of a sexual nature can include inappropriate touching and inappropriate verbal comments concerning people in the workplace and members of the public. Sexual harassment involving physical or indecent assault, stalking, making nuisance phone calls or the sending of obscene material using phone, mail, e-mail or the internet, may be an offence under criminal law. Allegations of this nature must be reported to the police. The College has a responsibility to deal with allegations even when the police are, or, have been involved, and to determine appropriate action in the context of the workplace. In relation to complaints involving staff, close liaison by the principal or manager with the Department's Conduct and Ethics Branch and the police is necessary at the outset to ensure that the police investigation is not interfered with or compromised in any way.

**Summary of consequences**

<b>Subtle Cases of Sexual Harassment</b>	<b>Action to be taken</b>
Subtle – 1 <sup>st</sup> Incident	<ul style="list-style-type: none"> <li>• Teacher warning</li> <li>• Warning by Leading Teacher / Year Level Co-ordinator</li> <li>• Agreement made</li> <li>• SWC informed</li> </ul>
Subtle – 2 <sup>nd</sup> Incident	<ul style="list-style-type: none"> <li>• Interview with Leading Teacher /Year Level Co-ordinator or Wellbeing Team</li> <li>• Parents notified and parent meeting</li> <li>• First contract drawn</li> </ul>
Subtle – 3 <sup>rd</sup> Incident (Contract broken)	<ul style="list-style-type: none"> <li>• Parent interview with Leading Teacher / .Year Level Co-ordinator or Wellbeing Team</li> <li>• Suspension</li> </ul>
<b>Explicit / Criminal Cases of Sexual Harassment</b>	<b>Action to be taken</b>
Explicit	<ul style="list-style-type: none"> <li>• Panel established</li> <li>• Interview with parents and students</li> <li>• Suspension / Expulsion</li> </ul>
Criminal	<ul style="list-style-type: none"> <li>• Under direction of DEECD and Victorian Police</li> </ul>

## **Allegations involving students**

Sexual offences against children or young persons can have mandatory reporting implications, which require contact with the Department of Human Services. Teachers and others involved in the provision of education to students owe a duty of care to students to protect them from risks of injury which are reasonably foreseeable.

### **The role of any contact person is to:**

- Be familiar with the Sexual Harassment Prevention Policy including the procedures for dealing with allegations of sexual harassment;
- Understand the negative effects that sexual harassment can have in a school, and particularly the effect that making a complaint can have;
- Act as a point of contact for a person considering making a complaint or seeking information about sexual harassment;
- Provide the complainant with information about the various options and avenues for advice and the complaints procedures;
- Understand that the role of the contact person is to provide information and support to the complainant, and does not extend to investigation, conciliation, making a judgement about what constitutes sexual harassment, or other intervention;
- Participate in any training provided by the Department.

### **Fairness**

The principal or manager must ensure that every complaint is dealt with in a manner that is both procedurally and substantively fair. The principles of natural justice to be observed include:

- The right of each party to be heard;
- The right of each party to be treated fairly;
- The right of the respondent to know the allegations made against him or her;
- The right of the respondent to respond to the allegation(s) made against him or her;
- The right of both parties to a decision-maker who acts fairly and in good faith.

### **Contacts**

Students claiming harassment should be given the opportunity to discuss the matter with a teacher with whom they feel comfortable or can trust. This information should then be relayed to the Team Leader / Year Level Co-ordinator and/or Wellbeing Team for investigation and referral.

Depending on the category of sexual assault the following personal may be contacted:

- Supervising teacher
- Wellbeing Team
- Team Leader / Year Level Co-ordinator
- Principal Class
- DEECD
- Victorian Police

Lakeview Senior College – (03) 9219 3100

DEECD Central: Conduct and Ethics – (03) 9637 2594

Diversity and Equity – (03)9637 2457

DEECD Western Metropolitan Region – (03) 9291 6500

Caroline Springs Police – (03) 93614700