
SEXUAL HARASSMENT POLICY

Rationale

We, at Essex Heights Primary School, have responsibility to ensure the provision of a safe, secure working environment in which all staff, students, contractors and visitors, can participate in school and community activities free from sexual harassment.

The Victorian *Equal Opportunity Act 1995* addresses sexual harassment in Part 5. Section 85 (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 85(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.

Sexual harassment is prohibited in any work-related context, including work functions, conferences and training programs even if they are outside normal working hours or outside the location of the primary workplace. Accordingly, references in this policy to the workplace include all places in which work related activities occur.

The legislation covers, amongst others, employees, prospective employees, employers, people in a common workplace, students and prospective students.

Sexual harassment is conduct of a sexual nature that is unwelcome. Sexual harassment can be physical, verbal 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 persons of the same or opposite gender.

Sexual harassment may include:

- comments about a person’s sex life or physical appearance;
- comments of a sexual nature;
- suggestive behaviours such as leering and ogling;
- unnecessary physical intimacy such as brushing up against a person;
- physical contact such as touching or fondling;
- ‘flashing’ or sexual gestures;

- sexual propositions or repeated unwanted requests for dates;
- making promises or threats in return for sexual favours;
- sexual jokes, offensive telephone calls, displays of offensive photographs, reading matter or objects;
- sending jokes or graphics of a sexual nature by e-mail, internet or fax;
- unwelcome questioning about a person's private life;
- offensive computer screen savers;
- unwanted requests for sex; and
- stalking, indecent assault or rape (which are also criminal offences).

Sexual harassment is behaviour that is uninvited, unreciprocated and unwelcome. Sexual harassment can include situations where:

- such conduct is implicitly or explicitly a term or condition of an individual's employment;
- such conduct is implicitly or explicitly a term or condition for decisions that might affect promotion, salary or any other job conditions;
- such behaviour creates an uncomfortable and/or intimidating, hostile or offensive work environment for one or more employees.

Even if the behaviour is not intended to be offensive, it may still be unlawful. Sexual harassment is not behaviour that is based on mutual attraction, friendship and respect. Where the interaction is consensual, welcome and reciprocal it will not amount to sexual harassment. Judgements about what constitutes consensual, welcome and reciprocal interaction may be influenced by the relative power of the people involved. The capacity of persons in positions of authority to influence others and affect their well-being is a factor that will be taken into account in the management of any sexual harassment allegation.

Guidelines

- 1.0 The responsibility for providing a working environment free from sexual harassment is discharged through the Principal, Leadership team and School Council.
- 2.0 Staff will be aware of the *DEECD Sexual Harassment Policy* and the *Equal Opportunity Act 1995* with particular reference to sections relating to sexual harassment.
- 2.1 Professional Development in the area of sexual harassment will be available for staff.
- 3.0 Staff has the responsibility to ensure that their behaviour does not constitute or foster sexual harassment.
- 4.0 Two Sexual Harassment Officers will be appointed annually.
- 4.1 Students, staff or school community members making a complaint should contact either of the Sexual Harassment Officers, the Principal, the Assistant Principal, class teacher or grade Coordinator as appropriate.
- 4.2 All complaints and enquires will be treated seriously, promptly and confidentially.
- 4.3 The Sexual Harassment Officer will ensure that the Principal or Assistant Principal is informed.
- 4.4 The Principal has responsibility to ensure that no victimisation occurs against a complainant or adviser.

- 4.5 Relevant contact details for making complaints or seeking advice relating to sexual harassment will be made available to all staff.
- 5.0 The school will deal with allegations or instances of sexual harassment and possible consequences regarding any breach of this policy in accordance with the Department's *Guidelines for Managing Complaints, Misconduct and Unsatisfactory Performance*: <http://www.eduweb.vic.gov.au/hrweb/workm/perform/conduct.htm>
- 5.1 If a complaint remains unresolved at the workplace the complainant should contact the DET Investigations Officer.
- 6.0 Failure to take action when sexual harassment is reported will be seen as authorisation or assistance of sexual harassment. People involved are seen to have contravened the legislation and a complaint may be lodged against them.
- 7.0 Allegations involving students:
- If a complaint is made, or conduct is observed or brought to the attention of the Principal, concerning Sexual Harassment of a student by a student or other person in the workplace, the Principal should immediately contact the Emergency and Security Management Unit.
 - Sexual offences against children or young persons have mandatory reporting implications, which require contact with the Department of Human Services.
 - It is unlawful for students to sexually harass other students, staff or agents of the DET. The responsibilities of students in relation to maintaining a school environment free of Sexual Harassment is implicit in the Essex Heights Primary School Student Code of Conduct.
- 8.0 The Essex Heights Primary School Sexual Harassment policy will be implemented in accordance with the intent of the following documents:
- *Commonwealth Sex Discrimination Act 1984*
 - *Victorian Equal Opportunities Act 1995*
 - *Circular 168/2002 Sexual Harassment Policy & Procedures DE&T 2002*
 - *DET Grievance Procedure*
 - *Essex Heights Primary School. Student Code of Conduct*
- 9.0 We at Essex Heights Primary School will draw on the expertise of the following organisations for advice and guidance as needed:
- | | |
|-----------------------------------------------------------|--------------|
| • Conduct & Ethics Branch | 96372595 |
| • Merit Protection Boards | 9032 1701 |
| • Emergency and Security Management Unit | 9589 6266 |
| • Student Critical Incident Advisory Unit | 9637 2934 |
| • Victorian Equal Opportunity and Human Rights Commission | 1300 891 848 |
- 10.0 The processes for the management of complaints relating to sexual harassment will be reviewed regularly as part of the school's evaluation process.

Andrew Crossett

Trevor Sharrock

Principal

School Council President

School Council-June 2015