

Discrimination, Harassment and Victimisation Policy

Inspiring Great Minds



Queensland Academy
for Science Mathematics
and Technology



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1.0 RATIONALE

The purpose of this policy is to set standards and guidelines of behaviour for members of the school community at the Queensland Academy for Science, Mathematics and Technology (QASMT) that are consistent with the values, policies and legislation of the Queensland Government. All schools in Queensland are committed to taking action to prevent unlawful discrimination, harassment or victimisation, and to respond appropriately when it does occur. QASMT believes that:

- all members of the school community are entitled to feel and to be safe whilst at school and whilst travelling to and from school
- discrimination, harassment and victimisation are unacceptable behaviours
- all members of the school community (staff, parents and students) have a responsibility to be working towards the school being a safe and inclusive environment.

It is recognised that unlawful discrimination, harassment or victimisation may be experienced by staff to staff, staff to members of the public or school community or members of the public or school community to staff, student to student, staff to student or student to staff. Strategies for the prevention of unlawful discrimination, harassment and victimisation are an integral part of workplace practices and culture at QASMT.

Discrimination and harassment on the basis of any of the attributes listed below is considered unlawful:

- Age
- Physical features
- Carer status
- Disability or impairment
- Lawful sexual activity
- Religious belief or activity
- Race
- Political belief or activity
- Gender
- Industrial activity
- Marital status
- Parental status
- Pregnancy
- Personal association with a person who is identified with reference to any of the above attributes
- Employment activity
- Breastfeeding
- Gender identity
- Sexual orientation
- Making or pursuing a compensation claim

The *Anti-Discrimination Act 1991* makes discrimination in education against the law. The legislation applies to all facets of education, including but not limited to:

- admission and enrolment applications
- terms of admission and enrolment
- variation of the terms of a student's enrolment
- denial or limitation of benefits normally resulting from enrolment
- exclusion or suspension of students
- assessment and examination
- access to resources and facilities and
- treatment of a student with regard to training or instruction.

The Act also prohibits sexual harassment and public acts of vilification. This means that sexual harassment and vilification in the classroom, online, outside the classroom or other similar educational setting or venue is against the law. The Act does not apply to the curriculum or content of courses offered by education providers – only to aspects of the provision of education itself. Complaints about course content should be made to QASMT directly.

2.0 LEGISLATION

- *Age Discrimination Act 2004* (Cwth)
- *Anti-Discrimination Act 1991* (Qld)
- *Australian Human Rights Commission Act 1986* (Cwlth)
- *Disability Discrimination Act 1992* (Cwlth)
- *Disability Standards for Education 2005* (Cwlth)
- *Education (General Provisions) Act 2006* (Qld)
- *Human Rights Act 2019* (Qld)
- *Multicultural Recognition Act 2016* (Qld)
- *Racial Discrimination Act 1975* (Cwlth)
- *Sex Discrimination Act 1984* (Cwlth)

3.0 RELATED POLICIES AND PROCEDURES

- Appropriate Use of Social Media Policy
- Complaints Management Policy
- Inclusion and Equity Policy
- Preventing and Managing Bullying Policy
- Responsible Use of Mobile Phones and Other Devices Policy
- Student Code of Conduct

4.0 DEFINITIONS

Harassment is unwelcome and unwanted conduct that discriminates against, humiliates, offends or intimidates another person, including bullying, belittling, threatening, victimising and abusive behaviour, and which is based on any of the discrimination factors including gender, race, disability and age.

Sexual harassment is any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome, sexually-orientated behaviour. A person is taken to have sexually harassed another if they have made an unwelcome request for sexual favours or have engaged in other unwelcome conduct of a sexual nature, and

- The object of the advance has been disadvantaged in some manner regarding their employment or work, or;
- The object of the advance believes that rejection or refusal of the advance/proposal/request/suggestion would disadvantage him/her in any way in connection with his/her employment or work.

Sexual harassment can take many different forms and includes physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working environment. If the interaction is based on mutual attraction and is consensual, welcomed and reciprocated, it cannot be construed as sexual harassment.

Racial harassment is any threat, abuse, insult, taunt or other offensive behaviour directed at a person's race or characteristic that relates generally to their race, such as nationality, ethnic background, skin colour, language proficiency (or lack thereof) or physical feature/s. As is the case for sexual harassment, racial harassment applies to people who believe they have been disadvantaged in some way because they have made it clear that they objected to such behaviour or who reasonably held a belief that they might have been disadvantaged if they pursued this course of action.

Disability harassment is defined as discrimination or harassment against a person on the basis of one or more of the following characteristics:

- Total or partial loss of the person's bodily or mental function.
- Total or partial loss of part of the body.
- The presence in the body of organisms causing disease or illness.
- The presence in the body of organisms capable of causing disease or illness.
- The malfunction, malformation or disfigurement of a part of the person's body.
- A disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction.
- A disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour and includes a disability that
 - presently exists
 - previously existed but no longer exists
 - may exist in the future
 - is imputed to exist.

Discrimination may be direct, or indirect as follows:

Direct discrimination occurs when a person receives less favourable treatment by comparison to another person in the same or similar circumstances as themselves on any of the grounds covered by antidiscrimination legislation. This includes discrimination that applies because of a characteristic that applies, or is assumed to apply, to the group to which that person belongs.

Indirect discrimination occurs when any rule, policy or practice is implemented that is not reasonable in the circumstances and which may, in effect, have a negative impact on a particular person or group of people.

Victimisation, which is unlawful under State legislation, is defined as any unfavourable treatment or threat of unfavourable treatment of a person because they have made, intend to make or have been involved in levelling a complaint of harassment or discrimination against a colleague.

5.0 HARASSMENT

Harassment is any behaviour that is unwelcomed and is based on one of the legislatively proscribed attributes (see Section 1). It may be repeated behaviour but could also consist of a single act.

Harassment has the effect of offending, humiliating, belittling or intimidating the person at whom it is directed. It makes the school environment unpleasant and sometimes even hostile. If a person is being harassed, their ability to do their work or study may be affected. They may become stressed or suffer health problems as a result.

Harassment can often be the result of behaviour, which is not intended to offend or harm, such as jokes or unwanted attention. The fact that harassment is not intended does not mean that it is not unlawful. The differences between people should be acknowledged and respected – never ridiculed.

5.1 TYPES OF HARASSMENT

There are many types of harassment. These can range from direct forms, such as physical and verbal abuse, threats, name calling, and sexual advances, to less direct forms such as where a hostile work environment is created, but no direct attacks are made on the individual.

Examples of verbal harassment include:

- sexual comments, advances or propositions
- racist comments or jokes
- spreading rumours, gossiping
- belittling someone on the basis of the attribute/s listed above
- repeating unwelcome invitations of a sexual nature
- unwelcome telephone calls, letters, mobile text messages, social media contacts or postings, emails which reference any protected attribute.

Examples of non-verbal harassment include:

- putting material on notice boards, computer screen savers, emails etc., which reference any protected attribute and could be offensive
- displaying sexist or racist cartoons or literature
- demoting, failing to promote, or transferring someone because of the attributes listed
- mimicking someone with a disability.

Sexual harassment is any verbal or physical sexual conduct that is unwelcomed and offensive. There are three basic categories of sexual harassment - non-explicit, explicit and criminal action.

Subtle (not always obvious) forms of harassment tend to be the most common. They include:

- offensive staring and leering
- offensive comments about a person's physical appearance or sexual preference
- offensive comments or jokes, gestures or language
- degrading comments based on sex-role stereotyping
- invasion of personal space
- questions or comments about another's sexual morality or activity
- physical contact e.g., brushing up against another's body
- offensive name-calling.

Explicit (obvious) forms of sexual behaviour are easier to identify as they often involve overtly offensive or intimidating behaviour. They include:

- punching, patting, touching, embracing
- repeated requests to go out with someone, especially after prior refusal
- offensive jokes and comments
- sexually provocative remarks
- displays of sexually graphic material
- requests for sexual favours.

Criminal forms of sexual behaviour may be reported to the police and may include some of the above examples but also includes:

- indecent exposure
- sexual assault
- attempted and/or actual rape
- physically molesting a person
- sending obscene letters, emails, text messages or making obscene telephone calls or other communications.

If you experience any of the above behaviour which results in you feeling offended, humiliated,

intimidated, frightened, then it is a reportable matter, and you should follow the grievance procedure open to you. Ignoring behaviour, which you believe is unlawful, will not always mean that such behaviour will stop.

6.0 UNLAWFUL DISCRIMINATION

Discrimination is making unlawful distinctions between individuals and groups on the basis of any of the proscribed attributes listed above.

Direct discrimination means treating or proposing to treat another person unfavourably on the basis of the proscribed attribute. The discriminator's motive is irrelevant. Under the *Equal Opportunity Act 2010* direct discrimination will occur if a person treats, or proposes to treat, a person with a protected attribute (persona characteristic) unfavourably because of that attribute.

This removes the *Equal Opportunity Act 1995*'s technical requirement to prove that certain treatment was less favourable than would have been received without the attribute, or with a different attribute in the same or similar circumstances (the comparator test).

The new test is whether or not certain treatment was unfavourable to the person claiming discrimination, focusing on the consequences of the treatment on the person claiming direct discrimination because of a protected attribute.

Indirect discrimination occurs when a requirement, condition or practice, which on its face appears to be neutral, in effect has a disproportionate impact on a group of which the complainant is a member. Indirect discrimination will occur where a person imposes, or proposes to impose, a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging people with a protected attribute, and that is not reasonable.

7.0 RESPONSIBILITIES

All students have a responsibility to:

- take action to actively discourage inappropriate behaviours and speech towards others
- appropriately express when certain behaviours and/or speech directed to you are unwelcome
- practice positive and encouraging behaviours
- refrain from actions designed to frighten, intimidate or demean others, even under trying circumstances
- refrain from using any electronic communications device to in any way demean, harass, victimise or bully any other individual or group
- promptly report to your House Dean the facts of any inappropriate incident that you have observed in or outside school, including travel on the bus/train where
 - the relationship between the persons involved is not mutual, comfortable or equal in terms of power
 - the victim clearly demonstrated that certain behaviours or comments were unwanted and unwelcome

- the effect of the behaviour or comment was to distress, confuse, humiliate, intimidate, exclude or physically hurt
- the perpetrator is unrepentant, dismissive or insincere when confronted with the allegation.

All staff have a responsibility to:

- comply with this policy
- display appropriate standards of conduct at all times when at work or representing the school
- report any incidents of inappropriate behaviour (that you witness or any alleged inappropriate behaviours that you may hear about) to your manager or senior member of staff
- refrain from raising a vexatious or malicious complaint
- offer support to anyone who believes they are being discriminated against, harassed or bullied by encouraging them to make a complaint and seek support. You should never approach the person whom the allegations have been raised against. You should remain confidential about any alleged incidences except for reporting the alleged behaviours to your manager/senior member of staff
- participate in an investigation process if requested and maintain complete confidentiality if such a request is made of them. This includes remaining confidential about the existence of an investigation and the information that is provided to the investigator. Spreading gossip or rumours may expose a staff member to a possible defamation action.

All parents/caregivers have a responsibility to:

- model appropriate standards in speech, attitudes, values and behaviours that demonstrate respect for all types of people
- refrain from actions designed to frighten, intimidate or demean members of the school community, even under trying circumstances
- Treat seriously any report of harassment, victimisation or bullying, and investigate it even-handedly in establishing the facts of the incident
- promptly convey to the school the facts of any incident that has been reported at home
- actively teach your student the importance of speaking up against all forms of victimisation and of appropriately expressing what is unwelcome behaviour towards them
- ensure that appropriate steps are taken in the home to ensure the safe and monitored use of electronic communication devices, especially online social networking sites and other Internet environments.

8.0 MAKING A COMPLAINT

If students, parents or employees believe that this type of behaviour is occurring in the school, they are able to make a complaint under the QASMT Complaints Management Policy.

If you have experienced discrimination, sexual harassment or vilification at school or other educational institutions, you may also be able to lodge a complaint with the Commission.

Disability Discrimination and Harassment

If these concerns are not resolved and the discrimination, harassment or victimisation relates to a person with a disability, a complaint can be made to the Human Rights Commission by the individual or someone acting on their behalf, such as a solicitor, advocate or trade union.

The complaint must be put in writing and sent to the Commission via post, fax or online. It must say what happened, when and where it happened and who was involved. The complaint can be made in any language. If a translator or interpreter is required, the Commission can arrange this.

When the Commission receives a complaint about something that is covered by the Disability Discrimination Act, the President of the Commission can investigate the complaint and try to resolve it by conciliation.

The Commission is not a court and cannot determine that discrimination has happened. The Commission's role is to get both sides of the story and help those involved resolve the complaint. If the complaint is not resolved or it is discontinued for another reason, it can be taken to the Federal Court of Australia or the Federal Magistrates Court.

More information is available on the Complaints section of the Commission's website (<http://www.humanrights.gov.au/complaints-information>)

If you are unsure if you can make a complaint about something, you can contact the Commission's Complaint Information Service by phone on **1300 656 419** or by email to complaintsinfo@humanrights.gov.au