



## WHS 6 Human Rights:

## 6-3 Sexual Harassment

|                             |   |
|-----------------------------|---|
| Prepared by                 | CEN Hub Compliance Officer  |
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| Version | Date         | Notes   |
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| 1.1     | October 2019 | New Illawarra Christian Education updated policy (Illawarra Christian School & Calderwood Christian School) |



**CHRISTIAN**  
**EDUCATION NATIONAL**  
 vision community partnership

| Authorised By | Date |
|---------------|------|
|               |      |

### Version History

| Version | Date         | Notes   |
|---------|--------------|---|
| 1.0     | October 2019 | New Illawarra Christian Education Policy from CEN Hub Policy (Illawarra Christian School and Calderwood Christian School) |
| 1.1     |              |   |
|         |              |   |

**Illawarra Christian Education (Illawarra Christian School and Calderwood Christian School)**  
**Mission: In Christ's service to partner with parents in providing a quality Christian Education founded on the Word of God.**

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### Important related documents:

#### WHS Framework:

##### 1 WHS Management

##### 2 Campus:

- 2-1 Buildings & Facilities
- 2-2 Hazardous Substances
- 2-3 Manual Handling

##### 3 Incidents:

- 3-1 Reporting & Investigating Incident
- 3-2 Critical Incidents
- 3-2a Critical Incident Plan
- 3-3 Return to Work
- 3-3a Return to Work Program

##### 4 Medical:

- 4-1 First Aid
- 4-2 Student Medication
- 4-3 Significant Medical Needs

##### 5 Events & Excursions:

- 5-1 Off-Campus Education
- 5-2 Overseas & Local Mission Trips

#### 6 Human Rights:

- 6-1 Anti-Discrimination
- 6-2 Workplace Bullying
- 6-3 Sexual Harassment

#### Employment Policy suite

#### Teaching & Learning Policy suite

#### Staff Code of Conduct

#### Child Protection Policy

#### Welfare Policy

#### Student Anti-Bullying Policy

#### Attendance Policy

#### Community Development policies

#### Sun Protection Policy

#### Compliance Framework

#### Risk Management Framework

### Relevant Legislation:

Work Health and Safety Act 2011 (NSW)

Work Health and Safety Regulation 2011 (NSW)

Education Act 1990 (NSW)

Australian Education Act 2013

Australian Education Amendment Bill 2014

Explosives Act 2003 (NSW)  
Environmental Planning and Assessment Regulation 2000 (NSW)  
Fair Work Act 2009 (NSW)  
Workers Compensation Act 1987  
Workplace Injury Management and Workers Compensation Act 1998  
Workplace Injury Management and Workers' Compensation Regulation 2002  
Workers Compensation Regulation 2010  
Australian Human Rights Commission Act (1986)  
Age Discrimination Act (Cth)2004  
Disability Discrimination Act 1992 (Com)  
Disability Discrimination and other Human Rights Legislation Amendment Act (Cth) 2009  
NSW Anti-Discrimination Act (1975)  
NSW Anti-Discrimination Amendment (Miscellaneous Provisions) Act (2004)  
Racial Discrimination Act (Cth)1975  
Sex Discrimination Act 1984 (Cth)

**Other References:**

Registered & Accredited Individual Non-government Schools (NSW) Manual, January 2017, latest version on NESA website

[www.humanrights.gov.au](http://www.humanrights.gov.au)

[www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au)

## 1 INTRODUCTION

References to Illawarra Christian Education below include reference to its schools Illawarra Christian School and Calderwood Christian School.

The sexual harassment of staff and students is unlawful under the Federal Sex Discrimination Act 1984. The law generally applies in schools in the following:

- in employment
- as a consumer of goods or services
- as a student in any State or private educational institution
- when taking part in sport

The Act explicitly prohibits:

- The sexual harassment of a student by staff.
- Sexual harassment of an adult student, (i.e. a student aged 16 years or older), by another adult student; and sexual harassment of any student or staff member by another adult student.
- The sexual harassment of staff, by adult students or other staff.

It is the legal responsibility of the School and all employees to take all reasonable steps to prevent sexual harassment and victimisation: by enforcing this policy; through proactive education; and intervention when witnessed.

Students and staff of Illawarra Christian Education's schools should have a safe study and work environment that is free of harassment or intimidation of any kind. Sexual harassment is unlawful; and the school has a legal responsibility to develop an environment free from sexual harassment, and to investigate any allegations or complaints.

The school encourages a standard of behaviour which reflects godliness and selflessness in relationships. Each member of the school community is expected to treat others with respect and consideration. No staff member, student or visitor to the school should be subject to sexual harassment.

## 2 CHRISTIAN RATIONALE

Jesus modelled an attitude of respect and honour for women and other vulnerable people which was outrageous in His time. Sexual harassment of any person is a demeaning type of behaviour that treats people as objects to gratify another's lust. Jesus set the value for people at the price of His own life. Therefore Christians are exhorted to treat one another with the greatest care and respect. *Treat younger men as brothers, older women as mothers, and younger women as sisters, with absolute purity.* 1 Timothy 5:1-2

Believers in Christ have a new identity that is not based on sex, race or status in this world, but as beloved children of God. Therefore sexual harassment, discrimination or any other form of abuse, demeans the worth of a person who is infinitely precious to God. *So in Christ Jesus you are all children of God through faith, for all of you who were baptized into Christ have clothed yourselves with Christ. There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ Jesus.* Galatians 3:26-28

### 3 PURPOSE OF THIS DOCUMENT

This document sets out the policy and procedures of Illawarra Christian Education in promoting a school environment free of sexual harassment; and for investigating any allegations or complaints.

### 4 WHO MUST COMPLY

| <i>Responsibilities</i>  | <i>Evidence of Compliance</i>   |
|--|---|
| <b>Principal</b>   |   |
| Ensure staff and students are familiar with the requirements of this policy                | CPL calendar; Welfare Policy, Discipline Policy; various Codes of Conduct |
| Promote a culture of zero tolerance of sexual harassment                                   | Policies & procedures; staff meetings; Executive meeting minutes          |
| Handle or delegate complaints or investigations into allegations of sexual harassment      | Complaints Framework; confidential files                                  |
| <b>Board Chairman</b>  |   |
| Handle complaints or investigations into allegations of sexual harassment by the Principal | Confidential files  |
| <b>Business Manager/ WHS Group</b>   |   |
| Recommendations for policy & procedures  | Policy revision history   |
| Training of staff  | WHS procedures – CPL calendar; Induction                                  |
| <b>Deputy Principal/ Coordinators</b>  |   |
| Investigation of complaints/ misconduct by students  | Confidential files; school database notes                                 |
| <b>All staff/ students/ visitors</b>   |   |
| Maintain & encourage appropriate personal behaviour  | Staff Appraisal; employee file  |
| Report any incidents or allegations  | Confidential files; welfare/ discipline reports                           |

## 5 DEFINITIONS

**Harassment** - behaviour, comments or images that are unwelcome, offensive or intimidating and that, in the circumstances, a reasonable person should have expected would be offensive or intimidating

**Sexual harassment** - any unwelcome sexual advances, or unwelcome requests for sexual favours; or other unwelcome conduct, including comments, attention or contact, of a sexual nature

It refers to conduct of a sexual nature that a reasonable person would have anticipated would cause the person subjected to that conduct offence, humiliation or intimidation. It may be verbal, physical, written or visual. It is uninvited, unreciprocated, unwelcome and/or repeated.

Sexual harassment has nothing to do with mutual attraction or consenting friendships.

**Victimisation** - when a person is threatened, harassed, harmed or subjected to any form of detriment

In this document it also relates to any unfavourable treatment of a person as a consequence of their involvement in a grievance under the school's grievance procedures.

**Unacceptable behaviour** - Not all unacceptable behaviour may be "discriminatory" but will still be prescribed by other school policy such as those covering work performance, staff or student misconduct, or the principles outlined in the Code of Conduct.

Everyone covered by this policy should be careful not to risk being misunderstood and thus becoming the subject of complaint.

## 6 POLICY

- (a) Sexual harassment is unacceptable and will not be tolerated at Illawarra Christian Education's schools under any circumstances.
- (b) Illawarra Christian Education is committed to providing all staff and students with a working and learning environment free from sexual or other harassment.
- (c) All staff, students and visitors to the site are expected to honour and support this commitment; and abide by the relevant Code of Conduct in their behaviour, language and dealings with other people.
- (d) An action that may not constitute sexual harassment may still constitute unprofessional conduct; and may be subject to discipline, or become a matter for investigation according to the Child Protection Policy.
- (e) The school encourages the reporting of behaviour which breaches this policy.
- (f) All allegations of sexual harassment will be investigated by the school and dealt with according to the school's policies. (Child Protection, (Student) Discipline, Employment, Grievance policies; Staff Code of Conduct).
- (g) If, as a result of an investigation, allegations are shown on the balance of probability to be true, the Principal will take appropriate disciplinary action and/or report to the relevant authorities according to school policies (Child

Protection, (Student) Discipline, Employment policies); or the matter may be referred to police.

- (h) Students under 16 years of age who are identified as perpetrators of sexual harassment will be dealt with under the school's disciplinary procedures and any legislative responsibilities. (Discipline Policy)
- (i) Victims will be given access to advice and support services.

While religious schools are exempt from a number of the employment provisions of the Federal Sex Discrimination Act 1984 and the NSW Anti-Discrimination Act, 1977, they are covered by the sexual harassment provisions of this Act in relation to both employment and education.

## 7 PROCEDURES

### 7.1 Communication

The Principal shall ensure that staff and students are made aware of their rights and responsibilities regarding appropriate behaviour and relationships in the school; and the process for reporting any incident of sexual harassment either experienced or witnessed by them, or allegations made known to them.

- (a) Staff – annual review of Staff Code of Conduct and Child Protection at start of year, and as required during the year; Induction process for new staff (Staff Induction Policy)
- (b) Students – annual review of Student Code of Conduct & School Rules, which are also sent home for parents & students to sign; curriculum – PDHPE, Biblical Studies, CAFS; and topically, as arising – assemblies, class/pastoral care groups discussion
- (c) Parents & Visitors – Code of Conduct for Parents & Visitors displayed in front foyer; published on website

### 7.2 Reporting

- (a) Anyone who believes that they are being, or have been, sexually harassed should make it known that the comments, attention, contact or behaviour is unwelcome and offensive.
- (b) If the sexual harassment continues, or if the staff member or student is unable or unwilling to handle the matter themselves, they should contact one of the following for advice, or to make a formal complaint.

Students should report any sexual harassment by other students or by an adult to:

- Teacher/ Section Coordinator/ Chaplain or another member of staff with whom the student feels comfortable
- Their parents



- The Principal

Staff should report any sexual harassment by an adult or by students to:

- The Principal
- Board Chairperson, in the event of a report against the Principal

Parents or other school community members should report any sexual harassment by an adult or by students to:

- The Principal
- Board Chairperson, in event of a report against the Principal

### 7.3 Confidentiality

Anyone made aware of an incident of sexual harassment should maintain confidentiality and ensure it does not become the subject of gossip.

### 7.4 Complaints

- (a) Complaints should be made to the Principal. (Complaints Framework)
- (b) Complaints against the Principal should be referred to the Chairman of the Board.
- (c) Complaints may also be made to an external body such as the Anti-Discrimination Board of NSW.
- (d) Investigations of complaints will be conducted according to the principles of procedural fairness, in a prompt manner, and as confidentially as possible. The only people who will be made aware of a complaint will be those whose involvement is necessary to resolve the problem. The facts of the investigation will be documented. (Complaints Framework)
- (e) In relation to allegations of sexual harassment, it is against the law to victimise a person who:
  - Has made, or intends to make, a complaint
  - Act as, or intends to act as a witness
  - Supports, or intends to support a victim

A person is victimised if threatened, harassed, harmed or subjected to any form of detriment.

- (f) Depending on the circumstances it may become appropriate to involve relevant authorities such as the Australian Human Rights Commission, or the Police in the investigation.
- (g) The school will, to the best of its ability, seek to provide avenues of appropriate counselling for offenders and victims to prevent a recurrence of offences

## 7.5 Personal Relationships

- (a) Staff members engaged in a personal relationship with a co-worker must ensure their behaviour does not interfere with their work responsibilities or standards of workplace behaviour set out in the Staff Code of Conduct.
- (b) Students engaged in a personal relationship with another student at school must behave in a respectful manner at all times: both on campus, and off-campus while representing the school, as set out in the Student Code of Conduct and the School Rules.

## 8 APPENDIX- EXAMPLES OF SEXUAL HARASSMENT

Depending on the circumstances, any of the following could be sexual harassment:

- Staring or leering in a sexual manner; unnecessary familiarity
- Direct propositioning or subtle pressure for sexual favours
- Unwelcome wolf whistling
- Comments about a person's physical appearance, dress, private life or sexual characteristics
- Sexual or physical contact, such as slapping, kissing, touching, hugging or massaging
- Displaying or circulating sexual material, for example on a noticeboard or by email
- Jokes, intrusive questioning, comments, message or telephone call of a sexual nature
- Repeated sexual invitations when the person has refused similar invitations before
- Initiation ceremonies involving unwelcome sexually related behaviour.
- Intrusive questions about sexual activity
- Inappropriate differential treatment of people based on gender
- Sexual assault (also a crime under the Crimes Act)

**A claim of innocent intention is not an excuse for inappropriate behaviour.**

Depending on the circumstances, the following is not sexual harassment:

Counselling a member of staff professionally and confidentially on the appropriateness of their chosen attire within the context of the school attire, where the attire is not in line with the staff dress code