



Document ID: HR-101

Audit Elements:

Marcus Oldham College ("the College") seeks not only to provide an environment that promotes academic achievement but also aims to promote self-esteem and personal development of both staff and students.

In order to achieve this goal the College has established an Equal Opportunity and Advisory Committee (EOAC) which has the responsibility to oversee compliance by the College with the following acts:

- **Human Rights And Equal Opportunity Commission Act 1986**
- **Equal Opportunity Act 2010**
- **Disability Discrimination Act 1992**
- **Sex Discrimination Act 1984**

See [references](#) at end of document.

The EOAC will also have the role of promoting and implementing equal opportunity policy.

The College has also developed a set of procedures for dealing with grievances of discrimination and sexual harassment (see Schedule 1), including Bullying ([RM-024](#)).

However, while the establishment of the EOAC and the Grievances Procedure is a necessary means of bringing about the overall objective, it is not intended to detract from the general principle that all staff and students of the College are responsible for the elimination of all forms of discrimination and harassment which may adversely affect any individual and their right to work and function as an equal member of the College.

The policy and procedures and any directions given under it shall be binding on staff and students of the College.

As part of this policy the College will conduct from time to time educative programs to help prevent the occurrence of discrimination and will provide assistance for those who believe that they have been subject to discrimination and harassment.

A. EQUAL OPPORTUNITY

Discrimination represents any practice of distinction between individuals or groups which disadvantage some and advantage others.

The College will attempt to eliminate both types of discrimination prohibited in Australia, namely direct and indirect.

Direct discrimination occurs where a person is treated less favourably than someone else in similar circumstances because of one of the prohibited grounds of discrimination set out in paragraph 1.1 below.

Indirect discrimination arises in the case of "practices which although they are fair in form and intention, they are in fact discriminatory in **impact and outcome**". It occurs where a person is required but unable to comply with a particular requirement or condition with which a much greater proportion of persons of a different status are able to comply by reason of their status and the imposition of that condition is unreasonable in the circumstances.

1. Objectives

- 1.1 To eliminate direct and indirect discrimination on the grounds of sex, race, colour, age, ethnic and social origin, disability (including medical), national extraction, sexuality, political and religious beliefs, impairment, trade union activity, medical and criminal record, marital status, pregnancy and family responsibilities.
- 1.2 To promote equal employment and educational opportunities for all groups of people.
- 1.3 To ensure that the members of the College act in accordance with the spirit and intent of this policy.
- 1.4 To ensure that selection criteria of both employees and students of the College are not discriminatory.
- 1.5 To ensure that curriculum development takes account of all groups.
- 1.6 To ensure that physical features of the College do not disadvantage people with Impairment or disability.
- 1.7 To ensure that College publications eliminate all types of discrimination.
- 1.8 To establish policies and procedures to deal with grievances relating to discrimination and harassment and ensure that these policies are widely circulated and easily available to all members of the College.
- 1.9 To ensure that a statement of Equal Employment Opportunity shall appear in all advertisements for College appointments and promotions.
- 1.10 To ensure that employment opportunities and promotions are based on merit, skills and qualifications and that discrimination in this area does not occur.

2. Implementation

- 2.1 The Principal of the College's nominee/s shall be the Equal Opportunity Officer/s (E.O.O.)
- 2.2 A College Equal Opportunity Advisory Committee ("the EO Committee") consisting of the E.O.O. and selected members of the College staff and students shall be established to:
 - 2.2.1 report and provide advice to the Principal & Council of the College as appropriate on the promotion and implementation of equal opportunity in the employment and education at the College.
 - 2.2.2 monitor and report to the Principal & Council on the nature and effectiveness of the implementation of the College's Equal Opportunity Policy.
 - 2.2.3 consider and recommend to the Principal & Council ways by which impediments to equal opportunity in employment, education and support may be overcome.
- 2.3 The College shall ensure that there is adequate funding available to implement the policies.

B. SEXUAL HARASSMENT

The College is committed to the provision of an environment for staff and students which is free from sexual harassment.

Sexual Harassment includes the following:

Behaviour which constitutes an unwanted verbal or physical affront of a sexual nature against another person in circumstances where a reasonable person, having regard to all the circumstances would have anticipated that the person harassed would be offended, humiliated or intimidated.

Such behaviour may include unwelcome comments, gestures or actions of a sexual connotation, unwanted and deliberate physical contact and subtle or explicit demands for or offers of sexual favours, accompanied by implied or overt promises or threats concerning a person's employment, sexual jokes, remarks or innuendos and displays of offensive pictures, reading materials or objects.

Action of the above nature occurring between students, between staff and students, and between members of staff, will not be tolerated.

Sexual Harassment **does not** include:

Mutual sexual attraction and interaction which is based on choice and consent.

NOTE

All student concerns regarding Equal Opportunity, Sexual Harassment or Bullying on campus should be directed to the Contact Officers:

Emma Morel

Student Counsellor – Marg Keatley can be contacted at all hours

Procedures for resolution of grievances are detailed in SCHEDULE 1 – Item 1

SCHEDULE 1

EQUAL OPPORTUNITY AND SEXUAL HARASSMENT GRIEVANCES RESOLUTION PROCEDURES

Procedures for Dealing with Grievances

The following principles and procedures will be observed and used for dealing with grievances. They aim to promote in the first instance, an agreed resolution by discussion and conciliation. They are intended to balance the rights of the parties involved and recognise that they (ie: the complainant and the respondent to the grievance) both have the right to protection.

The policy and the procedures and directions given under it shall be binding upon staff and students of the College.

Principles

1. Blame must not be assumed.
2. Confidentiality is essential at all points in the procedures. No member of the College or persons other than those specified in the procedures will be consulted or briefed without the consent of the complainant and the respondent to the grievance (the respondent).
3. The complainant has the right to apply at any time to an external statutory body constituted to deal with such grievances or matters. The complainant shall be informed of that right at the outset of any grievance or matter. If the complainant does so these procedures shall be suspended unless the Complainant and the other parties concerned agree to continue with these proceedings and abide by the outcome of them.
4. Relevant legislation will be complied with.
5. The rights and obligations of the complainant and the respondent will be respected at all times including:
 - 5.1 No reprisal on the complainant for having made the grievance.
 - 5.2 The respondent will be provided with full particulars of the grievance including the identity of the complainant.
 - 5.3 Conciliators will ensure that the complainant and the respondent are treated with equal consideration and in particular are kept fully informed of their rights under the procedures and the progress of the grievance.
6. Any member acting on behalf of the College will be indemnified against any loss or damage arising as a result of any legal action taken against that person acting provided they were acting in the proper and bona fide discharge of their functions under any procedure involved in the resolution of a matter or grievance.
7. In the event that a Contact Officer is the subject of a grievance then the Principal shall nominate a person to take their place and that person shall discharge the relevant function and have relevant powers.
8. In the event that the Principal is the subject of a grievance or is involved in such a grievance or matter, then the chairperson of the College Council shall nominate a person to take their place and that person shall discharge the relevant function and have relevant powers.
9. If unsatisfied with the response to the grievance or the time taken to resolve the matter, the complainant may submit the grievance in writing to the Principal and/or explicitly seek the involvement of the conciliation group. The conciliation group will deal with the grievance within a reasonable time, normally within 30 days of receipt of the grievance.

ITEM 1

Steps in Resolution of an Equal Opportunity Grievance

Generally speaking every endeavour will be undertaken to ensure the following Steps are carried out in a maximum of 4 weeks.

- Step 1 Where a person (the complainant) believes that they are the subject of a grievance the complainant may notify and discuss the grievance or matter with the Contact Officer.
- Step 2 The Contact Officer after reviewing the relevant legislation and College policy, may, if the Contact Officer considers it appropriate, advise the complainant to discuss the matter directly with the person or persons who is or are alleged to be responsible for the grievance (the respondent(s)).
- Step 3 If the matter is not resolved by discussion between the complainant and the respondent(s) or if the Contact Officer considers discussions between the complainant and respondent(s) will not resolve the matter, the Contact Officer will immediately advise the respondent(s) in writing of the details of the grievance and discuss the issue with them. Should the respondent(s) wish, the Contact Officer will inform the respondent(s) of any relevant legislation and policy matters.
- Step 4 After discussing the matter with the respondent(s) the Contact Officer will arrange a meeting between the parties for the purpose of attempting to arrive at a resolution. Should no resolution be arrived at by this process then the complainant shall have the right to either discontinue internal procedure progress to the next Step. The procedures of any such meeting shall be at the discretion of the Contact Officer.
- Step 5 Where the complainant elects to progress to the next Step the Contact Officer will constitute a Conciliation Group (CG) and notify the members that formal conciliation of a grievance is required. The CG will be constituted as follows:

- two members of College Council;
- one staff member, and
- an appointment outside the College.

Details of the grievance made by the complainant and the response by the respondent(s) will be supplied by the Contact Officer to the CG. The CG along with the Contact Officer will arrange a joint meeting between the complainant and the respondent(s) in an attempt to obtain a resolution. The procedure adopted at the meeting shall be at the discretion of the CG.

Any resolution reached between the parties by this means shall as far as possible have the object of:

- eliminating any discrimination
- as appropriate, restoring the complainant or the respondent(s) to the same standing they enjoyed before the matter arose
- repairing any loss or damage, pecuniary or otherwise connected with the grievance or matter
- and shall provide that there be no reprisals on either party by reason of the grievance having been made or the matter referred.

Step 6 Should no resolution be achieved by the CG then the Contact Officer will notify the Principal that a determination of the matter is required and the Principal or the Principal's nominee shall determine the matter. The procedure to be adopted in the determination of the matter shall be at the discretion of the Principal or the Principal's nominee except that the following Steps shall be taken:

- The complainant and the respondent shall be notified immediately in writing that the case is to be determined by the Principal or the Principal's nominee. The complainant shall also be requested to provide a written summary of the grievance or matter to the Principal or nominee and to the respondent within such time as the Principal or nominee stipulates and the respondent shall be requested to provide a written response within such time as the Principal or nominee stipulates.
- All relevant information in the possession of the Contact Officer or CG will be provided to the Principal or nominee, note: no recommendation of the Contact Officer or CG will be provided.

Step 7 The Principal or Nominee will after inquiring into the matter, make a determination on the grievance or matter.

The determination will state whether there has or has not been a valid grievance. The determination may include directions to either party which the Principal or nominee consider are necessary including directions designed to:

- eliminate any discrimination
- restore the complainant or the respondent as appropriate to the same standing as they enjoyed before the matter arose
- repair any loss or damage pecuniary or otherwise relevant arising out of the grievance or matter
- discipline either party in accordance with the College's Disciplinary Procedures
- provide that there be no reprisals on either party by reason of the matter being referred and dealt with under these procedures.

The Principal or the nominee may at any time and as they think fit, vary, suspend or vacate any directions given under these procedures.

Step 8 If not satisfied with a decision of the Principal, the complainant may request that the matter be dealt with through an external dispute resolution process by the person/body appointed by the provider for that purpose. The details of this person/body are as follows:

Mediation Solutions
13 Claremont Avenue
Newtown 3220
Phone: (03) 5221 0422
Email: gmill@mediationsolutions.com.au

Grievances will be addressed within thirty (30) days.

Step 9 Records of all grievances and applications for review of decisions must be kept and accessible to all interested parties for a period of seven (7) years. Such records will remain confidential.

Records of grievances and their outcomes will be kept strictly confidential and filed in a separate file (not kept on the student or staff file) and stored in the office of the Principal for a period of seven (7) years. Parties to the grievance will be allowed supervised access to these records.

References

- Human Rights and Equal Opportunity Commission Act 1986
– Commonwealth comlaw.gov.au
- Equal Opportunity Act 2010 - Victorian www.austlii.edu.au
- Disability Discrimination Act 1992 - Commonwealth..... www.austlii.edu.au
- Sex Discrimination Act 1984 - Commonwealth..... austlii.edu.au
- Sexual Harassment – A Code of Conduct..... Human Rights and Equal Opportunity Commission