

## *Student Bullying Harassment*

<b>Accountability</b>	Academic Dean
<b>Operational Responsibility</b>	Faculty
<b>Date of Approval</b>	Dec 2017
<b>Next Review</b>	Q2 2020
<b>Approval Authority</b>	APC/T&LSPC Academic Board

## Objective and Policy Statement

LCI Melbourne believes that every individual has the right to preserve his or her dignity, honour and reputation. Consequently, it considers bullying and harassment a violation of the fundamental human rights of the individual, condemns it, and is committed to taking steps to ensure that all of its employees have access to bullying and harassment-free study and work environments.

No forms of bullying and harassment are tolerated within the LCI Melbourne academic community and LCI Melbourne upholds, as a matter of normal business practice, the freedom from bullying and harassment provisions of applicable laws in Australia including the Crimes Amendment (Bullying) Act 2011.

LCI Melbourne takes the following measures to prevent and stop bullying and harassment:

- Maintaining, through a series of policies and procedures, a professional academic environment that fosters respect amongst colleagues and ensures that all individuals are treated with dignity;
- Informing the academic community, in orientation sessions and handbooks, about what constitutes bullying and harassment in order to prevent any incidents;
- Providing support for individuals who believe they have been bullied and harassed by implementing, through the present policy, an accessible and effective complaint-handling procedure that permits any alleged victims to report incidents with the utmost confidentiality and without fear of retaliation;
- Imposing sanctions for transgressive behavior and applying corrective measures that are aimed at rectifying the situation and putting an end to any bullying and harassment.

## Scope

This policy applies to all students of LCI Melbourne. It governs the relationships that exist between students and employees, students and students, as well as between students and contractors or visitors.

This Policy applies with respect to any place where LCI Melbourne conducts business or where LCI Melbourne functions occur (for example, on campus, in the classroom and on faculty-led class field trips).

## Exclusions

There are no exclusions to this policy.

## Definitions

### What is bullying and harassment?

Bullying and harassment includes:

**Any inappropriate conduct or comment by a person towards a student that the person knew or reasonably ought to have known would cause that student to be humiliated or intimidated;**

but is more broadly defined in this Policy as:

**Any offensive or inappropriate conduct or comment that the person making the comment or engaging in the conduct knows or reasonably ought to know is unwelcome by another person, or which adversely affects a person's dignity or physical or psychological safety, or which results in a harmful study environment.**

Bullying and harassment can manifest itself through a wide range of verbal and physical acts, which can be mocking, embarrassing, patronising, offensive, and threatening in nature and which might involve such behaviors as bullying, stalking, unwelcome sexual advances and physical contact by a person or person(s) that knew, or reasonably ought to have known, would have a detrimental effect on the victim(s). Both repeated actions (patterns of behaviour) and one-time instances may qualify as harassment. Harassment has a detrimental effect on the victims by physically or psychologically damaging them, singling them out, humiliating or intimidating them, and creating hostile work and study environments.

Examples of harassment may include, but are not limited to, the following:

- Publically displaying or distributing materials that offend one's religion, sexual orientation, disability, or race, or are in violation of any other ground of prohibited discrimination;
- Making written or oral pronouncements, in social, academic, and/or professional contexts, which are racist, sexist, homophobic, xenophobic, or in violation of any other ground of prohibited discrimination;
- Making threats of violence and otherwise intimidating individuals on any of the grounds of prohibited discrimination;
- Engaging in any form of suggestive physical contact that is unwanted and unwelcome, or can be reasonably considered as such.
- Asking for sexual favors in return for a favorable treatment (e.g. passing a course) or insinuating that one's response to such advances might affect academic decisions concerning this person.

Not all insistent or bothersome actions are considered to be bullying and harassment. For example:

- Subject-related ideological debates and in-class discussions whereby faculty and students are expressing differences of opinion;
- Regular assessment stress;
- The application of LCI Melbourne rules and regulations are not considered to constitute bullying or harassment.

## Provisions

LCI Melbourne shall comply with all applicable laws and shall take all reasonable measures to prevent bullying and harassment and to stop it when it is brought to its attention.

Violence and any form of bullying and harassment taking place on any LCI Melbourne premises will not be tolerated and, to the extent there is an allegation of criminal activity, LCI Melbourne will report the incident to the police directly, cooperate fully with legal authorities, and offer counselling to the alleged victim.

Any student of LCI Melbourne, acting in good faith, may make a complaint under this Policy without retaliation or threat of retaliation.

No student of LCI Melbourne will be criticised or penalised in any way because he or she has, acting in good faith, brought a complaint relating to bullying and harassment to the attention of LCI Melbourne.

Retaliation against a person who makes a complaint or who enforces any right under this Policy, or who takes part in an investigation under this Policy, will be treated in the same manner as bullying and harassment and may result in disciplinary measures being taken against the complainant, up to and including dismissal from a program of study.

Retaliatory behaviour includes (but is not limited to):

- unwarranted criticism of a person's academic performance;
- the failure to extend to a person (or others of the same group, sex or race) opportunities available to others;
- the refusal to work with a person or others of the same group, sex or race as the complainant.

Retaliatory behaviour does not include (without limitation):

- good faith academic performance assessment and counselling;
- normal academic related comments and instructions;
- discipline for just cause;
- responding in good faith to a complaint made under this Policy.

Any information about the complaint and the identity of individuals involved which is required for carrying out an investigation under this Policy and imposing disciplinary or administrative sanctions shall be treated with the utmost discretion and confidentiality by all parties.

All individuals who are involved in a complaint and any resulting investigation of bullying and harassment shall be treated fairly and kept informed of the progress of an investigation, as appropriate.

## Harassment Prevention: Ensuing Responsibilities

While studying at LCI Melbourne, all students are expected to act in a professional manner by exhibiting appropriate behaviour that is fair and respectful. Not only do students have to manage their own demeanour, but they are also responsible for reporting behaviour they witness or otherwise encounter that is or may be a violation of this Policy and cooperating with any investigation that may ensue.

## Complaint and Investigation Procedures

### Complaint – Bullying and Harassment by an Employee or Student

This Policy outlines both informal and formal options available to any student of LCI Melbourne who believes that he or she has been bullied or harassed by any employee or student of LCI Melbourne.

Regardless of whether a complaint is made or not, LCI Melbourne reserves the right to unilaterally investigate any behaviour it considers a violation of this, or any other, policy. LCI Melbourne also reserves the right to:

- treat a complaint as a formal complaint or an informal complaint, and/or to proceed with a complaint, regardless of the wishes of the complainant;
- appoint an external or internal investigator(s) as the situation merits.

All students are required to advise the President or the Academic Dean of any known bullying and harassment incident or allegation.

In the event that a student has any concern with bullying and/or harassment under this Policy that involves both the President and the Academic Dean, the student must approach another member of LCI Melbourne's administration to discuss the resolution, complaint and investigation procedures covered by this Policy.

### Informal Resolution Option

In many situations, simply informing the person that his or her behaviour is unwelcome will resolve the issue. Telling the person to stop may be difficult, but frequently it is the most effective means of eliminating the problem. If it is too difficult to speak to the person directly or if the behaviour persists, the matter should be discussed with LCI Melbourne's President.

The President will assist in the resolution of the matter and for that purpose may:

- address the matter informally with the person or accompany the student of LCI Melbourne who believes that he or she has been bullied or harassed in doing so;
- in consultation with the employee and LCI Melbourne's Academic Dean, attempt mediation to resolve the matter;
- in particularly serious circumstances, request that the Academic Dean initiate a formal investigation of the matter.

The President will keep the student who believes that he or she has been bullied or harassed apprised of the steps the President is taking to address the matter, including any proposed resolution initiatives. The President will review any proposed resolution with the Academic Dean and will forward the President's confidential file to the Academic Dean once the matter has been resolved. This action will be completed as soon as possible (normally within 14 days, unless a longer period is appropriate in the circumstances).

### **Formal Complaint Option**

A formal written complaint (see Appendix 1, this policy) may be made to the Academic Dean at any time (whether or not the matter has been discussed with the President or the President agrees that there is evidence of bullying and harassment, or informal steps to resolve the matter do not resolve it to the satisfaction of the employee who believes that he or she has been bullied or harassed). The President will assist in drafting the formal written complaint. The formal written complaint will be delivered to the Academic Dean.

Upon receipt of a formal written complaint, the Academic Dean will determine whether the behaviour complained of falls within the scope of this Policy and, if the Academic Dean determines that it does not, the Academic Dean will advise the person making the complaint (the "complainant") accordingly and will take no further steps under this Policy.

If the Academic Dean determines that a formal written complaint falls within the scope of this Policy, the Academic Dean will initiate an investigation of the complaint.

A formal written complaint will ordinarily only be accepted by the Academic Dean if the behaviour upon which the complaint is based occurred within six months prior to making the complaint (or, if such behaviour occurred over a period of time, the last time such behaviour occurred was within six months prior to making the complaint), unless the Academic Dean, in its discretion, determines there are extenuating circumstances for the time delay or the Academic Dean believes that pursuing an investigation is in the interest of ensuring that LCI Melbourne is free from bullying and harassment.

If a formal written complaint involves the President or the Academic Dean or another member of administration of LCI Melbourne, such person will not be involved in any determination or investigation in respect of such complaint and the procedures set out in this Policy will be modified accordingly.

### **Investigation of Formal Complaints**

An investigation of a formal written complaint will ordinarily be conducted by the President or the Academic Dean.

The investigation will be completed and the appropriate resolution decided upon as soon as possible (normally within 30 days after a formal written complaint is made, unless a longer period is appropriate in the circumstances in which case the complainant will be notified of the proposed time frame).

At any stage during the process, the complainant has the right to withdraw from any further action in connection with a formal written complaint or the Academic Dean may attempt mediation in order to achieve a resolution satisfactory to the complainant, the person against whom the complaint is made (the "respondent") and the Academic Dean. However, the Academic Dean will remain obligated to pursue the matter if the Academic Dean believes that continued investigation is appropriate in the interest of ensuring that LCI Melbourne is free from bullying and harassment (for example, if there are concerns that the withdrawal of the complaint occurred as a result of possible retaliatory behaviour by the respondent or others, or in cases where there are previous complaints or incidents involving the respondent).

In the course of the investigation of a formal written complaint, the Academic Dean or its designated investigative team will:

- give notice that an investigation has been initiated to the senior administrator(s);
- interview the complainant regarding the complaint;
- give a copy of the complaint to the respondent or advise the respondent in writing of the allegations;
- provide the respondent with an opportunity to respond to the complaint orally or in writing and give a copy of any written response or a written summary of the oral response to the complainant;
- investigate the complaint by speaking to the complainant, respondent and other individuals where appropriate;
- provide the complainant and respondent with a written summary of their preliminary factual findings with a request for any further comments;
- give notice of the investigative findings to the complainant, the respondent and the senior administrator(s);
- when the investigation is complete, lodge a confidential record of the investigative proceedings.

If the investigative findings substantiate the complaint, the President or Academic Dean may make recommendations regarding appropriate action arising out of such findings and the senior administrator, in consultation with such other members of administration as such person may consider appropriate and taking into account any recommendations from the President or Academic Dean, will: (i) initiate appropriate action arising out of such findings, (ii) give a written summary of such action to both the complainant and the respondent, and (iii) lodge a confidential record of such action.

#### Action Arising out of Substantiated Complaints

Appropriate action arising out of the informal resolution process or resulting from a formal written complaint and subsequent investigation may include one or more of the following by or in respect of the person found to have engaged in bullying and harassment:

- formal apology to the complainant;
- written reprimand (and placed in that person's personnel file);
- counselling or attendance at educational seminars on bullying and harassment;
- change of study assignment;
- financial penalty (including a requirement to reimburse LCI Melbourne for costs relating to the complaint or an adverse effect on compensation);
- suspension or dismissal.

Students who engage in bullying and harassment also may be personally liable in the event of a successful lawsuit or human rights case or sanctions imposed by other authorities or governing bodies.

#### Requesting an Appeal

The following directives guide the appeal procedure.

If the complainant remains unsatisfied with the investigation and/or the determination regarding a complaint, he or she must submit a written request to the person(s) handling the complaint within 10 days from the date on the written decision notice, unless there are extenuating circumstances. The written request must include a detailed justification as to why the complaint should be reviewed.

The investigation will be completed and the appropriate resolution decided upon as soon as possible (normally within 30 days after a formal written complaint is made, unless a longer period is appropriate in the circumstances in which case the complainant will be notified of the proposed time frame).

The person(s) responsible for handling the complaint shall appoint an ad hoc Appeal Committee consisting of two to three employees having no previous exposure to the investigation and give notice that an investigation has been initiated to the senior administrator(s).

In the course of the investigation of an appeal, the Appeal Committee will:

- review the complainant's justification for the appeal and the previous proceedings to ensure that all previous procedures have been conducted efficiently and in compliance with this Policy and applicable laws;
- give notice to the senior administrators if the appeal is warranted and if a hearing should take place; or
- give notice that the appeal has not been upheld to the senior administrator(s), in which case the decision of the Appeal Committee is final and cannot be appealed further;
- during and subsequent to the hearing, the Appeal Committee advises the respondent in writing of the appeal, meets individually with the complainant and the respondent, considers the evidence underlying the complaint and investigation and the provisions of this Policy and applicable laws, deliberates and arrives at a final decision as to the resolution of the complaint;
- give notice of the investigative findings to the complainant, the respondent and the senior administrator(s);
- lodge a confidential record of the investigative proceedings when the investigation is complete.

If the investigative findings substantiate the complaint, the President or Academic Dean may make recommendations regarding appropriate action arising out of such findings and the senior administrator, in consultation with such other members of administration as such person may consider appropriate and taking into account any recommendations from the President or Academic Dean, will: (i) initiate appropriate action arising out of such findings, (ii) give a written summary of such action to both the complainant and the respondent, and (iii) lodge a confidential record of such action.

## **Complaints - Bullying and Harassment by Someone Who is not a Student or Employee**

Any employee who believes he or she has been bullied or harassed by a person external to LCI Melbourne in the course of their study at LCI Melbourne should bring his or her concerns to the attention of the President or the Academic Dean or another member of administration of LCI Melbourne. External harassment can come from members of the public, customers, visitors, service providers, suppliers, landlords or tenants, or any other person who is interacting with LCI Melbourne's students.

The President or the Academic Dean will be responsible for investigating the matter and for taking appropriate action arising out of the investigation.

## **Regular Campus Management is not Bullying or Harassment**

LCI Melbourne has the right to direct and administer its operations and campus. Bullying or harassment does not include any reasonable action taken by LCI Melbourne, its administrators or faculty members relating to the administration and direction of its campus. Thus, where there is a legitimate or administrative purpose, actions taken in the course of campus management investigations, warnings or other discipline do not constitute bullying or harassment.

LCI Melbourne faculty have the right to direct and manage their students and classroom. Bullying or harassment does not include any reasonable action taken by faculty in subject-related ideological debates and in-class discussions whereby faculty and students are expressing differences of opinion, regular assessment stress and the application of LCI Melbourne rules and regulations.

LCI Melbourne will investigate complaints about such actions to determine if an employee has acted in bad faith or for an improper motive. However, students must understand that a disagreement about directions, performance, discipline or other administrative and faculty decisions does not amount to bullying or harassment.



## Frivolous or Vexatious Complaints

An investigation may determine that a complaint is not supported or that there is no breach of this policy. Such a finding does not automatically mean that the complaint was frivolous or vexatious.

Frivolous or vexatious complaints are where the complainant or others know there is no foundation in fact that would suggest a breach of this policy and where the complaint is filed for the purpose of bringing an adverse consequence to the respondent or another employee. Such complaints are, in and of themselves, a breach of this policy and any employee engaged in the presentation or filing of such a complaint may be subject to discipline up to and including dismissal.

## Confidentiality

Confidentiality is not only important for the fair and objective investigation of a complaint and due process, it is also a requirement under applicable privacy laws. It is essential that the complainant, respondent and all of those involved in an informal resolution process or the investigation of a formal written complaint under this Policy maintain confidentiality in respect of such process or investigation, except to the extent disclosure is required by law or by any applicable authority or governing body or is necessary or appropriate for the proper conduct of such process or investigation or any action arising out of such process or investigation (which may include disclosure to one or more members of administration of LCI Melbourne).

Any unauthorised breach of confidentiality will be treated very seriously.

## Record Keeping

Records of complaints, investigations and follow-up action pursuant to this Policy will be retained, secured and destroyed as directed by LCI Melbourne's Human Resources and in accordance with all applicable laws.

## Posting and Reporting Requirements

A copy of this Policy and the names of the President and the Academic Dean will be placed on LCI Melbourne's website.

The Academic Dean will inform the President of LCI Melbourne, in writing, whenever an incident is reported and annually:

- citing the number of cases involving LCI Melbourne considered by the President or the Academic Dean and describing the resolution of those cases;
- the results or its annual review of this Policy and its procedures;
- the changes, if any, which should be made to this Policy or any of its procedures.

## Commitment Restated

The position of LCI Melbourne with respect to bullying and harassment is very straightforward. Every student of LCI Melbourne has the right to study in a dignified and respectful environment which is free from bullying and harassment.

Equally, every student has a legal obligation to (i) avoid behaviour that is bullying or harassing, (ii) immediately report bullying or harassing behaviour no matter who is the target, and (iii) fully cooperate with any investigation into bullying and harassment.

## Further Information

Bullying and Harassment - Complaint Form (Appendix I, this policy)

Student Conduct and Disciplinary Procedures Policy  
Student Complaints Policy  
Employee and Student Access and Equity Policy  
Health and Safety Policy

### Accountable Officers

The accountable officers for the implementation and relevant training of this policy are listed below.

Policy Category		Academic		
Responsible Officer		Academic Dean		
Review Date		Q2 2020		
Approved by				
APC/T&LSPC on behalf of the Academic Board				
Change and Version Control				
Version	Authored by	Brief Description of the changes	Date Approved	Effective Date
1.0	Academic Dean	New policy	Dec.2017	Jan 2018