

209-PP-MEGA Harassment Incident Policy and Complaint Procedure

Relevant Standards	Linked Documents
SRTOs 2015: 8.5 The National Code 2018: 6.9	Anti-discrimination and Anti-Bullying Policy Access and Equity Policy Student Manual and Handbook Staff Handbook and Handbook Student Complaint and Grievance Form

1. Purpose

MEGA aims to create a working environment which is free from sexual harassment and where all members of staff are treated with dignity, courtesy and respect. This policy outlines the responsibility all employees have in ensuring the workplace is free from sexual harassment.

2. Scope

This policy applies to all the current staff members and students of MEGA; and any person engaged under a contract for services.

3. Definitions

Harassment: Harassment in MEGA environment includes a wide range of deliberate and unintentional behaviours which may humiliate, intimidate or offend and which are unwelcome and uninvited. It includes behaviour which may be written, verbal, non-verbal or physical (including transmission of inappropriate electronic communications and display of inappropriate material from the internet) and is of a sexual nature or is based on:

- Race, where race includes colour, nationality and ethnic or national origin
- Sex
- Sexual orientation or gender identity
- Marital status
- Parental status, pregnancy or breastfeeding
- Physical features
- Impairment or disability
- Age
- Religious belief or activity
- Status as a carer
- Membership of a trade union or other industrial employee college
- Political belief or activity or industrial activity

Harassment has the effect of offending, humiliating or intimidating the person at whom it is directed. It makes MEGA environment unpleasant and sometimes even hostile. If a person is being harassed, their ability to study and to work effectively is affected.

Sexual Harassment: Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature which makes a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working environment.

Sexual Harassment can take various forms and may include:

- Staring, leering or unwelcome physical touching
- Sexual or suggestive comments, jokes or taunts
- The display of clearly sexual material including photos, pinups
- Making remarks with sexual connotations
- Unwanted invitations to go out on dates
- Requests for sex
- Unsolicited demands or request for sexual favours
- Intrusive questions about a person's private life or body
- Unnecessary familiarity such as deliberately brushing up against a person
- Unsolicited acts of physical intimacy
- Sexually explicit physical contact
- Sexually explicit letter, faxes, emails or SMS text messages.

Sexual harassment is **NOT** behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment.

4. Legislative Context

The legislative base for this policy is as follows:

- Equal Opportunity Act 1995
- Racial and Religious Tolerance Act 2001
- Anti-Discrimination Act 1977 (NSW)
- Sex Discrimination Act 1984 (Cth).
- Disability Discrimination Act 1992 (Cth).
- Racial Discrimination Act 1975 (Cth).
- Human Rights and Equal Opportunity Commission Act 1986 (Cth).
- Racial Hatred Act 1995 (Cth).
- Workplace Relations Act 1996 (Cth).
- Equal Employment Opportunity for Women in the Workplace Act 1999 (Cth).

5. Policy

5.1 MEGA considers any form of harassment an unacceptable form of behaviour, which will not be tolerated under any circumstances and disciplinary action will be taken against any staff member, contractor or student who breaches the policy. MEGA believes that all people have the right to work and study in an environment, which is free of intimidation and harassment.

5.2 Sexual Harassment is illegal under Commonwealth Sex Discrimination Act 1984 and the Equal Opportunity Act 1995; and any other form or type of harassment under legislative provisions as listed above.

5.3 Depending on the severity of the case, consequences may include an apology, counselling, transfer, dismissal, demotion or other forms of disciplinary action. Immediate disciplinary action will be taken against anyone who victimises or retaliates against a person who has complained of harassment.

5.4 The fact that harassment is not intended does not mean that it does not contravene this policy or that it is not unlawful.

5.5 All harassment complaints will be treated in absolute confidence and MEGA will not tolerate any staff member or students from acting in a way that penalises or victimises a person who raises a complaint.

6. Harassment Complaint Procedure

Any incident of harassment must be dealt with and reported at the earliest. Ignoring the behaviour could be interpreted as tacit approval by the person causing the harassment. Harassment is not tolerated at MEGA. If you reasonably feel that you are being harassed, and you feel comfortable doing so, tell the person to stop, or make it clear that you find the behaviour offensive or unwelcome.

If the behaviour does not stop, or even if it does stop, but you wish to raise a complaint, you should follow the following steps as soon as possible after the incident or incidents have occurred.

If you experience harassment of any nature, there are a number of alternative approaches you may take, including:

Step 1: Consider resolving it yourself

- Determine and identify the nature of harassment
- Confront the offender and let them know that you will not tolerate this behaviour
- Make note of the incident and gather as much details as possible

Step 2: Report the harassment

- Contact your immediate academic or administrative authority or your immediate manager or supervisor, or someone from the management team with whom you can confide with
- Report the incident and provide as much information as possible and try to relieve any initial distress you may be feeling
- Explore information options such as someone from the management speak to the alleged harasser on your behalf
- Consider a face-to-face meeting with the alleged harasser to resolve the complaint

Step 3: Lodge a formal complaint

If the complaint is not able to be resolved informally through steps 1 & 2, you can lodge a formal complaint, seeking an investigation.

- If the problem is not resolved through informal processes as described above, a formal complaint will need to be made in writing to the Campus Director
- The Campus Director will undertake a preliminary investigation of the complaint and will then submit a confidential written report to the Chief Executive Officer (CEO)
- The CEO (or CEO's delegate) may carry out further investigations if necessary, including referral to an external mediator/conciliator
- The CEO will then take appropriate remedial and/ or disciplinary action
- All parties to the complaint will be advised of the outcome

7. External Complaint

If the affected parties believe that their complaint is not effectively or timely managed, they have an option to access the Equal Opportunity Commissioner for advice at:

Anti-Discrimination Board of NSW
Phone (02) 9268 5544
Toll free 1800 670 812 (for regional NSW only)
Email enquiries: adbcontact@justice.nsw.gov.au
Email complaints: complaintsadb@justice.nsw.gov.au



Further information is available at: <http://www.antidiscrimination.justice.nsw.gov.au/>

8. Responsibility

Managers and supervisors have a responsibility to:

- Monitor the working environment to ensure that acceptable standards of conduct are observed at all times
- Model appropriate behaviour themselves
- Promote MEGA's harassment policy within their work area
- Treat all complaints seriously and take immediate action to investigate and resolve the matter
- Refer a complaint to another officer if they do not feel that they are the best person to deal with the case (for example, if there is a conflict of interest or if the complaint is particularly complex or serious)

All staff have a responsibility to:

- Comply with MEGA's Harassment Policy and Complaints Procedure
- Offer support to anyone who is being harassed and let them know where they can get help and advice
- Maintain complete confidentiality if they provide information during the investigation of a complaint

The Campus Director is responsible for effective implementation and management of this policy as well as provision of information on ways to resolve complaints of breaches of this policy.

The Chief Executive Officer (CEO) has overall responsibility for the implementation and review of this policy.

Any complaints or breaches in relation to this policy should be reported to the Chief Executive Officer in person or by email to: ceo@mega.edu.au

Revision History:

Version No:	Date	Description of modifications	Staff responsible
1	Dec 2017	First Review and alignment of PP to new National Code 2018 and SRTOs 2015.	CEO
2	Jan 2018	New PP approved	CEO
3	Nov 2018	Review of PP	CEO