

# LATROBE COLLEGE OF ART AND DESIGN

## Sexual Harassment, Harassment, Discrimination and Bullying

### 13 SEXUAL HARASSMENT, HARASSMENT DISCRIMINATION AND BULLYING Policy and Procedures

LCAD is committed to providing an environment free from sexual harassment, harassment and discrimination.

In response to Commonwealth and Victorian Legislation LCAD has developed Policy and Procedures designed to deal with any complaints which may arise from sexual harassment, harassment, discrimination and bullying. Complaints may be dealt with either through informal conciliation or formal disciplinary procedures. If a criminal offence is involved, the college advises the complainant to inform the Police. Matters, which have been referred to the Police, will not usually be handled under these procedures. The appropriate channel for resolution of a complaint will be decided following consultation between the complainant, the person handling the complaint and other relevant college officer. LCAD has a duty to inform the relevant authorities on becoming aware of the commission of serious criminal offences. However, in other circumstances, the complainant's wishes will be given consideration in determining the appropriate action to be taken.

The College will draw on external services on a fee for service basis at no cost to the student.

#### 13.1 Definitions

##### 13.1.1 Sexual harassment

Under the Victorian Equal Opportunity act 1995 it is unlawful to sexually harass another. For the purpose of these Procedures, sexual harassment is defined as any unwelcome form of behaviour of a sexual nature, which takes place in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed, would be offended, humiliated or intimidated.

**Sexual harassment is unwanted and unwelcome sexual attention.**

It may be sexual harassment when someone:

- *Stares or leers at you*
- *Persists in asking you out after you have said no*
- *Tells dirty jokes or displays offensive print material in your presence*
- *Makes unwelcome comments about yours, others or their own sex life*
- *Touches or brushes against you on purpose*
- *Tries to force you to have sex*

It includes any unsolicited and/or unwelcome communication, including unwanted written, phone or electronic messages/images, display or physical conduct of a sexual nature which:

- i) Creates an intimidatory, hostile or offensive learning, academic, working or living environment; or
- ii) Implicitly or explicitly becomes a term or condition of a person's academic evaluation or employment; or
- iii) Implicitly or explicitly becomes a term or condition for decisions which bear on a person's grades in academic evaluation or a condition of employment such as appointment, promotion, salary or any other condition; or
- iv) Has the purpose or effect on interfering with a person's academic or work performance, such as by denying equality of opportunity, undermining the morale of persons or denying the legitimacy of their place in the College.

Note: Actions based on mutual attraction and consent do not constitute sexual harassment

##### 13.1.2 Harassment

For the purpose of the College, procedures, harassment is defined as any unwelcome form of behaviour which taken place in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated. The College will not tolerate harassment, which amounts to intimidating or offensive behaviour

Harassment is inappropriate behaviour based on the following attributes:

- Age
- Bullying
- Breastfeeding (may 2000)
- Industrial activity
- Lawful sexual activity
- Sexual orientation (October 2000)
- Marital status
- Physical features
- Disability
- Political belief or activity
- Pregnancy, parental or carer status
- Race
- Religious belief or activity
- Sex
- Gender identity (October 2000)

- Personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.
- an expunged homosexual conviction (a person who has successfully applied to have their historic homosexual conviction removed from the record)

Examples of harassing behaviour include, “put downs”, intrusive and inappropriate questions or comments about a person, unwanted written, phone or electronic messages, threats or attacks on property or person, physical violence, promises or threats related to status in the work place or as a student in the College. Nuisance calls, physical violence or threat of violence can also constitute harassment. **Some forms of harassment (as above) are criminal offences and there should be referred to the Police** (e.g. Stalking, assault, violence). This list of examples is provided as a guide to the type of conduct, which may be regarded as harassment. It is not an exhaustive list.

Harassment that is not based on the above attributes may also be dealt with or under the College’s Policy and Procedures for staff or student disciplinary body. In this situation, in the first instance, staff and students should seek advice from:

- Coordinator
- Head of Art
- CEO
- The police, if a criminal offence
- External professional organisations that may provide advice and support. The college will not pay for external advice unless the issue reaches an impasse and external support is the only avenue remaining to resolve the issue.

### 13.1.3 Discrimination

For the purpose of these procedures, discrimination is defined as any decision(s), act(s) or omission(s), which disadvantage a person or group. Under the Victorian Equal Opportunity Act 1995, it is unlawful to discriminate on the basis of:

- Age
- Bullying
- Breastfeeding (may 2000)
- Industrial activity
- Lawful sexual activity
- Sexual orientation (October 2000)
- Marital status
- Physical features
- Disability
- Political belief or activity
- Pregnancy, parental or carer status
- Race
- Religious belief or activity
- Sex
- Gender identity (October 2000)
- Personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.
- an expunged homosexual conviction (a person who has successfully applied to have their historic homosexual conviction removed from the record)

### 13.1.4 Direct Discrimination

Section 8 of the Equal Opportunity Act 1995 states:

1. Direct discrimination occurs if a person treats, or proposes to treat, someone with an attribute less favourably than the person treats or would treat someone without that attribute, or with a different attribute, in the same or similar circumstances.
2. In determining whether a person directly discriminates, it is irrelevant:
  - a) Whether or not that person is aware of the discrimination or considers the treatment less favourable;
  - b) Whether or not the attribute is the only or dominant reason for the treatment, as long as it is substantial reason

### 13.1.5 Indirect Discrimination

Section 8 of the Equal Opportunity Act 1995 states:

1. Indirect discrimination occurs if a person imposes or proposes to impose, a requirement, condition or practice;
  - a. That someone with an attribute does not or cannot comply with; and
  - b. That a higher proportion of people without that attribute, or with a different attribute, or with a different attribute, do or can comply with; and
  - c. that is not reasonable.
2. Whether a requirement, condition or practice is reasonable depends on all the relevant circumstances of the case, including:
  - a. The consequences of failing to comply with the requirement, condition or practice;
  - b. The cost of alternative requirements, conditions or practices;
  - c. the financial circumstances of the person imposing, or proposing to impose, the requirement, condition or practice.

In determining whether a person indirectly discriminates it is irrelevant whether or not that person is aware of the discrimination.

### 13.1.6 Bullying

Defined as repeated and unreasonable behaviour directed towards a person or a group of people that creates a risk to health, safety and well-being. Bullying can take place between:

- staff members
- a student and a staff member
- a student or staff member and another person on campus
- students

A bully is a person who uses strength or power to coerce others by fear and that to bully is to oppress, persecute, physically or morally by (threat of) superior force.

Bullying is physical or psychological behaviour or conduct where strength (including strength of personality) and/or a position of power are misused by a person in a position of authority or by a person who perceives that they are in a position of power or authority.

While bullying is normally associated with unequal power relationships, peer-to-peer bullying is not uncommon and is an equally unacceptable behaviour at LCAD.

### **What is the effect of bullying?**

The effect of bullying can be to humiliate or intimidate an individual staff member or groups of staff and may actually or potentially adversely affect their health and well being. A variety of behaviours and acts may constitute bullying which, over time, create a negative workplace environment. These may include:

- Sarcasm and other forms of demeaning language
- Threats
- Verbal abuse
- Shouting
- Coercion
- Punitive behaviour
- Isolation
- Blaming
- "Ganging up"
- Constant unconstructive criticism
- Deliberately withholding information that a person needs to exercise her or his role or entitlements within LCAD
- Repeated refusal of requests for leave or training without adequate explanation and suggestion of - alternatives.

### **Effects of Bullying**

In the workplace or learning environment can result in absenteeism, reduced staff productivity and wastage of experienced and skilled staff through resignation. Bullying may also have significant social and health costs for individual staff and can affect women and men at all levels of employment.

## **13.2 Definitions of the Roles of the Participants:**

**Party A** – Party is the person who brings the complaint/issue forward for discussion and/or conciliation.

**Party B** – Party B is the person whom the allegation has been made against.

Adviser – advisers are a first point of contact for anyone within the college who has an enquiry or complaint to make. Inquiries or simply sounding out a concern are to be encouraged. Indeed it is possible that a complaint at this early stage may be averted by early consultation with an adviser and/or subsequent referral.

They assist the person to clarify the situation and his/her feeling. Sometimes, just talking it through can help and the person may be able to deal with the situation him or herself.

Advisers inform the inquirer of the college's policy and the nature of its conciliation procedures and other avenues for dealing with the complaints. The college policy and other relevant information should be given to the enquirer.

### **Note:**

It is not the role of the role of the adviser to determine if the complaint/issue constitutes sexual harassment, discrimination or harassment.

With matters of a criminal nature such as stalking, rape, sexual assault, the Inquirer should be encouraged to refer the matter to the Police.

Conciliator– A conciliator is a neutral mediator appointed by the college who works with Party A and Party B to negotiate a mutually agreeable outcome. The conciliator has no power to implement sanctions or punishment or make judgments of guilt or innocence.

### **13.2.1 Application of the Policy and Procedures**

These procedures are defined as applicable to staff and students, and other persons engaged in activities reasonably connected with the college. Those activities may extend beyond the college campus. However, the activities must be

related to college business (including social functions), not outside private business, services or accommodation arrangements.

Examples of other persons to whom this policy and procedures apply include:

- Official visitors to the college
- General public using College facilities
- Contractors and other workers employed by the college

### **13.2.2 College Responsibilities**

The college responsibility arises not only from its statutory obligations but also from the recognition that every individual has the right to work, learn and interact in an environment free from sexual harassment, harassment and discrimination.

### **13.2.3 Staff and Student Obligations**

All staff and students of the college have an obligation to ensure that they co-operate in the maintenance of an environment free of sexual harassment, discrimination and harassment and that proper standards of behaviour are observed.

### **13.2.4 Responsibilities of Managers and Supervisors**

Staff with management and supervisory responsibilities are charged with ensuring that within their area of responsibility:

- Staff are informed of the college's policies which relate to equal opportunity issues;
- A professional standard of conduct must be maintained at all times and that behaviour which contravenes the college policy is unacceptable;
- Staff are informed that there is a policy on sexual harassment and discrimination and that there are procedures for making complaints;
- Take action where appropriate to resolve the matter.

### **13.2.5 Practical Placements**

The college has a duty of care for students whilst on placement if applicable. If an issue of sexual harassment, harassment or discrimination occurs, the matter would be taken to Coordinator, Head of Admin or Head of Art.

### **13.2.6 Reference of Matters of Sexual Harassment, Harassment or Discrimination to a Conciliator**

- i. Any person approached by someone wishing to discuss an instance of possible sexual harassment, harassment or discrimination should refer that person to the Coordinator, Head of Admin or Head of Art.
- ii. An external conciliator may be considered in certain situations where deemed appropriate after consultation between the Coordinator and the CEO or College Governance Board.

### **13.2.7 Conflict of Interest**

A person (other than Party A or Party B) who finds him or her involved in a complaint, which could be interpreted as a conflict of interest, should immediately declare that interest and cease any participation in the process. A conciliator must refer the matter to another conciliator should a conflict of interest arise. The conciliator may also hold a position in a unit or area where Party A is a student or staff member. In this case, the conciliator should immediately declare that interest and cease any participation in the process and refer the matter to another conciliator.

## **13.2.8 COMPLAINTS PROCEDURES**

### **13.2.9 Steps in Making a Complaint**

Any staff or student of the college who believes that she/he has experienced some form of sexual harassment, harassment or discrimination, has the right to seek to resolve this matter in any of the following ways:

- I To confront the other party by herself/himself.
- II To discuss the matter with:
  - A senior member of the relevant area e.g. a Coordinator, Head of Admin or Head of Art;
  - The access and equity representative of the appropriate campus

#### **13.2.9.1 Complete a Formal Complaint**

If the complainant is not satisfied with the result of confronting the perpetrator or they do not wish to then they can complete the **S28.1 COMPLAINT Form** and submit to the LCAD office.

#### **13.2.10 Consulting an Advisor**

Advisers provide a first point of contact for any person who believes she/he has experienced some form of sexual harassment, harassment or discrimination or has any questions in relation to such matters. Advisers must act with confidentiality, impartiality and in no way become involved in any activity that resembles receiving a complaint or conciliation.

Advisers provide initial advice on Policy and Procedures including:

- The person's option to confront the situation personally
- Speak to a conciliator to pursue the conciliation process
- The person's option to seek advice from the equal Opportunity Commission and the Human Rights and Equal Opportunity Commission

An adviser will record each enquiry on a confidential data sheet that will not include the name(s) of Party B.

If, after providing advice to an enquirer, conciliation is sought by that party, an adviser will provide the name and contact details of appropriate Conciliator who may be approached

### 13.2.11 Conciliation Process

#### A. Role of conciliators in with Party A

The College process is complainant driven. Conciliators cannot deal with complaints made on behalf of another person.

It is necessary for the conciliator to meet with Party A to receive the written complaint (signed and dated) and obtain full details of the complaint before a conciliator can proceed with conciliation in relation to the alleged sexual harassment, harassment or discrimination. It is at this stage that the conciliator must commence recording the details on a statistical sheet.

The conciliator should inform Part A that she/he conciliates, on the understanding that:

- i. The role is essentially that of a neutral "go-between" in an attempt to resolve the matter (which may or may not need to involve a meeting between the parties with the conciliator as a neutral third party);
- ii. This is an informal process and the conciliator has no power to recommend or implement any disciplinary sanctions;
- iii. The desired result is that the alleged offending behaviour is not repeated, there is an understanding of what has occurred, and there are no reprisals.

In order to prepare both parties for the conciliation process, the conciliator should inform Part A that Party B has the right to:

- Know the identity of Party A
- Know the nature of the allegations
- Be given the opportunity to respond to the allegations

The conciliator will discuss the conciliation and complaint communication with Party, A which are:

- To verbally communicate the substance of the complaint to Party B and communicate Party B's response to Party A via conciliator who meets with the parties individually and separately

OR

- To communicate the above with both parties present with the conciliator facilitating the meeting.

The conciliator should inform Party A that where he/she does not wish to be named it is difficult for the conciliator to pursue the matter. The conciliator should explain that the principles of natural justice are such that if Party A does not wish to be identified to party B, the complaint cannot be conciliated and no further action can be taken.

In circumstances where Party A does not wish any action taken about the complaint, the conciliator is to obtain a signature on the relevant document/s.

The conciliator will inform all parties that maintaining confidentiality to those directly involved is important. Both parties should be warned of the risks of action for defamation and further action taken under the formal procedures if they fail to treat the matter confidentially at the informal stage.

In situations of serious nature involving sexual harassment, harassment or discrimination (but which may not be a criminal offence) of/by an employee, student or other relevant party, a conciliator in his or her professional opinion may determine that a case should not be conciliated and that the matter needs immediate attention in order to ensure the immediate safety of a party involved. In these cases the conciliator should refer the matter to the relevant Head of Art or Coordinator.

- i. Inform Party B that his/her alleged behaviour should cease;
- ii. Inform Part A of steps which will be taken on her/his behalf;
- lii Take all reasonable steps to ensure the safety of Party A;
- iv. Document the steps to be taken and the outcome of the matter.
- v. Inform the Coordinator of the steps taken so far in the matter so that the College takes all reasonable steps to ensure that the College has acted in accordance with the law and proper procedures to prevent the alleged sexual harassment, harassment or discrimination from continuing.

The conciliator should inform Party A that if conciliation fails and the Coordinator that the complaint has been dealt with in accordance with proper procedures and does not require further action, by him/her/them, they have the discretion to take no further action in the matter.

The conciliator should advise Party A of the operation of the confidential filing system

Party A may withdraw at any stage of the resolution process without prejudice. This must be done in writing.

The conciliator will inform Party A that no other person such as a legal officer or union representative should be involved at the 'informal' stage of these Procedures since it is important to keep these matters both simple and confidential.

If Party A wishes to call in such people, the conciliator will advise Party A that this may invoke formal procedures. If Party A is a member of staff, Coordinator should be informed, if Party A is a student the Coordinator, Head of Admin or Head of Art should be informed, so that a decision can be made as to whether formal procedures should be implemented.

The conciliator should inform Party A about her/his rights, as well as the rights of Party B. Both parties have a right to know how the College's internal informal Conciliation and Formal Procedures are conducted. At this informal stage it is not recommended that external organizations/individuals be contacted, other than the Police if it is a criminal matter.

If Party B does not wish to participate in the conciliation process, Party A will be advised of other options for dealing with the complaint themselves. For example, referral to other areas as outlined in 2.2.1 would be appropriate.

The conciliator will inform Party A that if conciliation fails and the conciliator considers that the complaint has been dealt with in accordance with proper procedures and does not require being dealt with under the staff award procedures or student discipline procedures that no further action by the College will be taken. The conciliator would then notify both parties in writing of this decision.

## **B. Role of conciliators in working with Party B**

The conciliator will, with the written agreement of Party a, contact Party B either by telephone, mail or in person to arrange a time to meet to discuss the matter rose.

The following section should be explained to Party B before revealing the identity of Party A.

The conciliator would immediately inform Party B that she/he acts as a Conciliator on the understanding that:

- i. The conciliator will briefly outlining the details of the complaint, but will not provide Party A's written account for Party B's perusal.
- ii. The Conciliator will explain that the objective in informal resolution.
- iii. The role is essentially that of a neutral "go-between" in an attempt to resolve the matter (which may not need to involve a meeting between the parties) with the Conciliator as a neutral third party;
- iv. The purpose of conciliation is to resolve the complaint and not to prove guilt or seek retribution or to make a finding on whether or not the alleged conduct occurred. The objective is for both parties to move forward to restore a harmonious study and work environment.
- v. This is an informal process and the conciliator has no power to recommend or implement any disciplinary sanctions;
- vi. The desired result is that there is an understanding of what has occurred, the alleged offending behaviour is not repeated and there are no reprisals.

The Conciliator will inform Party B of his/her rights as well as details about the relevant college procedures and the principles underlying conciliation, which include cooperation from Party B.

If party B does not wish to participate in the conciliation process, the Conciliator will explain that Party A will be contacted and advised of other options for dealing with the complaint themselves. For example, referral to other areas as outlined in 2.2.1 would be appropriate.

The Conciliator will provide Party B with a copy of the College's **C22 Sexual Harassment, Harassment and Discrimination Policy** and any other relevant material and discuss the college's policy and procedures contained in the documents.

The conciliator will request that Party B sign the relevant documentation for placement on the case file. This will attest that Party B has been provided with information about the College's Sexual Harassment, Harassment and discrimination Policy and Procedures.

The signed Form B should be filed with the other documentation relating to the particular case, for retention in the confidential filing system for future reference.

1. to refrain from any attempt to communicate with Party A except through the conciliator, and
2. that there should be no reprisals. The conciliator will explain that even if Party B denies the allegations, victimization (or discrimination) is unacceptable behaviour.

The conciliator will inform Party B that it is his/her responsibility and in his/her interests to disengage from any activity which places him/her in a situation of 'power' or 'authority' over a student or staff member, until the alleged complaint is resolved.

The conciliator will obtain background details of Party B's feelings, problems, perceptions, reactions, etc. to the complaint and make notes accordingly. Party B may wish to put this in writing, but is it not essential.

The conciliator will inform Party B that no other person such as a legal officer or union representative should be involved at the 'informal' stage of these Procedures since it is important to keep these matters both simple and confidential. If Party B wishes to call in such people, the conciliator will advise Party B that this may invoke formal procedures and will need to be referred elsewhere as follows:

If Party B is a member of staff, the College Coordinator should be informed, if Party B is a student the Head of Art should also be informed, for a decision on implementing the formal procedures.

The Conciliator will inform Party B that if conciliation fails and the conciliator considers that the complaint has been dealt with in accordance with proper procedures and does not require being dealt with under the staff award procedures or student discipline procedures that no further action by the college will be taken. The conciliator would then notify both parties in writing of this decision.

## **C. Advice to Both Parties Concerning the Conciliation Process**

Either party may request the presence or involvement of an alternative/replacement conciliator (with the agreement of the other party). Please note that this is not advocacy.

The basic goals of the conciliation process are:

- i. an understanding that there has been perceived inappropriate behaviour and an agreement that this alleged behaviour will not occur in future;
- ii. a guarantee that there will be no reprisals or retribution;
- iii. mutual agreement on a proposal outlining acceptable behaviour,
- iv. mutual agreement on a program for monitoring the outcomes to ensure both parties feel supported and protected.

#### **D. Draft Agreement between the Parties at Conciliation**

The Conciliator will make a brief summary of the matter. This should be clear and concise and reflect what all parties understand to have taken place and who was involved.

There may be changes or additions to a written agreement, made by the parties involved, including an acknowledgment that certain behaviour was inappropriate. Both parties should be prepared to restore professional working/learning relationships.

The conciliator will advise there should be no reprisals made against Party A, nor retribution against Party B, and this must be guaranteed.

When the conciliator is satisfied that the case has been resolved, a letter should be sent to both parties stating the resolution of the case, thanking them for their cooperation and advising them of the –up process.

The file including working Notes form, the Complaint and the conciliator's notes must then be sent to the College Coordinator marked "Working file" for filing in the confidential filing system. Ordinarily no record will be placed on staff/student file if the matter is settled by conciliation.

If the matter cannot be conciliated, the Formal Process may be invoked. Refer Section 4 Formal Process.

#### **E. Follow Up**

Both Party A and Party B should be kept informed of negotiations throughout the process.

There shall be no appeal from an agreed conciliated outcome.

Following resolution, the conciliator may make a further appointment with either or both parties for a progress report to ensure that the conciliated position has been followed.

The Conciliator should brief the Adviser of the process.

#### **F. Informal Process – Administrative procedures**

All documentation in relation to the recording of the Informal process should have the words "STRICTLY CONFIDENTIAL – INTERNAL WORKING NOTES" recorded at the beginning. Advisers and conciliators should record all approaches (i.e., enquiries as first point of contact and Informal Complaints as per these Procedures) on the prescribed forms, as attached.

##### **Recording of and filing complaints**

- a. On receipt of a complaint of sexual harassment, harassment or discrimination, the conciliator should complete the relevant internal working documents, and ensure that the date is recorded. Part A should provide the written complaint of the alleged experiences of sexual harassment, harassment or discrimination.
- b. The conciliator should keep working notes in a form, which can be used in later stages of the process ensuring that no prejudiced or judgmental comments are made by the conciliator. At all stages, these notes are strictly confidential and should be stored separately from any other College file or record of the relevant parties.

##### **NOTE: Section 116 of the Victorian Equal Opportunity Act 1995 States:**

"116. Evidence of conciliation is inadmissible

Evidence of anything said or done in the course of conciliation is not admissible in proceedings before the Tribunal or any other legal proceedings relating to the subject matter of the complaint."

- c. It is the responsibility of the conciliator to ensure the safe carriage of such documents to the Coordinator for matters relating to students or staff. The working file should contain.
  - i. A copy of the Internal Working Notes.
  - ii. The written complaint.
  - iii. Any other written information gathered by conciliator considering the complaint"
  - i. The letter to Party b outlining the allegations or the file note recording the conciliators conversation with Party B.
  - ii. Any written reply from Party B or the file note recording the conciliators conversation with Party B.
  - iii. A copy of the conciliated agreement.
  - iv. A referral note to the Coordinator, Head of Admin or Head of Art if the matter could not be conciliated and the conciliator decides to refer the matter.
- d. The Coordinator will provide proof of receipt of such documents through a standard letter of acknowledgment to the conciliator.
- e. If there have been repeated incidents involving the same person or the same type of behaviour by more than one person then the Coordinator will monitor the situation for an appropriate period of time. The Coordinator will inform the Board of this, in cases involving staff.
- f. All documents in relation to complaints will be placed in a confidential locked filing system. This is a file maintained by the Coordinator. Those staff listed above are the only staff who have access to these files with the following exceptions:
  - i. where the case has progressed to the Formal Process either under student discipline or staff award procedures.
  - ii. Where the documents are required to be produced by the College under legal compulsion.

##### **Monitoring and evaluation**

The Coordinator will be responsible for monitoring and evaluating the Policy and Procedures annually for complaints of sexual harassment, harassment and discrimination.

## **Formal procedures**

### **13.2.12 Formal consideration of complaints occurs when:**

- Conciliation has failed and the College decides that it is appropriate to invoke formal processes
- Or
- When any of the parties requests that it is referred for a decision on whether the formal process is to be implemented.

### **13.2.13 Complaint against a member of staff**

Depending upon the nature of the complaint:

- i. The Coordinator will be required to conduct an independent investigation into the allegations. This may be managed by a written or verbal approach.
- ii. The Coordinator may then, (if Party A is not a member of staff) choose to approach Party A for further information, or to seek a reply in relation to Party B's information. The Coordinator will then decide whether it is appropriate to deal with the complaint within the context of the discipline procedure under the award relevant to the particular member of staff.
- iii. If the decision is made not to refer the matter any further, the Coordinator will convey this decision to the Board (in a case where a student may be involved) who will meet with Party A to inform him or her of the decision and provide a letter to this effect. Party B will also be informed of the decision.
- iv. All internal working documents relevant to the matter will be placed in the confidential filing system as set out in paragraph 2.8.1. and on the personnel file of the staff member if the Coordinator considers it appropriate to do so.
- v. If the Coordinator decides to proceed to deal with the matter under the award procedures, the award procedure will be followed. It should be explained to Party A that the award provides for potential disciplinary action against Party B, rather than compensation to Party A. However, it may be that part of the result of following the award procedure will be some obligation or restriction imposed upon Party B in relation to Party A.

### **13.2.14 Complaint against a student or other person other than a member of staff**

The process is similar to 2.9.1 except that:

1. the Coordinator handles the matter and makes a recommendation, if appropriate;
2. student discipline procedures are applicable in the case of students;

### **13.2.15 Appeal**

Following the formal resolution, it is still open to both parties to pursue the matter both internally through appeal procedures to the Coordinator, and externally with the state Equal Opportunity Commission or the Federal Human Rights and Equal Opportunity Commission. However, both parties should be advised that no appeal may be brought to the College. Or any other person in the College structure, until the procedures described herein are summarized and have been followed and those avenues exhausted.