

Dignity and Respect Policy

		This policy is effective from	<u>July 2012</u>
Approval body	<u>Academic Council</u>	Approval date	<u>2012</u>
Owner	<u>Head of Academic Affairs</u>	Next review date	<u>June 2018</u>

1 The legal context

1.1 The Code of Conduct is underpinned by national legislation:

- Equality Act, 2004
- Employment Equality Act, 1998
- Equal Status Act, 2000
- Health, Safety and Welfare at Work Act, 2005
- Prohibition to Incitement to Hatred Act, 1989
- Universities Act, 1997

2 Introduction

The National College of Art & Design is committed to providing all of its students and employees with an environment free from bullying and harassment.

It is the intention of the College that this policy should not undermine academic freedom. The College seeks to support freedom of expression and intellectual enquiry for all members of the College community and to ensure that they are exercised in such a way as they do not interfere with the rights of others, or breach the laws of the state.

Harassment of others by members of the College community – staff or students – will not be tolerated.

This Policy on Dignity and Respect applies to students (and staff) both in the College and at College associated locations and situations, including:

- The NCAD campus, the campus of any other university or other place where students or staff are representing the College.
- At events such as social functions, conferences, sporting events, field trips, or work assignments that are related to the College, to one's study, or at which one represents the College.
- In writing, on the telephone, by e-mail or on the internet in any College related activity.

<i>Doc version</i>	<i>Approval date</i>	<i>Modified by</i>	<i>Summary of modifications</i>
V1	July 2012	N/A	N/A

3 Definition of Bullying/Harassment

At NCAD, bullying/harassment is defined as 'repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others that could reasonably be regarded as undermining the individual's right to dignity at their place of study/work'. An isolated incident of the behaviour described in this definition may be an affront to dignity at study/work but as a once off incident may not be considered to be bullying.

Bullying puts at risk the safety, health and welfare of people at their place of study/work.

A pattern of the following behaviours are examples of types of bullying:

- Exclusion with negative consequences
- Verbal abuse/insults
- Being treated less favourably than colleagues
- Intrusion – pestering, spying or stalking
- Menacing behaviour
- Intimidation
- Aggression
- Undermining behaviour
- Humiliation

This list is not exhaustive.

Bullying at one's place of study does not include reasonable and essential discipline arising from the good supervision of a student's progress or actions taken which can be justified as regards the safety, health and welfare of students/employees. For example, a student whose performance is continuously signalled at a level below required standards may feel threatened and insecure in their work but this in itself does not necessarily indicate bullying.

Harassment on the grounds of marital status, family status, sexual orientation, disability, age, race, religion or membership of the traveller community is any act or conduct that is unwelcome to the student/employee and could reasonably be regarded as offensive, humiliating or intimidating. The unwanted act or conduct may consist of written words, pictures or other material.

Many forms of behaviour may constitute harassment including:

- Verbal harassment – jokes, comments, ridicule or songs
- Written harassment – including faxes, text messages, e-mails or notices (physical or virtual through social media)
- Physical harassment – jostling, shoving or any form of assault
- Intimidatory harassment – gestures, posturing or threatening poses
- Isolation or exclusion from College related social activities

This list is illustrative rather than exhaustive.

4 DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is any form of verbal, non-verbal or physical conduct of a sexual nature that could reasonably be regarded as violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. A single incident may constitute sexual harassment.

Many forms of behaviour can constitute sexual harassment. Examples include:

Physical conduct of a sexual nature – includes unwanted physical contact such as unnecessary touching, patting or pinching or brushing against another student/college employee's body.

Verbal conduct of a sexual nature – includes sexual advances, propositions or pressure for sexual activity, continued suggestions for social activity outside College after it has been made clear that such suggestions are unwelcome, unwanted or offensive flirtations, suggestive remarks, innuendos or lewd comments.

Non-verbal conduct of a sexual nature – includes the inappropriate display of pornographic or sexually suggestive pictures, objects, written materials, e-mails, text messages or faxes. It may also include leering, whistling or making sexually suggestive gestures.

This list is illustrative rather than exhaustive.

The intention of the perpetrator of the harassment or sexual harassment is irrelevant. The fact that the perpetrator has no intention of sexually harassing or harassing the student/employee is no defence. The effect of the behaviour is what is important.

5 COMPLAINTS PROCEDURE

Depending on the nature of the complaint it may be possible to resolve the matter through an informal intervention or through mediation.

5.1 Informal Procedures

This involves the student who believes that they are the subject of bullying/harassment outlining their issues to the person whose behaviour is causing them difficulty and asking them to stop the offending behaviour.

Where a student finds it difficult to approach the other party directly then they should seek help and advice on a confidential basis from a member of staff, the Student Support Officer, the Student Counsellor, or the Students' Union. The role of the person contacted is not to judge but rather to provide advice and assistance on the College's policy and procedures for dealing with and addressing issues of bullying and harassment.

Having consulted with a member of staff or the Students' Union, the student may request the assistance of a Head of Department/Faculty in raising the issue with the person(s) whose behaviour is causing difficulty. In this situation the approach of the Head of Department/Faculty should be by

way of a confidential, non-confrontational discussion with a view to resolving the issue through an informal intervention.

5.2 Mediation

Mediation is an assisted process to help the parties come to an understanding and agreement. The objective is to assist the parties themselves to resolve their complaint in a mutually agreeable way with the help of a neutral third party, a Mediator.

Information exchange during mediation is confidential to the parties.

The role of the Mediator is:

- To manage the mediation process
- Explain the role of the Mediator
- Explain the process to the parties and ensure that there is common understanding of the mediation process
- Establish the ground rules
- Gather information and identify the issues where there is disagreement
- Facilitate the process of reaching understanding and agreement.

5.2.1 Possible Outcomes at the Informal Stages:

- A mutually acceptable outcome is reached, and the Head of Department/Faculty notifies the complainant(s) in writing of his or her conclusions, and any consequent action proposed
- A mutually acceptable outcome is not reached, and the student is invited to initiate a formal complaint mechanism
- A mutually acceptable outcome is not reached, but the Head of Department/Faculty considers that the complaint has been heard fairly and that appropriate actions have been taken. In this case, the student will be notified in writing that no further action will be taken at Department/Faculty level, and that the student has the right to request a formal hearing of their complaint by submitting same in writing to the Director's Office or to the Registrar.

6 Formal Procedure

Students may submit a formal complaint only when all of the informal mechanisms have been exhausted (with the exception of particularly serious complaints).

If a resolution cannot be achieved through the informal procedures or through mediation or if one or all of the parties declines to participate in mediation, the matter will be dealt with under the formal procedures.

If an individual wishes to make a formal complaint it must be put in writing. Written complaints should contain details of the person or persons against whom the complaint is being made and where possible, details of the alleged act or acts of harassment. Guidance in making a formal written complaint can be sought from the Head of Department/Faculty, Students' Union, Student Support Officer, HR.

The written complaint should be forwarded to the Director's Office or to the Head of Academic Affairs or to the Human Resources Manager, NCAD, 100 Thomas Street, Dublin 8. All complaints should be clearly marked "complaints confidential".

In the interest of natural justice the alleged harasser(s) will be given a copy of the written formal complaint informed of his/her right to representation and be given every opportunity to rebut the allegations made.

A formal investigation of the complaint will take place with a view to determining the facts, such an investigation will be carried out without undue delay, stressing the importance of confidentiality to all the parties.

The investigation will be carried out by an agreed independent investigator who will meet with (a) complainant(s) and alleged harasser(s), separately (b) any witness or relevant persons on an individual basis with a view to establishing the facts surrounding the allegation(s).

All individuals named/referred to in the complaint/investigation may be accompanied by a fellow student/staff member or a Union Representative if they so desire.

Both parties will be given an opportunity to comment on the conclusion of the investigation. Both parties will be given a copy of the conclusion.

6.1.1 Possible Outcomes at the Formal Stage:

- A mutually acceptable outcome is reached, and the Director's Office/Head of Academic Affairs notifies the complainant(s) in writing of the independent investigator's conclusions and any consequent action proposed
- A mutually acceptable outcome is not reached but the Head of Academic Affairs considers that the complaint has been heard fairly and that appropriate actions have been taken. In this case, the complainant(s) will be notified in writing that no further action will be taken at School/Unit level.

Either party can appeal the decision of the formal investigation in writing within 5 working days of receiving a copy of the report.

The grounds for appeal should be set out in writing.

7 ACTION POST INVESTIGATION

When a complaint is upheld a disciplinary hearing will take place. The disciplinary action to be taken will be in line with the College's disciplinary policy. Should a case of bullying or harassment be proven then the College will take appropriate disciplinary action. Records of any warnings for bullying/harassment will remain on the student's file and will be used in determining disciplinary action to be taken if any further offences of the same or similar nature occur in the future.