McAULEY CATHOLIC CENTRAL SCHOOL
Sexual Harassment Policy
Rationale
Sexual harassment is contrary to Catholic principles and is unlawful and may give rise to an action under the sex discrimination Act or other legislation.

At McAuley Catholic Central School all staff and students are obliged to act in a manner consistent with the Gospel values underpinning Catholic Education as well as adhering to the requirements of the current legislation.

All members of our community are expected to demonstrate a continued commitment to ensuring that the working and learning environment at McAuley is harassment free.

Staff and students are to understand that sexual harassment will not be tolerated under any circumstances and that action will be taken against those who breach this Policy.

Definition
Sexual harassment is defined as follows in section 28A of the Federal Sex Discrimination Act:
"A person sexually harasses another person (the "person harassed") if:
(a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
(b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed; 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 legal test for sexual harassment in Federal law therefore contains three essential elements:
- the behaviour must be unwelcome;
- it must be of a sexual nature; and
- it must be reasonable in the circumstances that the person who was harassed felt offended, humiliated or intimidated.

Sexual harassment is therefore any unwanted, unwelcome or uninvited behaviour of a sexual nature which makes a person feel humiliated, intimidated or offended.

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

Types of Sexual Harassment
Sexual harassment can occur by
- students, parents or visitors against members of staff
- by students against other students.
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 or learning environment.

Australian case law has recognised two main types of sexual harassment:
- Sexual harassment which is accompanied by a direct or implied threat, benefit or promise. (= Section 6: Legal Responsibilities January 1999)  
  This type of sexual harassment is sometimes termed "quid pro quo" harassment or "sexual blackmail" and usually occurs where the harasser has some authority to influence the terms, conditions or outcomes of an individuals' employment or education.
- Behaviour which creates a hostile or sexually permeated environment.  
  This is where sexual conduct such as crude remarks, jokes, general banter or the display of offensive material makes the working or learning environment uncomfortable for an individual and affects their performance or general enjoyment of work or education.

Although the Sex Discrimination Act makes sexual harassment a civil offence, some types of harassment may also be offences under the criminal law. These include:
- physical molestation or assault
- indecent exposure
- sexual assault
- stalking
- obscene communications (telephone calls, letters etc)

At the school level the following examples indicate the extent to which sexual harassment could occur in a school between students and/or staff.
- uninvited touching
- uninvited kisses or embraces
- smutty jokes or comments
- making promises or threats in return for sexual favours
- displays of sexually graphic material including posters, pin-ups, cartoons, graffiti or messages left on notice boards, desks or lockers
- repeated invitations to go out, especially after prior refusal
- "flashing" or sexual gestures
- sex based insults, taunts, teasing or name-calling
- staring or leering at a person or at parts of their body
- unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them
- touching or fiddling with a person's clothing eg. Lifting up skirts, flicking bra straps
- request for sex
- sexually explicit conversation
- persistent questions or insinuations about a person's private life
• offensive phone calls or letters
• stalking
• sexual insults or taunting
• offensive e-mail messages or computer screen savers

*It should be noted that some of the above examples could constitute behaviour that might ultimately fall within the Criminal Jurisdiction of the Courts.*

**Occurrence**
At McAuley sexual harassment is illegal in all work-related contexts. These contexts are not just confined to school working hours or in the confines of the school grounds but also include conferences, work functions, seminars, excursions or field trips.

**Aims**
This policy aims to:
• create a working and learning environment that is free from sexual harassment and where all members of the McAuley’s school community are treated with dignity, courtesy and respect
• implement awareness raising strategies to ensure that all employees and students know their rights and responsibilities
• provide an effective procedure for complaints based on the principles of natural justice
• treat all complaints seriously in a sensitive, fair, timely and confidential manner
• guarantee protection from any victimisation or reprisals
• encourage the reporting of behaviour which breaches this Policy
• promote appropriate standards of conduct at all times.

**Consequences for Breach of Policy**
• Depending on the severity of the case, the consequence can include an apology, counselling, compensation and/or disciplinary action or misconduct proceedings against the harasser.

• Retaliation or reprisals will not be tolerated and disciplinary action will be taken against anyone who victimises a person for complaining of sexual harassment.

**Available Options for Dealing with Sexual Harassment**
• Informal Action
  An individual may confront the harasser directly if confident enough to do so.

• Formal Action
  Individuals may make a formal complaint to their immediate supervisor or the Head of the Human Resource Section of the CEO who will guarantee timeliness, confidentiality, fairness and protection from victimisation or
females may make a formal complaint to the human rights and equal opportunity commission

**Seeking Help or Advice**

Staff members can contact the Head of Human Resource Section in the CEO, the Principal Employment Relations Officer in the CEO, or their Union to provide information and assistance in making a complaint.

The following agencies may also be contacted:

**Australian Capital Territory**
Human Rights Office
Level 2, Comcare Building
40 Allara Street

**New South Wales**
Anti-Discrimination Board
Sydney
(for further details staff are to refer to the CEO policy on Sexual Harassment, 1999)