

INDEPENDENT EDUCATION UNION OF AUSTRALIA

POLICY ON COUNTERING WORKPLACE HARASSMENT AND BULLYING

1. Preamble

Harassment and bullying in the workplace are acknowledged as significant occupational health and safety issues across workplaces in the Australian community and are a major source of stress, illness and poor morale. As well as being a serious OHS issue, workplace harassment and bullying is an industrial issue because of its erosion of working conditions and a professional issue because of its impact on teaching, learning and staff morale.

There is now evidence that the problem is of such magnitude that one in four persons will be exposed to some form of bullying at some stage in their working lives.

This has been highlighted and addressed in a number of initiatives by community based organisations and governments in most jurisdictions have responded to the increasing evidence of endemic bullying in the workplace by developing specific legislative frameworks or Codes of Practice to address the issue. Examples of this include:

- ACTU survey/phone-in in 2000
- Campaigns developed by Working Women's Centres and Workers' Health Centres
- Union campaigns, publications and conferences
- Government Inquiries in a number of states and territories
- Codes of Practice such as the Victorian Workcover Code of Practice and the Advisory Standard under the Qld Workplace Health and Safety Legislation
- Various Human Rights Legislation in all jurisdictions such as the Racial Discrimination Act 1975 (Commonwealth); Sex Discrimination Act 1984 (Commonwealth); Equal Opportunity Act 1995 (Victoria)
- Relevant Occupational Health and Safety Act in various jurisdictions
- Workplace Relations Act 1996 (Commonwealth)

Given the above, it needs to be recognised that behaviour such as bullying and harassment may be unlawful under anti-discrimination, occupational health and safety and child protection legislation. The obligations under such legislation on all parties need to be known, understood and adhered to.

This IEU policy framework on workplace bullying is intended to reflect and support the policy development undertaken by IEU branches and school chapters and the industrial agreements and protocols developed between branches and employing authorities in a number of states and territories.

Examples of the latter include:

- *Draft Agreement Between the IEU NSWACT and Non Government Education Employers for Policy Framework*
- *Responding to Bullying in the Workplace – Procedures for Staff in Catholic Education SA (Guidelines negotiated between CEO and ANGEE)*
- *VIEU Policy on Workplace Bullying*

Whilst workplace bullying presents considerable cost to employers through time lost from the workplace and increased Work Cover premiums, the greatest cost is borne by those experiencing the bullying and their families. The adverse health effects of associated stress or other psychological injury will often present a considerable long term burden for the effected member and their family. This policy framework is intended to establish clear guidelines to ensure that all staff and students are able to work and learn in environments which are safe, harassment-free and non-violent.

2.0 Key Principles

The following principles should guide both efforts to counter harassment and bullying and procedures to deal with specific instances:

- All individuals have the right to be treated with dignity and respect.
- Effective leadership, open communication, professional relationships and educative programs are central to countering all forms of harassment.
- Procedures are to be implemented at the most appropriate level and with observance of the principles of natural justice and fair processes for all.
- Such procedures for handling instances of harassment should aim to ensure that the behaviour stops, that there are no reprisals for having made the complaint and that, where disadvantages has occurred, the situation is redressed as far as possible to the complainant's satisfaction.
- Confidentiality, support and protection for all parties are vital.
- Where possible, and appropriate, pastoral approaches are preferred to discipline for cases of harassment.
- *A range of strategies should be developed so that instigators of harassment or bullying receive appropriate guidance and direction.*
- Sanctions need to be identified and implemented where other approaches to countering harassment have been unsuccessful. In serious cases, this may include grievance processes for staff and the suspension or exclusion of students.
- Appropriate resourcing must be provided to ensure the implementation of policies and/or agreements, including training, staffing and facilities.

3. Definitions:

At the outset, reference should be made to relevant existing legislation, codes of practice, industrial agreements or policy for definitions of the terms “bullying” and “harassment”.

3.1 Harassment

The purpose of this framework policy is to assist knowledge and understanding about harassment and bullying and to inform the development of procedures to counter all forms of harassment and bullying among employers and employees and also students and parents. Sex-based harassment and some other forms of harassment related to discrimination are unlawful, while all types of harassment and bullying are unacceptable in schools and other education workplaces.

Harassment involves behaviour or actions (and may include using a system of work) on the part of an individual or a group that:

- Another person does not want and does not return, and is behaviour which is likely to offend, humiliate, victimize, undermine or intimidate them, and
- In the circumstances, a reasonable person should have expected that such behaviour would offend, humiliate or intimidate and is likely to put at risk the mental or physical health of the person.

Harassment may be explicitly directed at an individual or group or occur through the creation of a hostile environment. Any harassment that happens during work time, work-organised social activities or work-related activities outside the workplace, may be covered by anti-discrimination law and should be included in policy and procedures.

3.2 Workplace Bullying

Bullying can include a wide range of behaviours and can be experienced as psychological or physical harassment. It can take many forms from inappropriate comments and manipulative behaviour to more explicit forms of intimidation and abuse, including threats and violence.

While there are no specific laws that deal explicitly with “bullying” per se, it may be unlawful if it involves either:

- Criminal assault or intimidation
- Discrimination.

Bullying is contrary to the duty of care to provide a safe environment for staff and students and thus should be covered by policies and procedures developed by employing authorities.

4. Impact of Harassment and Bullying

Harassment and bullying can have a serious adverse impact on the work satisfaction and performance of teachers and students and employers and employees should be vigilant in identifying warning signs. For example, harassment and bullying can:

- Affect work performance and opportunities;
- Create a hostile or unpleasant environment;
- Make employees feel insecure and anxious;

- Contribute to high levels of absenteeism and staff turnover;
- Contribute to a deterioration of relationships between staff or administration;
- Cause occupational health and safety problems, including stress related illnesses;
- Reflect on the integrity and reputation of the school, diocese or other educational institution;
- Be costly for employers in terms of time, money and other resources when having to deal with and resolve complaints, as well as the implications of possible future litigation.

5. Policies and Procedures

For schools and other workplaces to meet their statutory and common law obligations, policy and procedures should be developed that clearly set out what is expected of staff, students and parents in terms of appropriate behaviour and what steps will be taken if a complaint of harassment, bullying or violence is made. Employers should identify any warning signs, encourage all members of the workplace to report incidents of bullying and also ensure there is no victimisation for having made a complaint or having supported someone else to do so.

In the event any member of the workplace believes the processes of handling complaints of bullying have been unfair and/or inappropriate, they have the right to pursue grievance procedures contained within the relevant award or certified agreement.

5.1 The main aims of procedures to counter harassment and bullying should be to ensure:

- The behaviour stops
- That there are no reprisals for having made a complaint
- Where disadvantage has occurred, that the situation is redressed as far as possible to the complainant's satisfaction.

The guiding principles behind such aims are:

- The right of all individuals to be treated with respect
- Observance of natural justice and fair processes but also in a timely way
- Observance of appropriate confidentiality
- Acceptance of the legitimacy of the complainant's feelings
- Appropriate support and protection for all parties concerned.

5.2 To handle complaints effectively, all employing authorities should have:

- A strong statement of policy clearly indicating that harassment, bullying and violence are totally unacceptable and will be dealt with as serious matters.
- Procedures for ensuring that all staff, students and parents are aware of the policy and procedures and of the consequences of unacceptable behaviours. Information about policy and procedures should be provided at induction seminars.

- A set of procedures for handling complaints which takes account of the workplace's specific context and structure; for example, in a school there should be procedures which deal with complaints against students, parents, other staff or the employer itself. The procedures should provide the opportunity for the complainant to pursue their complaint both informally and formally.
- *Appropriately selected personnel for handling complaints, who have the confidence of staff, and whose position is the result of open and consultative processes*
- Such personnel at school or system level who will handle complaints, are to be trained appropriately and given the necessary time and other support.
- Ongoing educative programs and materials, both for staff who will handle complaints, and for all staff, students and parents, with a view to creating awareness of the issue, assisting in the identification of problems and to reducing the occurrence of harassment and other unacceptable behaviours.
- Such policies and procedures should be developed and reviewed with input from the Union.

Procedures should also contain provision for the situation where a complaint is ultimately found to be unsubstantiated, frivolous or vexatious. This may require mediation between the parties, the opportunity for the respondent to have their reputation restored or other remedies to address their grievances.

6. Responsibilities

6.1 Employer Responsibilities

In relation to countering harassment and bullying, the employer has the responsibility to:

- Provide a safe workplace for employees
- Create an environment where staff can say “no” to unacceptable behaviour and where they can complain about such behaviour to management, without being blamed/victimised for alleged deficiencies in their own performance.
- Inform staff, students and parents of relevant legislation
- Consult with staff to develop and publish relevant policy and procedures
- Educate staff, students and parents about rights and responsibilities
- Respond promptly and appropriately to all complaints.
- Provide appropriate procedures and facilities to deal with students whose behaviour places others at risk.

6.2 Employee Responsibilities

Employees have a responsibility to:

- Participate in relevant training and professional development
- Be involved in the development of policy and procedures
- Be informed of relevant legislation

- Engage in appropriate behaviour in accordance with the school's stated expectations, policy and procedures
- Respect the professionalism and reputation of their colleagues and other members of the school community.

6.3 Student and Parent Responsibilities

Students and parents have a responsibility to:

- Be involved as appropriate in the development of the school's policy and procedures
- Participate in education / training programs to counter bullying and harassment
- Engage in appropriate behaviour in accordance with the school's stated expectations, policy and procedures
- As students aged 16 years and above are legally liable for sexual harassment, students and parents must be specifically aware of these responsibilities.

6.4 Dealing With Severely Disruptive Students

Employing authorities must have clear policies, resources and facilities to deal adequately with severely disruptive or violent students, including policies for accessing counselling and special programs, negotiated behaviour contracts with students and their parents, and suspension or exclusion where other measures have not proved effective.

Consideration should be given to the establishment of appropriately staffed and resourced specialist classes or units at school or off-site to cater for the needs of such students.

7.0 Documentation and Record Keeping

It is in the interests of all parties to ensure that there is adequate documentation of all information and events relating to a claim of bullying, harassment or violence. All records relating to complaints and investigations must be maintained in a secure and confidential environment with access restricted to persons conducting the inquiry and other authorised persons.

8.0 Monitoring and Review

Policy and procedures should be regularly monitored and reviewed by all the parties.

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