



CATHOLIC SCHOOLS OFFICE DIOCESE OF LISMORE

DISCRIMINATION, HARASSMENT AND BULLYING IN THE WORKPLACE POLICY

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Related Documentation: *Catholic Education in the Diocese of Lismore:
Foundational Beliefs and Practices:
The Essential Framework, 2007.*
*The Catholic School – The Sacred Congregation for Catholic
Education St. Paul Publications 1979.*
*Standard Operating Procedures for Addressing Employee
Performance and Disciplinary Matters*
Digital Technology and Social Media Policy

Rationale:

The Catholic Schools Office, Diocese of Lismore is committed to providing a workplace free from discrimination, harassment and bullying. This document seeks to inform staff members about workplace discrimination, harassment and bullying and make it clear that such actions or behaviour in the workplace will not be tolerated.

The Catholic Schools Office considers all discrimination, harassment and bullying to be unacceptable behaviour because it undermines the intrinsic dignity of the individual person. In addition, discrimination, harassment and bullying diminish the work performance of individuals and the effectiveness of schools and the Catholic Schools Office in their mission of Catholic education.

As a Catholic Organisation, the Catholic Schools Office, reserves the right to have regard to a person's suitability to work within the Catholic environment and their ability and willingness to support the teachings of the Catholic Church and Catholic values. It is critical that Catholic organisations are able to attract and retain staff members who respect the teaching and practices of the Catholic faith.

Scope:

This document applies to all personnel in parish schools and the Catholic Schools Office. All staff members are responsible for promoting a respectful workplace, free from discrimination, harassment and bullying. It is the responsibility of all staff members not to participate in discriminatory, harassing or bullying behaviour within the workplace.

Disciplinary action, (see *Standard Operating Procedures for Addressing Employee and Disciplinary Matters*) which may include termination of employment, may be taken against staff members who are found to have acted in a discriminatory, harassing or bullying manner. Also, staff members who victimise or retaliate against a person who has made a complaint regarding discrimination, harassment or bullying may be the subject of immediate disciplinary action.

Principles and responsibilities:

Every staff member within the Diocese has a right to be treated with respect and to work within a safe workplace. Further, the Catholic Schools Office and the principal has a legal responsibility to prevent discrimination, harassment and bullying as set out in this policy, otherwise the employer can be liable for the behaviour of staff members.

To assist in preventing discrimination, harassment and bullying all staff members are responsible for:

- being aware of, and identifying, discriminatory, harassing or bullying behaviour;
- not acting in a discriminatory, harassing or bullying manner towards others;
- assisting to eliminate such behaviour regardless of whether a complaint is made about that behaviour; and
- assisting the Catholic Schools Office/Principal investigate complaints of discrimination, harassment or bullying.

All staff members are encouraged to report behaviour that appears to be discriminatory, harassing or bullying. All complaints of discrimination, harassment and bullying will be dealt with in a sensitive, fair and confidential manner as soon as possible.

Any deliberately false or malicious complaints will be regarded as serious misconduct and if proven, may result in disciplinary action being taken, including termination of employment.

Legal Framework:

Harassment or discrimination on the grounds of race, gender, religion, political opinion, sex, pregnancy or potential pregnancy, marital status, physical or mental disability, sexual preference, national extraction or social origin, age, and/or family responsibilities is unlawful under the following Commonwealth and New South Wales anti discrimination and workplace legislation:

- Age Discrimination Act 2004 (Cth);
- Disability Discrimination Act 1992 (Cth);
- Racial Discrimination Act 1975 (Cth);
- Sex Discrimination Act 1984 (Cth);
- Fair Work Act 2009 (Cth); and
- Anti-Discrimination Act 1977 (NSW)

A contravention of any of these laws could result in legal action being taken against staff members and also expose the employer to liability.

Workplace Discrimination:

Definition:

Workplace discrimination is when someone is subject to unfair treatment in employment because they belong to a particular group of people or have a particular personal characteristic that has been specified in law as a ground of discrimination. Some grounds for discrimination recognised in State and Federal legislation include:

- sex or gender;
- marital status, pregnancy, potential pregnancy, parental staff and family responsibility;
- sexual preference, sexuality or gender identity;
- disability, impairment or handicap;
- race, colour, national or ethno-religious origin, nationality, ethnicity, descent or ancestry;
- age;
- religious or political belief or activity;
- trade union activity;
- victimisation;
- personal association with or relation to any person who is identified on the basis of any of the above attributes.

There are two kinds of discrimination, direct and indirect.

Direct discrimination occurs if a person treats, or proposes to treat someone unfavourably due to that person's personal characteristics.

Indirect discrimination can occur when there is a rule or condition that is the same for everyone but in effect disadvantages people from a particular group more than people from other groups. The rule may seem equitable and unbiased at face value. A rule or condition will not be considered discriminatory if it's reasonable in the circumstances.

Examples of Workplace Discrimination:

<i>Direct Discrimination</i>	<i>Indirect Discrimination</i>
Refusing to employ someone because of their age despite being able to undertake the requirements of the position.	Prescribing an inflexible working hours policy where such rigidity in hours is not required.
Terminating someone's employment because of their family responsibilities.	Scheduling meetings or training sessions at times that would disadvantage people with carer's responsibilities e.g. very early or very late in the day.
Not promoting someone because of their disability despite being able to undertake the duties of the position.	A requirement that all staff speak fluent English when this is not an inherent requirement for all jobs within the company.

When Workplace Discrimination is not Unlawful:

In some circumstances workplace discrimination will not be considered unlawful, such as:

- where the discrimination occurred because the person is unable to perform the inherent requirements of a position and no reasonable adjustments could have been made by the employer;
- where an act is taken against a person by an institution run in accordance with its religious beliefs, made in good faith and to avoid injury to the religious susceptibilities of adherents to that religion; and/or
- where there are genuine occupational requirements for a person of a particular sex, race or age to be appointed to a position.

Workplace Harassment:

Definition:

Workplace harassment is conduct in the workplace that is:

- unwelcome, uninvited or unreciprocated;
- offensive, humiliating and/or intimidating; and
- is based on a ground of discrimination.

It can include verbal comments or abuse, physical contact, threats, displaying inappropriate and offensive images or documents, stalking, offensive communication, jokes and ridicule, propositions, and inappropriate initiation rites.

Sexual harassment is a form of harassment on the ground of sex or conduct of a sexual nature such as unwanted sexual advances, unwelcome requests for sexual favours or physical contact, derogatory sexual comments, taunts, intrusive questions and rumours.

Workplace harassment usually consists of a pattern of unwelcome behaviour. However, it can consist of just one act where this is of a serious nature. There is no requirement that the harasser intended to offend or harm in order for an action to be considered harassment or for the person harassed to inform the harasser that the conduct is unwelcome. Workplace harassment, and in particular sexual harassment, does not include behaviour which is consensual, welcome and reciprocated.

Examples of Workplace Harassment:

<i>Verbal</i>	<i>Non-Verbal</i>
Sexist or racist joke	Suggestive looks or stares
Comments of a sexual nature	Offensive hand or body gestures
Repeated unwelcome invitations	Sexually explicit emails or posters
Imitating someone's accent	Invading someone's personal space

Workplace Bullying:

Definition:

Workplace bullying is harassment that is not expressly linked to a ground of discrimination.

Under the *Fair Work Act 2009* a worker is bullied at work if an individual or individuals repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member and that behaviour creates a risk to health and safety.

Unwarranted or invalid criticisms, exclusion or isolation are examples of workplace bullying. It usually takes the form of less favourable treatment of a person by another or others in the workplace in the form of repeated conduct or a pattern that:

- insults,
- intimidates,
- threatens,
- undermines,
- offends,
- degrades, or

- humiliates.

Instances of workplace bullying are intended to cause physical and psychological distress to others. Bullying can occur at all levels in the workplace e.g. upwards, downwards or lateral and is identified if a reasonable person (an objective third party) would consider the behaviour to be bullying.

Bullying does not include:

- occasional differences of opinion or problems in working relationships;
- reasonable management action carried out in a reasonable manner; or
- reasonable disciplinary procedures.

Examples of Workplace Bullying:

<i>Physical</i>	<i>Psychological</i>
Loud, abusive, threatening language	Silent treatment
Subjected to practical jokes	Assigning unpleasant or meaningless tasks unrelated to the position
Offensive phone messages, SMS and/or email	Deliberately withholding information that is vital to effective work performance
Constant ridicule or put downs in front of others	Exclusion or isolation

Impact of discrimination, harassment or bullying on staff member:

- Loss of Morale, toxic work environment
- Effect on workplace culture
- Productivity – slow or work not completed
- Absenteeism, staff turnover
- Disengaged staff
- Poor client outcomes: reputation, parental dissatisfaction, loss of enrolments , low student outcomes
- Increase in sick and stress leave.

Ongoing support/counselling:

The Catholic Schools Office will work to prevent bullying, harassment and discrimination from occurring through policies, procedures, awareness-raising strategies and training programs. Processes to deal with claims will be characterised by natural justice, procedural fairness, timeliness, confidentiality and respect for all parties.

All employees in the Diocese are able to contact the Dioceses’ Employee Assistance Program ACCESS Programs which is confidential and at no charge to the employee.

Process for managing allegations:

The process of reporting a complaint, options for resolution/possible outcomes and review/appeal process is included in the *Standard Operating Procedures for Addressing Discrimination, Harassment and Bullying*.

If necessary a formal investigation and disciplinary process will be implemented through the *Standard Operating Procedures for Addressing Employee Performance and Disciplinary Matters*.