



10. DISCRIMINATION AND HARASSMENT POLICY

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| Last Review: October 2020 | Constructed / Reviewed by: Clayton Utz |
| Next Review: October 2021 | Approval Required: Board Motion |
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1. Statement of Context and Purpose

Mentone Grammar is committed to the prevention of harassment and discrimination in the workplace and to creating a work environment where all employees are treated with dignity, courtesy and respect. Harassment and discrimination will not be tolerated in the workplace or at work related functions, events or activities. Any acts of discrimination or harassment by employees in breach of this policy and procedure may result in disciplinary action, including termination of employment if appropriate.

Mentone Grammar supports a grievance procedure whereby grievances can be lodged and investigated in a proper and timely manner. This procedure comprises:

- where appropriate, raising specific concerns with the person involved in the first instance;
- if unsuccessful (or not appropriate), the employee should approach the designated Contact Officer and lodge a formal complaint; and
- in instances where the complaint cannot be resolved internally, it may be referred to an agreed external mediator.

All complaints will be investigated promptly and with the utmost confidentiality.

This policy and procedure is designed to ensure employees, contractors and other authorised personnel of Mentone Grammar work in an environment which is free from unlawful harassment and discrimination and to provide a process for resolving grievances relating to unlawful discrimination or harassment.

2. Application

This policy applies to all employees, contractors and other authorised personnel required to perform functions on Mentone Grammar's premises.

3. Reference Points / Background Papers

- *Equal Opportunity Act 2010* (Vic);
- *Racial Discrimination Act 1975* (Cth);
- *Sex Discrimination Act 1984* (Cth);
- *Disability Discrimination Act 1992* (Cth);
- *Age Discrimination Act 2004* (Cth);
- *Australian Human Rights Commission Act 1986* (Cth);
- *Fair Work Act 2009* (Cth);
- Grievance Handling and Investigation Policy;



- Bullying and Violence Policy; and
- Performance Management, Misconduct and Disciplinary Action Policy.

4. Definitions

Contact Officer means the Human Resources Manager.

5. Discrimination explained

Discrimination has two meanings, which can be classified as either **direct discrimination** or **indirect discrimination**.

For discrimination to be unlawful, it must be on the basis of an **attribute** listed in State or Federal legislation.

Direct discrimination means to treat someone with a particular attribute less favourably than a person without the particular **attribute** in the same or similar circumstances.

Indirect discrimination means when a requirement, condition or practice is imposed and a person with an **attribute** cannot comply with the requirement, whereas others can, and that requirement, condition or practice is not reasonable.

An **attribute** can be one or more of:

- gender;
- marital or relationship status;
- parental status;
- family responsibilities;
- pregnancy;
- breastfeeding;
- age;
- race;
- nationality;
- social origin;
- colour;
- impairment or disability;
- religious belief or activity;
- irrelevant criminal or medical record;
- physical features;
- participation in lawful industrial activity;
- lawful sexual activity;
- gender identity;
- sexual orientation;
- intersex status;
- political belief or activity; or
- association with a person identified by one of the above grounds.



Examples of conduct that may amount to discrimination include but are not limited to:

- judging someone on their political or religious beliefs, rather than their work performance;
- using stereotypes or assumptions to guide decision making about a person's career;
- undermining the person's authority because of their race, gender or sexual preference;
- denying promotion opportunities to staff members on the basis of age or gender;
- making offensive jokes or comments about another worker's racial or ethnic background, gender, sexual preference, age, disability or physical appearance; or
- denying further training to employees on the basis of impairment.

6. Sexual harassment explained

Sexual harassment is unwelcome conduct of a sexual nature that is likely to offend, humiliate or intimidate the person at whom it is directed. The harassing behaviour may include (but is not limited to):

- unwelcome physical contact (e.g. kissing, touching, patting or brushing against a person);
- demands for sexual favours;
- offensive or demeaning comments;
- jokes and innuendo;
- staring;
- sexually explicit conversations;
- gender based insults;
- displaying, sending, emailing or downloading offensive material; and
- questions, remarks or insinuations about a person's sexual activities or private life.

A single act or continuing courses of conduct is equally capable of constituting harassment. Further, it is important to note that it is irrelevant at law as to whether or not the inappropriate behaviour was intended by an employee. Whether the behaviour is unwelcome is determined by reference to the person being subjected to the behaviour.

7. Responsibilities

7.1 Management

Mentone Grammar is responsible for providing employees with advice and guidance on the application of this policy and use of the grievance procedure.

7.2 Employees

All employees, contractors and other authorised personnel are responsible for ensuring compliance with this policy and maintaining acceptable standards of conduct and behaviour at all times. All employees, contractors and other authorised personnel must abide by this policy and take steps to prevent instances of discrimination and harassment from occurring.

Employees, contractors and other authorised personnel must not, in any circumstances, discriminate against or harass colleagues, prospective colleagues, visitors, students or any other person dealt with in the course of their employment at Mentone Grammar.



Any employee, contractor or other authorised personnel who feels discriminated against or harassed should feel confident that complaints will be taken seriously and handled confidentially.

8. Grievance Procedure

Employees, contractors and other authorised personnel who are harassed or discriminated against should utilise this grievance procedure in order to attempt to resolve any complaint. Note also that the Employee Assistance Program is available if employees wish to confidentially discuss the matter at any stage either prior to or during the grievance procedure.

The steps in the grievance procedure to be followed by employees who feel that they have been harassed or discriminated against are as follows:

- Where it is appropriate to do so, employees, contractors and other authorised personnel are encouraged to raise the issues or behaviours with the other person concerned and resolve the issues directly. Employees, contractors and other authorised personnel should make it clear to the person that their behaviour is unwelcome and unwanted.
- In circumstances where:
 - the issue is not able to be resolved informally, either because the other person is unapproachable or they ignore the requests to try and resolve issues or stop the inappropriate behaviour; or
 - the complaint relates to a serious incident of harassment or discrimination;
 - employees, contractors and other authorised personnel may approach their Contact Officer, raise and discuss their concerns, and lodge a formal complaint.
- The Contact Officer will then consider and/or investigate the complaint and work with the employees involved to remedy the situation and take steps to prevent similar incidents from arising in the future. Every complaint will be taken seriously and will be handled in a confidential manner and without bias.
- Employees, contractors and other authorised personnel who wish to make a formal complaint will need to document their complaint in writing and where possible state:
 - the name of the person against whom the complaint is made;
 - the nature of the behaviour complained of;
 - date(s) and time(s) when the behaviour complained of occurred;
 - names and witnesses to any incidence of the behaviour complained of; and
 - any action taken by the employee to stop the behaviour complained of.
- Where an investigation is commenced:
 - the investigation will be handled impartially, confidentially and efficiently;
 - the person against whom the complaint has been made will be provided with details of the allegations and will be given an opportunity to respond;



- relevant witnesses may be interviewed where necessary and any statements taken will be securely kept to ensure confidentiality;
- both parties will be regularly updated throughout the investigation and advised of the outcome when it is reached.
- Following the investigation:
 - if the allegations are substantiated, immediate steps will be taken to ensure that the behaviour is not repeated and appropriate disciplinary action is taken; or
 - if the allegations are not substantiated, the Contact Officer is required to monitor workplace behaviour.
- If all efforts to resolve the matter internally have been unsuccessful, a grievance may be referred to an agreed external mediator if approved by the Contact Officer.

9. Consequences of a Breach of this Policy

Mentone Grammar emphasises the need to comply with the requirements of this policy. Any employee found to be in breach of the requirements of this policy may be subject to disciplinary action, up to and including termination of employment. Employees should refer to the Disciplinary and Performance Management Procedure for further information.

10. Implications for practice

10.1 At Board / Principal Level

To properly implement this Policy, Mentone Grammar, the Board and/or the Principal must ensure:

- that this Policy is endorsed on an annual basis;
- that copies of this Policy are made available to employees, for example on the Mentone Grammar intranet, in physical form in the staff room and on employee bulletin notice boards;
- that this Policy is incorporated into the Board's / Principal's record of current policies;
- that this Policy is incorporated into Mentone Grammar's induction program, to ensure that all employees are aware of the Policy, have read and understood the Policy, and acknowledge their commitment to comply with the Policy;
- that Periodic training and refresher sessions are administered to all employees in relation to this Policy;
- that mechanisms necessary to establish the complaints and grievance process are put in place. This will involve:
 - appointing one or a number of existing employees as Contact Officers;
 - training and educating all individuals involved in handling formal complaints and conducting proper investigations so as to ensure that they



- understand the steps that must be taken to resolve claims of harassment and discrimination; and
- generating formal complaints forms for employees, contractors and other authorised personnel to complete, listing all relevant information required to conduct an appropriate investigation.

10.2 At Other Levels

To properly implement this Policy, all Mentone Grammar's employees, contractors and other authorised personnel must ensure:

- that they will abide by this Policy and assist Mentone Grammar in the implementation of this Policy.