



## Bullying Sexual Harassment & Discrimination Policy – Staff

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### 1. Preamble

Gippsland Grammar is committed to providing all staff with a working environment which values diversity and respects differences in our community.

Gippsland Grammar is a school enriched by people of many backgrounds age, race, ethnic and national heritage, physical and intellectual abilities and lifestyle choices. Gippsland Grammar aims to treat all members of the community with dignity courtesy and respect and to create a harmonious and productive working and learning environment.

It is the policy of Gippsland Grammar that the learning and working environment is positive and supportive for all members of the school community. Therefore Gippsland Grammar is committed to ensuring that the working and learning environment is free from bullying, sexual harassment and discrimination.

#### 1.1 Purpose

Gippsland Grammar aims to:

- Foster an environment where all members of the school community are treated with dignity courtesy and respect.
- Promote appropriate standards of conduct at all times.
- Implement training and awareness-raising strategies to ensure that everyone knows their rights and responsibilities and
- Where necessary encourage reporting of inappropriate behaviour and provide an effective procedure for resolving complaints in a sensitive fair and timely manner with as much confidentiality as possible.

#### 1.2 Scope

This policy sets out what constitutes discrimination, harassment, sexual harassment and bullying and what can be done when these things occur. It also details the complaints procedure which the school has implemented to ensure that any form of discrimination harassment sexual harassment or bullying is dealt with promptly confidentially and impartially.

All employees have a responsibility to treat each other fairly and with respect. Individual employees must also ensure that they do not discriminate against, harass, sexually harass or bully other members of staff. Any reports of discrimination will be treated seriously and sensitively by the School. Disciplinary action may be taken against anyone found to be guilty of discrimination, harassment, and sexual harassment or bullying.

### 2. Definitions

Bullying is repeated unreasonable behaviour directed towards an employee that creates a risk to health and safety.

**Unreasonable behaviour** is behaviour that a reasonable person, having regard to all the circumstances would expect to victimise, humiliate, undermine or threaten another.

**Behaviour** includes: actions of individuals or a group and may involve using a system of work as a means of victimising, humiliating, undermining or threatening.

**Risk to health and safety** includes risk to the mental or physical health of the employee.

Unacceptable behaviour makes the workplace uncomfortable, unpleasant and often unsafe. The following types of behaviour where repeated or occurring as part of a pattern of behaviour could be considered bullying:

- Verbal abuse
- Excluding or isolating employees
- Psychological harassment
- Intimidation
- Assigning meaningless tasks unrelated to the job
- Giving employees impossible assignments
- Deliberately withholding vital information vital for effective work performance.

This list is not exhaustive. Other types of behaviour may also constitute bullying. Bullying is usually not an isolated incident unless the incident is of a serious nature.

Bullying does not include reasonable and legitimate actions of Gippsland Grammar in managing an employee's performance, managing or altering an employee's workload, reporting structure or duties or counselling an employee.

### **Discrimination**

It is unlawful to discriminate against or harass a person in employment (or in the provision of goods and services) on the basis of any of the following attributes or personal characteristics:

- age
- carer and parental status
- disability (including physical, sensory and intellectual disability, work related injury, medical conditions, and mental, psychological and learning disabilities)
- employment activity
- gender identity, lawful sexual activity and sexual orientation
- industrial activity
- marital status
- physical features
- political belief or activity
- pregnancy and breastfeeding
- race (including colour, nationality, ethnicity and ethnic origin)
- religious belief or activity
- sex
- personal association with someone who has, or is assumed to have, one of these personal characteristics.

It is also against the law to sexually harass or victimise someone, or to vilify someone because of their race or religion.

Discrimination is treating a person with an identified attribute or personal characteristic less favourably than a person who does not have the attribute or characteristic, who is otherwise in the same or similar circumstances. Discrimination can be either direct or indirect.

### **Direct Discrimination**

Direct discrimination occurs when someone is treated unfairly and is disadvantaged because of a personal characteristic that is protected under Victorian law.

For example, refusing to employ someone because of their gender

### **Indirect Discrimination**

Indirect discrimination occurs when treating everybody the same way disadvantages someone because of a personal characteristic.

For example, a requirement for employees to work 12-hour shifts may appear to treat everyone equally. However, it may have disadvantage employees with family or caring responsibilities.

### **Harassment**

Harassment is a form of discrimination. Harassment is unwelcome and unwanted conduct based on one of the attributes listed above that causes a person to be offended humiliated or intimidated.

The reasonable person test applies. That is, would a reasonable person given all the circumstances have anticipated that the behaviour would be found offensive, humiliating or intimidating.

### **Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature. It involves behaviour that could reasonably be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, verbal or written.

A person sexually harasses another person if he or she:

- Makes unwelcome sexual advances
- Makes a request for sexual favours
- Engages in any other unwelcome conduct of a sexual nature

In circumstances in which a reasonable person aware of all the circumstances would have anticipated that the conduct would cause offence, humiliation or intimidation.

Sexual harassment is unwelcome uninvited conduct that is offensive from the view point of the person harassed regardless of any innocent intent on the part of the offender.

It is not behaviour that is based on mutual attraction between people or friends.

Sexual harassment may occur in a single incident or a series of incidents.

### **Types of sexual harassment**

Sexual harassment may take many forms and can be physical verbal or written. It is not just the obvious harassment or unwelcome physical behaviour such as inappropriate touching, patting, brushing up against someone or offensive gesturing. Sexual harassment can be either direct or indirect.

Sexual harassment may take a variety of forms including:

- Sexual or suggestive remarks
- Sexual propositions or requests for dates
- Repeated questions about a person's private life
- Sexual jokes and innuendo
- Physical contact such as touching, deliberate brushing up against a person, hugging etc. against a person's will
- Offensive telephone calls, reading matter, email, screen savers, pictures, calendars etc.
- Suggestive looks or leers
- Sexually explicit conversations

### **Racial and religious vilification**

The *Racial and Religious Tolerance Act 2001* makes it against the law to vilify a person or group of people on the grounds of their race or religion.

Vilification is behaviour that incites or encourages hatred of, serious contempt for, revulsion or severe ridicule of another person or group of people on the grounds of their race or religion.

### **Victimisation**

Victimisation is treating someone unfairly because that person or someone they associate with has made or intends to make a complaint under this policy. It is against the law to victimise a person for making a complaint about discrimination, sexual harassment or racial and religious vilification.

For example, an employer terminates a person's employment after they complain of sexual harassment.

### **3. Procedures**

#### **3.1 What can you do if you feel that you are being discriminated against, harassed, sexually harassed or bullied?**

If you feel you have been discriminated against, harassed or bullied you should not ignore it. You should keep notes on all instances of discrimination, harassment or bullying – dates, times, places, witnesses (if any), together with what you said did or felt.

If you feel comfortable doing so, you may wish to address the issue with the person concerned and request that the behaviour ceases. If you do not feel comfortable confronting the person and the behaviour continues, then you should go to the Human Resources Manager or a member of the Executive and discuss your complaint.

All complaints of discrimination, harassment, sexual harassment or bullying will be dealt with in accordance with Gippsland Grammar's procedure set out below.

#### **3.2 What should you do if you consider that you have witnessed bullying?**

You should report the matter to one of the people listed above who are required to act in accordance with Gippsland Grammar's procedure set out below.

### **3.3 Grievance Procedure Procedures**

#### **3.3.1 Informal Complaints resolution**

In the first instance Gippsland Grammar will attempt to informally resolve the matter through discussion of the complaint. If it cannot be resolved a more formal process should be instigated by the complainant.

### **4. Formal Complaints Handling procedure**

#### **4.2 Notification**

**4.2.1** Those who wish to present a matter formally under the Procedure should advise, preferably in writing, an appropriate member of the Executive that they are notifying a grievance as per the Grievance Procedure.

**4.2.2** The person to whom the grievance is notified shall attempt to resolve the grievance by negotiation between the parties concerned. Discussions are to begin within one (1) business day of referral and shall take no more than five (5) business days unless it is agreed otherwise between the parties to the grievance/complaint.

**4.2.3** Under these procedures the complainant and/or respondent have a right to be represented by a third person (such as a family member, friend, counsellor or other professional support person but not a lawyer)

#### **4.3 Action**

**4.3.1** If the matter still remains unresolved, or in the case of a formal complaint of alleged sexual harassment or a complaint of unlawful discrimination, the complaint shall be referred to the Principal (except that if the Principal is the source of the grievance, the matter should be referred to the Chair of the School Board). The complaint shall be confirmed in writing identifying the person aggrieved, all other parties to the complaint and give details of the grievance or complaint. Such written notification must be signed by the aggrieved person or the complainant

**4.3.2** The Principal (or Board Chair) shall consult with the aggrieved person, and any other person involved in the grievance/complaint in an attempt to resolve same by initiating and facilitating negotiation between the parties to the grievance/complaint OR if thought desirable, the Principal shall brief an appropriate neutral conciliator with all facts in his/her possession relating to the grievance/complaint.

**4.3.3** In the case where a serious grievance, or unlawful discrimination or sexual harassment is found to have occurred, the Principal (or Board Chair) will take disciplinary action against the perpetrator of the grievance, discrimination or harassment. The disciplinary action may vary depending upon the circumstances but may include termination of employment.

**4.3.4 Outcomes may include any combination of the following**

Counselling, disciplinary action against the offender, official warnings that are noted on the offender's personnel file, disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious, formal apologies, conciliations / mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution

Discussions under this step of the Grievance Procedure are to begin within two (2) business days of referral and shall take no more than ten (10) business days unless it is agreed otherwise between the parties to the grievance/complaint.

**5. External Appeals Process**

If the matter still remains unresolved after undertaking the procedures, then the individuals concerned, the Principal, or the School Board may refer the matter to a relevant referral body such as Anti-Discrimination Commission, Industrial Commission or Human Rights Commission.

**5.1 Authorising and assisting**

It is against the law to authorise or assist another person to discriminate against or sexually harass someone. This means a person must not ask, instruct or encourage anyone else to undertake these actions.

**5.2 Victimisation**

It is unlawful to victimise or penalise a person for making a complaint in good faith. Gippsland Grammar is committed to making sure that everyone who makes a complaint or assists in making a genuine complaint is supported and not penalised in any way.

Immediate disciplinary action will be taken against any employee who victimises or retaliates against a person who has made a complaint.

**5.3 Vexatious Litigants**

Inaccurate misleading malicious or false accusations have negative consequences for the person(s) concerned, interpersonal relationships and the morale of the school community.

Where it is found that a complaint has been made in bad faith to cause distress to one or more persons or as a practical joke disciplinary measures will be taken.

**Related Policies**

Building Respectful Relationships  
Equal Opportunity Policy  
Gippsland Grammar guidelines for professional behaviour

**Code of Practice (WorkSafe)**

Preventing and Responding to Bullying at Work  
Prevention of Workplace Stress  
What to do if bullying happens to you

**Legislation**

Both Federal and State legislation are relevant to the concepts discussed in this policy. This legislation includes:

**Federal**

Age Discrimination Act 2004  
Disability Discrimination Act 1992  
Equal Opportunity for Women in the Workplace Act 1999  
Fair Work Act 2009 (Cth)  
Human Rights and Equal Opportunity Commission Act 1996  
Racial Discrimination Act 1975  
Sex Discrimination Act 1984

**Victorian**

Equal Opportunity Act 2010 (August 2010)  
Racial and Religious Tolerance Act 2001  
Occupational Health and Safety Act 2004  
Victorian Work Cover Authority Prevention of Bullying and Violence at Work <sup>1</sup>

**Review**

<b>Version</b>	<b>Authorised by</b>	<b>Approval Date</b>	<b>Effective Date</b>	<b>Sections Modified</b>	<b>Location</b>
1	D.J. Baker				