central coast montessori
EDUCATION FOR LIFE

POLICY	PROCEDURE
Statement Name	Discrimination, Harassment and Bullying Statement for Employees, Contractors and Volunteers
Related Policy	Child Protection Policy
Policy Category	Safe & Supportive Environments (3.6) Child Protection Policies & Procedures (3.6.1)
Related Procedures & Registers	Anti-Bullying Procedure
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Discrimination, Harassment and Bullying Statement for Employees, Contractors and Volunteers

1. Introduction

Everyone at the Central Coast Montessori Primary School has the legal obligation not to discriminate against, or harass for any unlawful reason, or bully for any reason any employee, agent, contractor, supplier, volunteer, parent, student or visitor.

The School expects all staff members to treat each other and other people with whom they come into contact as representatives of the School with respect and courtesy.

The purpose of the School's Discrimination, Harassment and Bullying Statement is to make you aware of:

a) what 'unlawful workplace discrimination', 'harassment' and 'bullying' mean;

b) the procedures the School has in place to deal with workplace complaints relating to discrimination, harassment and bullying; and

c) who you can talk to at the School if you wish to make a complaint.

2. Who does this statement apply to?

This Statement applies to all employees, contractors and volunteers engaged by the School and applies to behaviour:

a) in the workplace, including while working outside normal working hours;

b) while undertaking work activities including interaction with parents or other third parties and while working away from the School (e.g. School trips or sport activities); and

c) at work-related events e.g. conferences and social functions.

3. What is unlawful discrimination?

3.1 Defining unlawful discrimination

Discrimination is treating one person or group less favourably than another or causing them disadvantage. *Unlawful discrimination* is discrimination which law has defined as unacceptable.

There are a number of Federal and State laws which presently make discrimination unlawful on a variety of grounds (**unlawful reasons**) including:

a) sex, marital or relationship status, pregnancy, breastfeeding or family responsibilities;

b) sexuality or sexual preference;

c) race, colour, descent, nationality, national origin, ethnicity or ethno-religious origin;

d) religious belief or activity;

e) political belief or activity;

f) trade union activity;

g) disability or impairment;

h) transgender status or gender identity;

a) age;

b) responsibilities as a carer; or

c) service in the voluntary defence forces.

Whether it is unlawful to discriminate against a person for one of these reasons will depend on the particular circumstances and the State or Territory in which you are employed.

3.2 How can unlawful discrimination occur?

Discrimination can occur in the recruitment process, during the course of employment or upon termination of employment. Discrimination can also occur in the provision of goods or services. Staff members should not discriminate against co-workers, contractors, volunteers, parents and students

Discrimination can be direct or indirect.

Direct discrimination occurs where someone is treated less favourably because of their sex, age, racial group etc. An example of direct discrimination is when an employee misses out on an internal promotion because they are considered too old for the job.

Indirect discrimination occurs where everyone is treated on the same terms according to a rule, policy or directive but which has the effect of being less favourable to people of a particular sex, age group, race, religion etc and which is not reasonable in all the circumstances. An example of indirect discrimination would be a school policy stating that the junior school will not engage part time teachers – this would impact on teachers who may wish to work part time due to carers' responsibilities and would most likely exclude a large proportion of women – and this restriction is not reasonable.

There are exceptions from anti-discrimination law which may apply in some situations – for example, because of the requirements of a particular job. It may be reasonable to only women to supervise in a girls' boarding school.

4. What is unlawful harassment?

4.1 Defining unlawful harassment

Unlawful harassment is a type of unlawful discrimination. In general, unlawful harassment is any form of conduct or behaviour which affects a person that:

a) is unwelcome (not wanted) or uninvited (not asked for); and

b) is based on one of the unlawful reasons; and

c) a reasonable person would have anticipated might humiliate, offend or intimidate the person exposed to the conduct.

4.2 What are the types of unlawful harassment?

Types of unlawful harassment include, but are not limited to:

a) sexual harassment;

b) verbal abuse or comments that degrade or stereotype people because of their race, sex, sexuality, pregnancy, disability, etc;

c) jokes based on race, sex, sexuality, pregnancy, disability etc;

d) mimicking someone's accent, or the habits of someone with a disability;

e) offensive gestures based on race, sex, sexuality, pregnancy, disability, etc;

f) bullying a person because of their race, sex, sexuality, pregnancy, disability, etc;

g) ignoring or isolating a person or group because of their race, sex, sexuality, pregnancy, disability, etc; or

h) display or circulation of racist, pornographic or other offensive material (including in electronic format).

Harassment might not be unlawful, if it is not based on one of the unlawful reasons. However, the School expects its staff to treat each other and other people with whom they come into contact as representatives of the School with respect and courtesy.

In some cases, a single action or incident can create unlawful harassment. In other cases, there may need to be a persistent pattern of behaviour before unlawful harassment has occurred.

4.3 What is unlawful sexual harassment?

Unlawful sexual harassment is one form of harassment which the law does not allow. A person sexually harasses another person if:

a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person; or

b) engages in other unwelcome conduct of a sexual nature in relation to the person;

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated **the possibility** that the person exposed to the conduct would be offended, humiliated or intimidated.

Unlawful sexual harassment includes, but is not limited to:

a) pressure or demands for dates or sexual favours;

b) unnecessary familiarity - for example, deliberately brushing against a person or constantly staring at a person;

c) unwanted physical contact - for example, touching or fondling;

d) sexual jokes or innuendo;

e) offensive telephone calls;

f) offensive sexual gestures;

g) unwelcome comments or questions about a person's sex life;

h) display, circulation of sexual material, including magazines, posters or pictures (including in electronic format);

i) sending email or text messages which contain sexual content or tone; or

j) sexual assault.

It is important to understand that some of these forms of sexual harassment are also criminal behaviour and may be treated as a criminal offence.

Mutual attraction between people is not sexual harassment. Conduct which is welcome or consensual is not unlawful, and friendships (sexual or otherwise) which develop between people who meet at work are a private concern provided they do not impact on the workplace or the School.

However, you should take great care before engaging in conduct you believe to be welcome. Always remember that some people may not feel comfortable telling you that your behaviour is offending them and is not welcome. This may be because of their personality or may be because they are too worried about the possible impact on their employment if they complain. It is **your** responsibility to ensure that you do not engage in conduct which is not welcome. Similarly, it is your responsibility to tell someone if you do not feel comfortable with their behaviour, or at least to raise the issue with your manager or supervisor or some other appropriate person.

You should also remember that even conduct which is welcome may not be appropriate in the workplace. If you are unsure whether conduct is appropriate, you should speak to your Principal or Business Manager.

Further, any personal friendships that develop should not adversely impact on the School, your responsibilities to do your work or on the performance or productivity of your co-workers.

5. Bullying

5.1 What is bullying?
Workplace bullying is repeated, unreasonable behaviour directed toward a staff member, other individual, or group that may cause harm, including risks to health and safety.

Unreasonable behaviour means behaviour that a reasonable person having regard to all the circumstances would expect to humiliate, intimidate or threaten another person. Such behaviour can include an individual's or group's actions or practices which humiliate, intimidate or threaten another person.

Bullying may also amount to unlawful discrimination or harassment.

5.2 What are examples of bullying?
The following types of behaviour, particularly if directed towards an individual repeatedly, may amount to bullying:

a) demeaning language;

b) threats;

c) verbal abuse;

d) outbursts of anger or aggression;

e) physical or verbal intimidation;

f) excluding or isolating; and

g) ganging up.

Other types of behaviour may also constitute bullying.

Performance management and directions in relation to the performance of work or conduct required by the school are not bullying or harassment.

6. What Are Your Obligations?

Everyone at the School has the legal obligation not to discriminate against, or harass for any unlawful reason, or bully for any reason any employee, agent, contract worker, contractor, supplier, parent, student or visitor.

You must always consider how your behaviour will be viewed by the person or people you are dealing with. You might unlawfully harass someone, bully someone or unlawfully discriminate against someone even if you do not mean to do or say anything offensive. It is not a legally acceptable defence to say that you did not mean or intend to humiliate, offend or intimidate somebody else.

It is sometimes difficult to know whether someone will find your behaviour acceptable. What is offensive to one person may not be offensive to another. You should be careful not to risk being misunderstood and, as a result, becoming the subject of a complaint.

7. Victimisation

You must not victimise a person because they have made or propose to make a complaint of unlawful discrimination, harassment or bullying or because they have provided information in relation to a complaint. Victimisation means subjecting a person to some detriment, for example, ostracising an employee or excluding them from an opportunity or activity.

8. What can you do if you feel you are being unlawfully harassed or discriminated against or bullied?

If you feel that you are being unlawfully harassed, discriminated against or bullied, there is action which you can take that may resolve the problem, such as:

a) do not ignore circumstances where you feel you are being unlawfully discriminated against, harassed or bullied, thinking it will go away. Ignoring the behaviour could be taken as tacit approval by the person causing the harassment, discrimination or bullying;

b) where you feel comfortable ask the person to stop or make it clear that you find the behaviour offensive or unwelcome. Maybe the alleged discriminator/harasser/bully is not aware that his/her behaviour is intimidating or unwelcome and will stop once they are told. It may be useful to speak with the Business Manager Principal in the first instance to seek guidance on how to do this; and/or raise the issue as a grievance with either Business Manager or Principal under this statement, **as soon as possible** after the incident(s) have occurred.

If you feel that you are being victimised because you have made or propose to make a complaint of unlawful discrimination, harassment or bullying or because you have provided information in relation to a complaint you should raise the issue as soon as possible with either the Business Manager or Principal.

If your issue is about the Principal, then you should raise it as a grievance with the Chairman of the School Board under this statement.

9. Although you may feel the need to tell a trusted friend or work colleague about the matter, you should be careful. Accusations of unlawful discrimination/harassment can harm the reputation of those involved and could lead to legal action for defamation. Matters of this kind must be dealt with confidentially on a need to know basis. Do not discuss this matter generally with colleagues or members of the school community. It is in everyone's best interests if rumours are not allowed to spread.

9.1 What will the School do if you have a complaint

All complaints will be treated seriously and generally in accordance with this statement. The School will determine the most appropriate method of dealing with the grievance. This could include (among other things):

a) requesting further information from you;

b) requesting information from other co-workers or third parties;

c) meeting with you or others involved in the grievance;

d) reviewing and responding to the grievance or arranging for an appropriate person to review and respond to the grievance or

e) facilitating a meeting between you and the person(s) that the grievance is about.

On receipt of a grievance the School will generally take the following steps:

a) determine the best method of handling the grievance;

b) advise you of the likely steps that will be undertaken by the School in relation to the grievance;

c) advise the person(s) that the grievance is about of the nature of the grievance and seek their response;

d) collect any additional information the School considers necessary to properly review the grievance; and

e) advise both you and the person(s) that the grievance is about of the School's response to the grievance and if appropriate, any proposed action to be taken.

However, there may be circumstances in which some of the steps outlined above are not appropriate and the School will determine, in its absolute discretion, on a case by case basis the most appropriate method of handling the grievance.

The School will take whatever action it considers appropriate if there has been unlawful discrimination or harassment or bullying, including disciplining or dismissing offenders.

You should also be aware that if you lie about or exaggerate a complaint, the School will view this as a very serious matter, and you may be disciplined or dismissed.

10. General

This Statement summarises some of the rights and obligations which are created by the legislation. The Statement is not intended to go beyond the legislation. This Statement is not a term of any contract, including any contract of employment. This Statement may be varied from time to time.