Education and Training

Human Resources

Equal Opportunity and Anti-discrimination Policy

Last updated 28 November 2018

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1. Overview

The Department of Education and Training (the Department) is committed to a diverse workforce and ensuring that all Department workplaces are free from discrimination and harassment. As such the Department is an equal opportunity employer committed to providing a safe environment where all employees are treated fairly and with dignity.

Equal employment opportunity at the Department is about:

- freedom from discrimination and harassment
- merit selection focusing on essential job requirements
- respect for diversity
- good people management

These form the core elements of the Department's Equal Opportunity and Anti-Discrimination Policy. They recognise and value the diversity of our community, enable the attraction of the best skills from a wide talent pool and ensure that employees can realise their potential with the Department.

The objective of this Policy is to ensure that people are treated as individuals, respected for their unique attributes and not excluded, harassed or bullied in any way, through unconscious bias, stereotypes or unlawful actions that may form the basis of discrimination, harassment, vilification or victimisation.

The Department will not condone or tolerate victimisation, vilification, discrimination or harassment.

2. Scope

This Policy applies to all Department employees in schools, central and regional offices, including:

- the Secretary and Deputy Secretaries
- Executive officers, managers and principals
- employees (full-time, part-time, ongoing, fixed term, casual)

The Policy applies to all of the Department's workplaces, including any location that employees may be considered to be carrying out work on behalf of the Department that is in the course of their employment.

3. Legal framework

Equal opportunity is a requirement under both Victorian and Commonwealth legislation. In Victoria, the key legislation which makes it unlawful to discriminate is the Equal Opportunity Act 2010 (Vic).

Other relevant laws in Victoria are the Charter of Human Rights and Responsibilities Act 2006 (Vic) and the Racial and Religious Tolerance Act 2001 (Vic).

The Public Administration Act 2004 (Vic) outlines the values, employment principles and standards that apply to public officials and all public sector employers. Under this Act, the Victorian Public Sector Commissioner must promote the public sector values and principles and issue standards concerning the application of the principles. The principle of equal employment opportunity is a binding standard and should be read alongside Equal Employment Opportunity guidelines issued by the Victorian Public Sector Commissioner

At the Commonwealth level, there is a range of legislation which provides for equal opportunity, including the Fair Work Act 2009 (Cth), the Racial Discrimination Act 1975 (Cth), the Sex Discrimination Act 1984 (Cth), the Disability Discrimination Act 1992 (Cth) and the Age Discrimination Act 2004 (Cth).

Both Commonwealth and Victorian equal opportunity legislation apply to the Department as an employer and to Department employees.

4. Definitions

4.1 DISCRIMINATION

Discrimination is unfavourable treatment of a person in an area of public life (such as in employment and education) due to one of the following protected attributes:

- age
- breastfeeding
- carer and parental status
- disability
- employment activity
- gender identity (which includes gender expression)
- industrial activity
- intersex status
- lawful sexual activity
- marital or relationship status
- physical features
- political belief or activity
- pregnancy
- race (including colour, nationality, ethnicity and ethnic origin)
- religious belief or activity
- sex
- sexual orientation
- expunged homosexual conviction
- personal association with anyone who is identified by reference to any of the above protected attributes

Both State and Federal legislation prohibit direct and indirect discrimination.

Direct discrimination is when a person or group of people treats, or proposes to treat, a person with a protected attribute unfavourably, because of that attribute. In determining whether a person directly discriminates, it is irrelevant whether or not the attribute is the only, or dominant reason for the unfavourable treatment, provided that it is a substantial reason.

Indirect discrimination occurs if a person imposes or proposes to impose, an unreasonable requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons or groups of people with a protected attribute. Whether a requirement, condition or practice (or proposed requirement, condition or practice) is reasonable depends on all relevant circumstances.

4.2 SEXUAL HARASSMENT

Sexual harassment is unwelcome conduct of a sexual nature towards another person which could reasonably be expected to make that other person feel offended, humiliated or intimidated. Sexual harassment can be physical, verbal, visual or written.

Sexual harassment is an unacceptable form of behaviour that will not be tolerated under any circumstances. Refer to the Department's Sexual Harassment Policy on A-Z HRWeb.

4.3 VICTIMISATION

It is unlawful for a person to subject or to threaten to subject another person to any detriment because the other person, or someone associated with the other person, has made an allegation or complaint of discrimination or harassment on the basis of a protected attribute and/or asserted their rights under this Policy or other relevant legislation.

4.4 VILIFICATION

Vilification is when a person engages in conduct that incites hatred towards, serious contempt for, or revulsion or severe ridicule of, a person or group of people on the basis of race or religion. This can occur through a single act or a number of acts over a period of time.

4.5 POSITIVE DUTY

The Department has a positive duty to take reasonable and proportionate measures to eliminate discrimination, sexual or other forms of harassment and victimisation from the workplace. This means for example, taking measures to ensure staff are undertaking training and regularly assessing workplace compliance to achieve improvement.

4.6 VICARIOUS LIABILITY

If an employee contravenes this Policy, the Department may be held liable for the conduct of that employee. Vicarious liability can also extend to the actions of agents of the Department, such as recruitment firms and consultants.

It is therefore important that this Policy is understood by agents of the Department, including those responsible for hiring employees, including external recruiting firms.

4.7 REASONABLE ADJUSTMENTS

Both Commonwealth and Victorian legislation require employers to make reasonable adjustments for employees with a disability. A range of factors must be considered in determining whether an adjustment is reasonable, including:

- the person's circumstances, including the nature of their disability
- the nature of the employee's role or the role that is being offered
- the nature of the adjustment required to accommodate the employee's disability
- the financial circumstances of the employer
- the size and nature of the workplace
- the effect on the workplace of making the adjustment, including the financial impact, the number of persons who would benefit or be disadvantaged by doing so, and the impact on efficiency and productivity and, if applicable, on customer service of doing so;
- the consequences for the person or employee of not making the adjustment
- the consequences for the employer of making the adjustment.

Refer to the Disability page on A-Z HRWeb for further information.

5. Responsibilities

5.1 RESPONSIBILITIES OF THE DEPARTMENT

- The Department recognises its obligation under this Policy to take reasonable measures to eliminate discrimination and harassment of any kind from its workplaces. The Department is committed to:
- ensuring that there are clear processes in place for raising grievances and complaints
- taking action if the Department is aware of any behaviour which could constitute discrimination and/or harassment, even if no complaint has been lodged. All employees can be liable for the actions of others if they authorise, encourage or assist discrimination and/or harassment to occur in the workplace.
- clearly communicating and promoting these processes
- monitoring the implementation of this Policy
- identifying potential risk factors and taking prompt, reasonable action to minimise those risks, including:
- managing organisational change in an inclusive and participatory way, e.g. consult with employees affected as early as possible and develop and maintain effective communication throughout the process

- implementing work systems to prevent the risk of discrimination and/or harassment. Ensure these systems maintain privacy and confidentiality of data collected, and review and evaluate those systems, e.g. seek feedback from employees through the People Matter Survey and School Staff Survey.
- promoting positive working relationships in the Department's workplaces
- ensuring information and training to support the effective implementation of this Policy is accessible and available
- reviewing the Policy every two years or earlier as required, and communicating any changes or updates of the Policy to employees.

5.2 RESPONSIBILITIES OF EXECUTIVES, MANAGERS AND PRINCIPALS

Executives, managers and principals are responsible for:

- promoting and modelling appropriate behaviour the Department's values
- understanding what constitutes discrimination and knowing how to prevent or respond to any alleged discrimination
- monitoring the working environment to ensure as far as practicable that acceptable standards of conduct are maintained at all times and that discrimination and/or harassment are not tolerated
- promoting awareness of the avenues for advice and the complaints procedures with respect to discrimination and/or harassment as set out in this Policy
- treating complaints and behaviour which may constitute discrimination and/or harassment seriously and taking immediate action
- treating complaints of discrimination and/or harassment with appropriate confidentiality
- ensuring that a person is not victimised for making, or being involved in, a complaint of discrimination and/or harassment
- providing contact details for Workplace Contact Officers to complainants or respondents where appropriate
- referring to this Policy in their employee codes of conduct and practice.

5.3 RESPONSIBILITIES OF ALL EMPLOYEES

Employees are responsible for:

- complying with this Policy
- reporting any incident of discrimination and/or harassment that they have experienced or witnessed
- participating in any training provided by the Department, including completing the Equal Opportunity eLearning module
- modelling appropriate behaviour, including the employment principles , the Public Sector standards and the Department's Values on A-Z HRWeb.
- treating any allegations or complaints of discrimination and/or harassment with appropriate confidentiality

6. Training

The Equal Opportunity, Workplace Bullying, Understanding DET Values and Human Rights online modules aim to increase awareness and understanding of the obligations, rights and responsibilities of all employees of the Department under the relevant Commonwealth and Victorian legislation and in accordance with the Department's values.

All Department employees are required to complete these modules which address Department policies on workplace conduct and educate employees about their rights and responsibilities under equal opportunity, anti-discrimination and workplace bullying laws and the Human Rights Charter. These modules support the Department's commitment to providing safe, inclusive and respectful workplaces. The training courses may be accessed by employees at any time and at any stage of their employment.

6.1 MONITORING EMPLOYEE PROGRESS

Executives, principals and managers can monitor their employee completion rates of the online modules through their Manager Self-Service on eduPay.

Further information can be obtained via staffdevelopment@edumail.vic.gov.au

7. Reporting or making a complaint

Employees can report or make a complaint about any incident of discrimination and/or harassment to their executive, manager, principal or seek advice from a Workplace Contact Officer.

The procedures for dealing with allegations of discrimination and/or harassment and possible consequences regarding any breach of this Policy are dealt with in the Department's Guidelines for Managing Complaints, Unsatisfactory Performance and Misconduct (Teaching Service and Public Service on A-Z HRWeb Complaints – Information for Employees.

The Department encourages its employees to use the internal complaints processes to resolve any complaints relating to discrimination and/or harassment.

The Department encourages any employee who believes they have been the victim of a criminal offence to report the incident to the Victoria Police as soon as possible, as well as reporting the matter to their manager or principal.

If a complaint of discrimination and/or harassment is made, observed or brought to the attention of an executive, principal or manager, it must be acted upon immediately and managed in a sensitive and confidential manner.

Where discrimination and/or harassment is found to be substantiated, the consequences for the person against whom the complaint is made will depend on the particular circumstances. The consequences may include an apology, counselling, undertaking training, or disciplinary action including termination of employment.

At any time, employees may also choose to take a complaint of discrimination and/or harassment to the following organisations.

- Australian Human Rights Commission (AHRC)
- Victorian Equal Opportunity and Human Rights Commission (VEOHRC)
- Fair Work Commission (FWC)

8. Support and assistance

Support is available to all employees, principals and managers involved in reporting and managing a complaint, even after the matter has been resolved.

The Department encourages all employees to speak to their manager or principal to discuss any questions or concerns they may have regarding the conduct of any Department employee.

Employees can also seek support from a Workplace Contact Officer, the Employee Assistance Program, the Employee Conduct Branch, the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) or the Australian Human Rights Commission (AHRC). Contact details for these supports are set out below or can be found by following the below links:

- contact a Workplace Contact Officer (see A-Z HRWeb)
- contact the Employee Assistance Program (EAP) and/or Manager Assist (see A-Z HRWeb Employee Health and Wellbeing Portal)
- contact the Employee Conduct Branch or email any query to employee.conduct@edumail.vic.gov.au
- contact VEOHRC's free and confidential dispute resolution service
- contact AHRC's free and confidential dispute resolution service
- contact the FWC .

You can also find further information by accessing the A-Z topic list on HRWeb.

9. Further application

The Department encourages school councils to use this Policy for volunteers, school council employees and contractors.

10. Legislation and related policies

There is a range of legislation and related policies available which can be accessed on the Equal Opportunity page on A-Z HRWeb.