Workplace Bullying

Policy last updated

15 June 2020

Scope

- Schools

Date: March 2020

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Policy

Policy

This policy outlines the requirements to prevent workplace bullying.

Summary

- The Occupational Health and Safety (OHS) Act (2004) (Vic) <https://www.legislation.vic.gov.au/in-force/acts/occupational-health-and-safety-act-2004> requires the department to provide a working environment that is, so far as is reasonably practicable, safe and without risk to health. Under the OHS Act 2004, reference to health includes psychological health.
- The department is committed to providing a safe working environment without risks to health where all employees are treated with dignity and respect.
- Bullying will not be tolerated in any of the department's workplaces.
- Principals and/or their delegate are responsible to ensure that systems of work are implemented to prevent the risk of bullying and reviewing and evaluating those work systems to ensure their effectiveness.
- Principals and/or their delegate are responsible for ensuring that employees are aware of their responsibilities to take reasonable care for their own health, safety and wellbeing while at work and ensure that their acts or omissions do not adversely affect the health, safety and wellbeing of others.
- Under the OHS Act 2004, employees while at work must take reasonable care for their own health and safety and the safety of others who may be affected by their actions or omissions.
- Central and regional offices provide a range of supports and services to assist principals and employees to be safe and well, including access to the OHS Advisory Service and local regional officers who can provide free advice on how to manage workplace bullying.
- The Workplace Bullying Procedure <http://www2.education.vic.gov.au/pal/workplace-bullying/procedure> (in the Procedure tab), must be followed, and sets out the practical step-by-step instructions for implementing this policy.
- This Policy forms part of the department's OHS Management System, see OHS Management System (OHSMS) Overview <http://www2.education.vic.gov.au/pal/occupational-health-safety-wellbeing-management/policy> for further information.

Details

The principal and/or their delegate must ensure that they:

- promote and model the department's values
- understand what constitutes bullying and know how to prevent or respond to bullying
- establish and maintain an environment where employees can conduct their daily work in a safe manner and where employees feel comfortable raising concerns relating to bullying or behaviour that causes a risk to health and/or safety

- identify behaviour that may amount to bullying and take prompt action to address the behaviour
- if the behaviour involves violence or a threat of violence, contact Victoria Police
- consult and communicate with employees and Health and Safety Representatives (HSRs) on decisions and changes that may affect their health and safety
- clearly define and agree to employee responsibilities and accountabilities
- provide adequate resources and information for employees to enable them to perform their role
- facilitate teamwork and cooperation
- respond to concerns in a timely manner
- adhere to the department's Complaints, Unsatisfactory Performance and Misconduct Guidelines <http://www2.education.vic.gov.au/pal/complaints-misconduct-and-unsatisfactory-performance/overview> when managing a bullying complaint
- encourage reporting on eduSafe Plus <https://services.educationapps.vic.gov.au/edusafeplus> (staff login required) and close out reported incidents
- make employees aware of available support services – for example, Employee Assistance Program <http://www2.education.vic.gov.au/pal/occupational-health-safety-wellbeing-management/guidance/expert-supports>
- handle all discussions, communications and actions with sensitivity and confidentiality.

The principal and/or their delegate must ensure that employees are aware that if they are experiencing bullying they must:

- raise matters of concern at an early stage and actively participate in the complaint management process if necessary
- provide specific information regarding the perceived or alleged bullying in a form that enables the allegation to be considered and managed accordingly
- maintain confidentiality and not discuss or release information relating to a bullying complaint to any third party who has no legitimate involvement in the process
- ensure that any allegations relating to bullying are made honestly and not vexatiously or maliciously, or to impede legitimate managerial action
- cooperate with any complaint procedure in a timely and professional manner.

Definitions

Bullying
Defined as repeated behaviour and unreasonable behaviour directed towards or from an employee or group of employees that creates a risk to health and safety.

Repeated behaviour
Refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

Unreasonable behaviour
Behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Workplaces
Any department premises or facilities where department business is conducted. The workplace is not restricted to our physical workplaces.

The workplace:

- extends beyond the physical boundaries of the workplace
- extends beyond the set times of work
- includes interaction with other organisations and the public (where the individual may be seen as representing the organisation e.g. in uniform, online social media platforms, etc)
- includes interaction between employees in a social context – for example, Christmas parties, fundraisers and employees farewells. It may also include interactions outside of work – for example, a workmate's barbeque, especially if it impacts on relationships and behaviours within the workplace.

The workplace can extend to any situation where there is interaction with people at work (especially when the interaction has a negative impact on relationships at work).

Related policies

- OHS Consultation and Communication <http://www2.education.vic.gov.au/pal/ohs-consultation-communication/policy>
- OHS Management System (OHSMS) Overview <http://www2.education.vic.gov.au/pal/occupational-health-safety-wellbeing-management/policy>

Relevant legislation

- Charter of Human Rights and Responsibilities Act 2006 (Vic) <https://www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006>
- Equal Opportunity Act 2010 (Vic) <https://www.legislation.vic.gov.au/in-force/acts/equal-opportunity-act-2010>
- Fair Work Act 2009 (Cth) <https://www.legislation.gov.au/Details/C2019C00270>
- Occupational Health and Safety Act 2004 (Vic) <https://www.legislation.vic.gov.au/in-force/acts/occupational-health-and-safety-act-2004>

Procedure

Workplace Bullying Procedure

The Workplace Bullying Procedure must be followed, and sets out the practical step-by-step instructions for implementing the Workplace Bullying Policy.

It contains the following chapters:

1. What is bullying?
2. What isn't bullying
3. Responsibilities of the Department
4. How to report bullying
5. Responding to reports of bullying
6. Support and assistance
7. Further application
8. Legislation, codes of practice, standards and guidance

1 What is bullying?

1 What is bullying?

Bullying is repeated, unreasonable behaviour directed towards or from an employee or group of employees that creates a risk to health and safety.

Bullying may be either direct or indirect and can be carried out verbally, physically or in writing (e.g. via email, social media, instant messaging and text messaging). Some examples of behaviour that may amount to bullying include:

- abusive, aggressive or intimidating conduct
- making belittling or humiliating comments
- spreading malicious rumours or misinformation
- teasing or practical jokes
- deliberately excluding someone from work-related activities or events
- unreasonable work expectations, including providing excessive or insufficient workload or setting work below or beyond a worker's skill level
- withholding or denying access to information or resources necessary to perform work functions
- displaying offensive material
- pressure to behave in an inappropriate manner

In some cases, bullying behaviours may amount to a criminal offence in Victoria.

Bullying is contrary to the Department's Values and may lead to action under the Guidelines for Managing Complaints, Misconduct and Unsatisfactory Performance (Teaching) <http://www2.education.vic.gov.au/pal/complaints-misconduct-and-unsatisfactory-performance/policy-and-guidelines> .

2 What isn’t bullying

2 What isn’t bullying

Reasonable management actions carried out in a reasonable manner do not constitute bullying. Some examples of reasonable management action include:

- setting reasonable performance goals, standards and deadlines
- allocating work
- rostering and allocating working hours
- failing to select and promote an employee, or informing an employee that their performance is unsatisfactory, in accordance with the Department’s policies
- taking action in relation to unsatisfactory work performance i.e. disciplinary action, or terminating employment

3 Responsibilities of the Department

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The Department recognises its obligations under Occupational Health and Safety (OHS) Act 2004 (Vic) <https://www.legislation.vic.gov.au/in-force/acts/occupational-health-and-safety-act-2004> to provide and maintain a safe working environment so far as is reasonably practicable, safe and without risk to health. Under the OHS Act 2004, reference to health includes psychological health.

The Department is committed to:

- ensuring that there are clear processes in place for raising grievances and complaints
- clearly communicating and promoting these processes amongst staff
- monitoring the implementation of the Workplace Bullying Policy
- identifying potential risk factors and taking prompt, reasonable action to minimise those risks including:
    - managing organisational change in an inclusive and participatory way —consult with employees affected as early as possible and develop and maintain effective communication throughout the change process
    - implementing work systems to prevent the risk of bullying and reviewing and evaluating those work systems —for example, review resource availability and seek feedback from employees through the People Matter Survey and School Climate Survey
- promoting positive working relationships in the Department's workplaces
- ensuring the accessible provision of information and training as necessary to support the effective implementation of the Workplace Bullying Policy
- reviewing the Workplace Bullying Policy and this Procedure every two years or earlier, as required and communicating any changes or updates to the Policy and Procedure across the workforce

3.1 Responsibilities of principals or their delegates

It is the role of the principal and/or their delegate to:

- promote and model the Department's Values
- understand what constitutes bullying and know how to prevent or respond to bullying
- establish and maintain an environment where employees can conduct their daily work in a safe manner and where employees feel comfortable raising concerns relating to bullying or behaviour that causes a risk to health and/or safety
- identify behaviour that may amount to bullying, and take prompt action to address the behaviour. If the behaviour involves violence or a threat of violence, contact Victoria Police
- consult and communicate with employees and Health and Safety Representatives (HSR) on decisions and changes that may affect their health and safety
- ensure staff responsibilities and accountabilities are clearly defined and agreed to
- ensure availability of adequate resources and information for employees to enable them to perform their role
- facilitate teamwork and cooperation
- respond to concerns in a timely manner
- adhere to the Department's Guidelines for Managing Complaints, Misconduct and Unsatisfactory Performance (Teaching) <http://www2.education.vic.gov.au/pal/complaints-misconduct-and-unsatisfactory-performance/policy-and-guidelines> when managing a bullying complaint
- encourage reporting on eduSafe Plus <https://services.educationapps.vic.gov.au/edusafeplus> (staff login required) and close out reported incidents
- ensure employees are aware of available support services e.g. Employee Assistance Program <http://www2.education.vic.gov.au/pal/occupational-health-safety-wellbeing-management/guidance/expert-supports>
- ensure that all discussions, communications and actions are handled with sensitivity and confidentiality.

3.2 Responsibilities of employees

The principal and/or their delegate in consultation with HSR must ensure that all employees are aware that they must take reasonable care for their own health, safety and wellbeing while at work and ensure that their acts or omissions do not adversely affect the health, safety and wellbeing of others.

It is the responsibility of employees who believe they are experiencing bullying to:

- raise matters of concern at an early stage and actively participate in the complaint management process if necessary

- provide specific information regarding the perceived or alleged bullying in a form that enables the allegation to be considered and managed accordingly
- maintain confidentiality and not discuss or release information relating to a bullying complaint to any third party who has no legitimate involvement in the process
- ensure that any allegations relating to bullying are made honestly and not vexatiously or maliciously, or to impede legitimate managerial action
- cooperate with any complaint procedure in a timely and professional manner

4 How to report bullying

4 How to report bullying

If an employee believes they are experiencing or witnessing bullying, the first priority is to seek support listed in Chapter 6 Support and assistance <http://www2.education.vic.gov.au/pal/workplace-bullying/procedure/6-support-and-assistance> .

The following steps provide a guide for employees on reporting bullying:

- The employee can discuss and/or report the behaviour to the principal or their delegate. If the behaviour relates to the principal or their delegate, the employee can raise the matter with their HSR. When raising the matter, it is often useful to communicate directly about their experience. The employee can also report it through eduSafe Plus <https://services.educationapps.vic.gov.au/edusafeplus> (staff login required).
- With the principal's or delegate's support, the employee may wish to use informal avenues to discuss and resolve the issues. For instance, they may wish to speak about the behaviour with the person directly, with support the principal or their delegate and/or HSR.
- The employee may also wish to lodge a formal complaint of bullying. Lodging a complaint will mean that their allegations are properly considered, with an outcome provided to the employee. Based on the allegations, the principal or their delegate will run a process to examine the allegations and allow the person to respond to your allegations. The employee's complaint should contain specific allegations of behaviour that the employee believe is bullying. It is always best to lodge the complaint in writing.
- The employee can also report bullying anonymously, although this will limit the principal's ability to examine the allegations and take action.

5 Responding to reports of bullying

5 Responding to reports of bullying

A complaint of bullying behaviour is to be managed in accordance with the Department's Guidelines for Managing Complaints, Misconduct and Unsatisfactory Performance (Teaching) <http://www2.education.vic.gov.au/pal/complaints-misconduct-and-unsatisfactory-performance/policy-and-guidelines> .

These guidelines set out the Department's complaints resolution process and processes for managing misconduct including in relation to bullying.

A principal and/or their delegate who receives a complaint of bullying can seek advice from the Employee Conduct Branch as to the appropriate procedure to manage it.

Bullying is misconduct and allegations of bullying will generally warrant the commencement of disciplinary proceedings. In some instances it may be appropriate to manage allegations through complaint resolution procedures but advice should be sought from the Employee Conduct Branch in order to make that judgement.

6 Support and assistance

6 Support and assistance

Support is available to all employees, principals and their delegates involved in reporting and managing a bullying complaint, including after the matter has been resolved.

Employees can seek support from their Health and Safety Representative (HSR), Union Representative as well as the Department services:

- Employee Assistance Program <http://www2.education.vic.gov.au/pal/occupational-health-safety-wellbeing-management/guidance/expert-supports>
- Conflict Resolution Support Service <http://www2.education.vic.gov.au/pal/occupational-health-and-safety-management-system-ohsms/guidance/supports-ohs-incidents>

Further information, advice or assistance on any matters related to workplace bullying is available by contacting the:

- OHS Advisory Service on 1300 074 725 or email safety@education.vic.gov.au <mailto:safety@education.vic.gov.au>
- People and Culture Unit by email people.matter@education.vic.gov.au <mailto:people.matter@education.vic.gov.au>
- Employee Conduct Branch on 03 9637 2495 or by email employee.conduct@education.vic.gov.au <mailto:employee.conduct@education.vic.gov.au > for information on the managing or reporting of allegations of bullying

7 Further application

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The Department encourages the Workplace Bullying Policy to be used by principals or their delegates for volunteers, school council employees and contractors.

8 Legislation, codes of practice, standards and guidance

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Related legislation

- Charter of Human Rights and Responsibilities Act 2006 (Vic) <https://www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006>
- Equal Opportunity Act 2010 (Vic) <https://www.legislation.vic.gov.au/in-force/acts/equal-opportunity-act-2010>
- Fair Work Act 2009 (Cth) <https://www.legislation.gov.au/Details/C2019C00270>
- Occupational Health and Safety Act 2004 (Vic) <https://www.legislation.vic.gov.au/in-force/acts/occupational-health-and-safety-act-2004>

Resources

Resources

- Inclusive Workplaces Guide (PDF) <https://www.education.vic.gov.au/hrweb/Documents/InclusiveWorkplacesGuide.pdf>
- Inclusive Workplaces Guide (Word) <https://www.education.vic.gov.au/hrweb/Documents/InclusiveWorkplacesGuide.docx>