



Department of
Education

Equal Opportunity, Discrimination and Harassment Procedures

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Version: 3.4

Accurate at the time of printing 12/08/2021.

These procedures must be read in conjunction with the Equal Opportunity, Discrimination and Harassment Policy.

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These procedures must be read in conjunction with the Equal Opportunity, Discrimination and Harassment Policy.

1. Policy supported

Equal Opportunity, Discrimination and Harassment Policy

2. Scope

These procedures apply to all employees.

Guidance

This policy applies to all worksites, including off-site and after-hours work-related activities such as training courses, conferences, telephone calls, emails, social media and social functions.

3. Procedures

3.1 Responsibilities of Executive Directors, Directors of Education and Directors

Executive Directors, Directors of Education and Directors will:

- demonstrate professional and ethical behaviour;
- provide strategic leadership and system-level implementation of measures to facilitate and promote equal employment opportunity; and the provision of goods, services and facilities, work and learning environments that are free of discrimination and harassment;
- inform principals and line managers of their responsibilities under the Equal Opportunity Act 1984, related legislation and policies and the Department's Equity and Diversity Management Plan; and
- respond to grievances related to this policy if:
 - grievances have not been resolved at the school or worksite;
 - the principal or line manager is the subject of the grievance; and
 - the principal or line manager has a conflict of interest.

Guidance

Vicarious liability may apply under the [Equal Opportunity Act 1984](#) for acts of unlawful discrimination and harassment by employees if it can be shown that the employer did not take all reasonable steps to prevent the employee from doing unlawful acts.

The perception of employees' inclusive behaviour and respect for people from diversity groups is monitored by the annual Public Sector Commission's Employee Perception Survey, by the number of complaints lodged with the Equal Opportunity Commission and the Australian Human Rights Commission, and by matters raised through the Department's Standards and Integrity directorate.

Equal opportunity matters are dealt with under the Department's [Grievance Framework](#).

Information and support resources:

- Appendix A – Legislation and Grounds of Discrimination; and
- Appendix B – Support Resources.

3.2 Responsibilities of Principals and Line Managers

Principals and line managers will:

- demonstrate professional, ethical and inclusive behaviour;
- address equal opportunity, discrimination and harassment in work and learning environments by:
 - informing employees of relevant legislation, policies and support services in an induction process and as required during their employment;
 - monitoring the workplace for inappropriate conduct and address any occurrences;
 - implementing strategies and review, where necessary, relevant workplace practices to prevent and address issues for students and employees;
 - responding promptly to allegations or incidents involving students, employees and visitors (including contractors, parents/carers, volunteers, visitors and community members);
 - facilitating grievance resolution; and
- report incidents of discrimination, harassment and victimisation that may constitute employee misconduct to Standards and Integrity.

Guidance

Vicarious liability may apply under the [Equal Opportunity Act 1984](#) for acts of unlawful discrimination and harassment by employees if it can be shown that the employer did not take all reasonable steps to prevent the employee from doing unlawful acts.

Equal opportunity matters are dealt with under the Department's [Grievance Framework](#).

Information and support resources:

- Appendix A – Legislation and Grounds of Discrimination; and
- Appendix B – Support Resources.

3.2.1 Equal opportunity and accommodating special needs

Principals and line managers will:

- provide equal opportunity and access to facilities, services or opportunities to meet special needs or overcome barriers to employment and education, where reasonable and practicable;
- make reasonable adjustments for persons with disability in the recruitment process and/or school or work environment;
- maintain confidentiality of information relating to a person's impairment/disability in the recruitment process and workplace, unless the employee gives written consent to disclose information to their colleagues; and
- accommodate students and staff who request to bring their child/children into the school or workplace in exceptional circumstances, where possible, after considering factors in Appendix D.

Guidance

The [Equal Opportunity Act 1984](#) recognises that it is not unlawful to discriminate in favour of a particular group of people on the grounds of sex, marital status, pregnancy, breastfeeding, sexual orientation, race, age, impairment and family responsibility or status by implementing special measures intended to achieve equality. Providing for special needs of a person on these grounds is in the context of employment, education, training or welfare.

The [Disability Discrimination Act 1992](#) prescribes the [Disability Standards for Education 2005](#) that provides information and guidance for education providers about their obligations and the rights of students with disability and their families. Online [professional learning](#) (staff only) is available for staff.

The [Sex Discrimination Act 1984](#) applies to students and allows for special measures to achieve substantive equality on the grounds of gender identity, intersex status and relationship status.

Resources relating to accommodating special needs are at Appendix B – Support Resources.

3.2.2 Additional responsibilities of Principals

Principals will:

- provide leadership that promotes equity, diversity and inclusivity in the teaching and learning program and within the school community;
- report all actual or alleged incidents of sexual harassment of students by employees to Standards and Integrity in accordance with the Child Protection in Department of Education Sites; and
- respond to any allegations or incidents of sexual harassment of employees by students

Guidance

Students' and employees' legal rights to work and learning environments free of discrimination and harassment is promoted by the principal within the school community.

The Equal Opportunity Act 1984 does not apply to student-to-student or student-to-staff sexual harassment. School-based behaviour support strategies, in the context of the Student Behaviour in Public Schools Policy, are used to address student behaviour involving student-to-student and student-to-staff sexual harassment.

Under the Sex Discrimination Act 1984 it is unlawful for a student 16 years or older to sexually harass another student or staff member. Students and employees can lodge a sexual harassment complaint with the Australian Human Rights Commission.

Principals should provide teachers with professional learning that enables:

- countering of racism and discrimination in teaching and learning programs and management of student behaviour;
- strengthening mutual respect and understanding between Aboriginal and Torres Strait Islander people and non-Aboriginal and Torres Strait Islander people to promote reconciliation; and
- integrating knowledge and perspectives of Aboriginal and Torres Strait Islander people, as well as people from other culturally and linguistically diverse backgrounds, into teaching and learning programs.

The Aboriginal Cultural Standards Framework sets expected standards for all staff when working with Aboriginal students, their parents and families, and communities.

The online Aboriginal Cultural Appreciation course assists staff build their understanding of Aboriginal perspectives and develop relationships with Aboriginal students and their families. The course is available for employees via the Department's Professional Learning tab on Ikou (staff only).

3.3 Responsibilities of employees

All employees will:

- demonstrate professional, ethical and inclusive behaviour;
- report incidents of discrimination or harassment to their principal or line manager (or their

superordinate, if the principal or line manager is the subject of the grievance) where personal resolution of the issue is not suitable or possible;

- participate in grievance resolution processes and investigations and comply with resolution agreements or decisions;
- maintain confidentiality in relation to a grievance, with information only divulged to those involved in the grievance process;
- report incidents of sexual harassment of employees by students to the principal;
- seek approval from their principal or line manager prior to bringing their child/children into the workplace in exceptional circumstances; and
- discuss workplace adjustments or accommodation of special needs related to the grounds of discrimination with their principal or line manager.

Guidance

Confidentiality requirements do not prevent employees from seeking advice or discussing the matter with a support person or counsellor.

- Staff with an impairment or disability can access information about workplace support, adjustments and [funding assistance](#) (staff only) from their principal or line manager and [recruit and employ people with disability](#) (staff only).
- Appendix B provides information related to:
 - the [Family and Domestic Violence Leave Guidelines](#) that outline additional leave
 - provisions and support for staff experiencing family and domestic violence
 - [breastfeeding at work](#) (staff only)
 - [Employee Assistance Program](#) (staff only)
 - [Grievance Framework](#) – includes resolution options and support for staff.
- [Equal Opportunity Contact Officers](#) support staff with information about equal opportunity matters and grievance processes within the context of workplace discrimination, harassment and bullying – see Appendix C.
- Appendix D provides information related to bringing children into the workplace in exceptional circumstances.

Expected standards of professional and ethical behaviour are detailed in the Department's:

- [Code of Conduct and Standards](#) (staff only);
- [Bullying in the Workplace Policy](#); and

- Staff Conduct and Discipline Policy.

Under the Equal Opportunity Act 1984:

- confidentiality of sexual harassment complaints in education and employment is required (section 165);
- providing false or misleading information is unlawful (section 159); and
- victimising a complainant or witness is unlawful (section 67).

4. Definitions

Discrimination

Direct discrimination is when a person is treated less favourably than another person, in the same or similar circumstances, on one or more of the grounds and in one of the areas of public life covered by the Equal Opportunity Act 1984.

Indirect discrimination occurs when an apparently neutral rule, policy, practice or procedure has a negative effect on a substantially higher proportion of people with a particular attribute or characteristic compared to people without the attribute/characteristic, and the rule is unreasonable in the circumstances.

Refer to Appendix A for the grounds of discrimination.

Diversity

A term used to acknowledge differences between people in the community and where work practices are adapted to create an inclusive environment in which those differences are valued.

Equal employment opportunity

The process by which all existing and potential employees are treated fairly and equitably, and based only on their particular skills and attributes in regard to their capacity to perform a job.

Grievance

An issue, concern or complaint raised by an employee that relates to actions or behaviour of another employee, a part of the organisation, a policy or a decision.

Impairment (Disability)

A current, past or assumed physical, intellectual or mental disability.

Specific definitions are available in section 4 of the:

- [Equal Opportunity Act 1984](#) under impairment; and
- [Disability Discrimination Act 1992](#) under disability

Racial harassment

Racial harassment is unlawful under the Equal Opportunity Act when a person threatens, abuses, insults or taunts another person because of his or her race, and that other person is disadvantaged, or has reasonable grounds for believing that he or she will be disadvantaged, by taking objection. Racial harassment is unlawful in the areas of employment, education, and accommodation.

Sexual harassment

Sexual harassment under the Equal Opportunity Act occurs when a person makes an unwelcome sexual advance or request for sexual favours, or engages in other unwelcome conduct of a sexual nature, towards another person and that person is disadvantaged, or has reasonable grounds for believing he or she will be disadvantaged, by taking objection. Sexual harassment is unlawful in the areas of employment, education, and accommodation

Superordinate

The person to whom an individual's line manager reports or a more senior manager.

Vicarious liability

Under the Equal Opportunity Act, a person can be held liable for acts of unlawful discrimination and harassment done by an employee or agent, if it can be shown that the person did not take all reasonable steps to prevent the employee or agent from doing the unlawful acts.

Victimisation

Victimisation includes threatening, harassing or punishing a person in any way because they have objected to the discriminatory manner in which they have been treated. It applies to anyone who has made a complaint or intends to make a complaint, and anyone giving evidence about a complaint on behalf of another person.

Workplace bullying

Bullying is repeated, unreasonable or inappropriate behaviour directed towards a worker, or group of workers, that creates a risk to safety and health.

5. Related documents

Relevant legislation or authority

[Age Discrimination Act 2004](#)

[Australian Human Rights Commission Act 1986](#)

[Australian Human Rights Commission Regulations 1989](#)

[Criminal Code Act Compilation Act 1913](#)

[Disability Discrimination Act 1992](#)

[Disability Services Act 1993](#)

[Disability Standards for Education 2005](#)

[Equal Opportunity Act 1984](#)

[Occupational Safety and Health Act 1984](#)

[Public Interest Disclosure Act 2003](#)

[Public Sector Management Act 1994](#)

[Racial Discrimination Act 1975](#)

[Sex Discrimination Act 1984](#)

[Spent Convictions Act 1988](#)

Related Department policies

[Child Protection in Department of Education Sites](#)

[Disputes and Complaints](#)

[Employee Performance](#)

[Enrolment in Public Schools](#)

[Staff Conduct and Discipline](#)

[Staff Induction](#)

[Student Behaviour in Public Schools](#)

[Bullying in the Workplace](#)

Other documents

[Aboriginal Cultural Standards Framework](#)

[Code of Conduct and Standards \(staff only\)](#)

[Commissioner's Instruction No. 7 - Code of Ethics](#)

[Disability Access and Inclusion Plan](#)

[Equity and Diversity Management Plan 2015-2019](#)

[Family and Domestic Violence Leave Guidelines](#)

[Grievance Framework](#)

[Guidelines for supporting sexuality and gender diversity in schools](#)

[National Disability Strategy 2010-2020](#)

[Part Time Work Guidelines](#)

[Policy Framework for Substantive Equality](#)

[Premier's Circular 2017/07 Family and Domestic Violence – Paid Leave and Workplace Support](#)

[Public Sector Commission: Aboriginal and Torres Strait Islander People Action Plan to improve WA Public Sector Employment Outcomes 2020–2025](#)

Public Sector Commission: People with Disability Action Plan to Improve WA Public Sector Employment Outcomes 2020-2025

Public Sector Commissioner's Circular 2017-04 Equal employment opportunity and management plans and workforce planning in the public sector

Public Sector Commission: Workforce Diversification and Inclusion Strategy for WA Public Sector Employment 2020–2025

Public Sector Standards in Human Resource Management

Reconciliation

Strategic directions for public schools 2020-2024

Substantive Equality Guidelines

Support gender and sexually diverse students (staff only)

6. Contact information

Policy manager:

Director, Workforce Policy and Coordination

Policy contact officer:

Manager, Workforce Policy

T: (08) 9264 5081

Other:

Standards and Integrity

T: 1800 655 985

7. History of changes

Effective date	1 April 2014
Last update date Policy version no. Notes	These new procedures support the Equal Opportunity, Discrimination and Harassment policy that replaces the Equal Employment Opportunity/Diversity, Anti-Racism, Workplace Sexual Harassment and Employment of People with Disabilities policies. Corp Ex endorsement 13.2.2014.

Effective date	1 April 2014
Last update date	3 September 2014
Policy version no. Notes	Minor changes to contact information D14/0423587

Effective date	1 April 2014
Last update date	19 December 2014
Policy version no. Notes	Minor changes to contact information D14/0556672

Effective date	1 April 2014
Last update date	22 January 2016
Policy version no. Notes	Minor changes to guidance in ss3.2, 3.3, 3.4, definitions, contact information, appendices and updated links D16/0025669

Effective date	1 April 2014
Last update date	9 March 2017
Policy version no. Notes	Minor changes to replace references to Substantive Equality Policy with Substantive Equality Guidelines and updated links D17/0104478

Effective date	8 May 2018
Last update date Policy version no. Notes	These procedures support the Equal Opportunity, Discrimination and Harassment policy which has undergone a major review. Endorsed by the Director General at Corporate Executive on 4 April 2018.

Effective date	8 May 2018
Last update date	22 April 2020
Policy version no. Notes	Minor changes to update links, related documents and include additional guidance information. D20/0201954

Effective date	8 May 2018
Last update date	15 January 2021
Policy version no. Notes	Minor changes to replace the Regional Executive Director position title with Director of Education D20/0647278.

Effective date	8 May 2018
Last update date	9 August 2021
Policy version no. Notes	Minor changes to update links, related documents and guidance information. D21/0436131

8. Appendices

Appendix A: [Legislation and grounds of discrimination](#) (PDF file - 30kB)

Appendix B: [Support resources](#) (PDF file - 33.8kB)

Appendix C: [Role of equal opportunity contact officers](#) (PDF file - 20.5kB)

Appendix D: [Family responsibility - children in the workplace guidelines](#) (PDF file - 20.1kB)

9. More information

Supporting content

Policy

[Equal Opportunity, Discrimination and Harassment Policy](#)

Procedure review date

8 May 2021

Procedure last updated

9 August 2021