



Global Educators

Melbourne - Australia

Equal Employment Opportunity and Discrimination Policy

This database of policies and procedures contains the current, official version of policies and associated procedures. Printing a policy or procedure or transferring a policy or procedure into another electronic format will result in the document being an uncontrolled copy that might not be current.

Purpose

To provide employees and prospective employees with an environment which is free from discrimination and to provide a framework for reporting and handling complaints in relation to discrimination.

Scope

This policy applies to all employees and prospective employees of the Institute and to all aspects of employment, employment conditions and benefits. The policy also applies in circumstances where employees are engaged in work related activities off site and after hours. The policy also applies in respect to independent contractors whilst they are providing services to Box Hill Institute.

Policy

Box Hill Institute is committed to ensuring that all people have equal access to employment subject to them meeting qualification and key selection criteria requirements for specified positions, and once employed, to training, development and promotion. Relative merit (ability and skills to do the job) is the only criterion for recruitment, selection and promotion.

Equal opportunity applies to all aspects of the employment including: recruitment, promotion, employee benefits and conditions of employment, remuneration, transfer, discipline, training, work environment, supervision, retrenchment and dismissal.

It is against the law to treat a person less favourably because of a personal attribute protected under Federal and Victorian equal opportunity and anti-discrimination laws. Discrimination can occur by directly treating someone less favourably because of these attributes. However, in some cases, treating everybody the same way may also be unfair, and this is known as indirect discrimination.

Unlawful discrimination towards colleagues, students, clients or customers will not be tolerated, and discipline may result if it is proven that discrimination has occurred.

An employee who considers that they have been discriminated against may, within a period of twelve months, raise their concern in the following ways:

- Informally by speaking directly to the other party or by raising the matter with their Manager or the Workplace Support Manager and requesting assistance in making a direct request for the behaviour to cease. In such cases no formal

record will be made of the matter however if the behaviour reoccurs, details of the informal proceedings may be referred to in a subsequent formal complaint.

- Formally, by lodging a written and signed complaint with the Executive Director Organisation Development (EDOD) in relation to the alleged discriminatory behaviour. Where a formal complaint is lodged the matter will be investigated and the findings of the investigation recorded and retained in accordance with the Collection, Storage and Access to Employee Information Policy and Procedure.

A formal investigation of the alleged discrimination will be conducted by a suitably skilled and independent investigator. An investigation will be undertaken in accordance with the principles of natural justice and will be undertaken confidentially and as expeditiously as possible. The report of an investigator will be provided to the EDOD who will initiate actions to resolve the matter having regard to the recommendations of the investigator.

In the case of allegations of discrimination by Executive/Centre Managers or members of the Executive Management Team that have been subject to formal investigation, the EDOD will provide the investigation report and recommendations for further action to the Chief Executive Officer (CEO) for decision making.

Where a complaint is sent directly to the Chair of the Board or another Board member (other than an grievance against processes which have been exhausted), the matter will be referred to the EDOD for appropriate action in accordance with the relevant policy and procedure.

In the case of allegations of discrimination by the EDOD, the matter will be handled by the CEO or his/her delegate.

In the case of allegations of discrimination by the CEO the matter will be handled by the Chair of the Board.

A range of strategies for resolution may be considered including (but not limited to the following):

- Agreement by the employee that the behaviour will cease;
- Conduct of a general awareness program for staff;
- A mediated discussion between the parties in an attempt to reach an agreed outcome
- Counselling and support to the parties involved in the matter;
- Relocation of one of the parties to another work location;
- Referral of the matter for formal disciplinary action under the Institute's discipline procedures.

An employee has the right to take the matter to an external agency (such as the Human Rights and Equal Opportunity Commission) or a union however it is desirable that internal processes be followed as a first step.

Definitions

Personal attributes covered by Victorian and Federal equal opportunity and anti-discrimination laws are as follows:

- Age
- Breastfeeding
- Carer status
- Disability/Impairment
- Gender identity
- Industrial activity
- Irrelevant criminal record
- Lawful sexual activity
- Marital status
- Parental status
- Physical features
- Political belief or activity
- Pregnancy
- Race, colour, nationality, social or ethnic origin
- Religious belief or activity
- Sex
- Sexual Orientation
- Personal association with a person with any of the listed attributes

Unlawful discrimination occurs when a person is treated less favourably because of a personal attribute they have which is covered by Victorian or Federal equal opportunity laws. If a person is disadvantaged due to one of these attributes, which is irrelevant to their capacity to do the job, then discrimination has occurred. This is true even if there was no intention to discriminate. Discrimination may either be:

- Direct discrimination, which occurs when a person is treated less favourably on the basis of a personal attribute or characteristic that they may possess such as their age group or racial group.
- Indirect discrimination, which occurs when unequal treatment results from a policy, procedure, rule or practice which appears to (on face value) treat everyone equally, but which has the effect of disadvantaging certain groups and is not reasonable in the circumstances. In other words, there is a fair intention but a discriminatory outcome. Indirect discrimination is sometimes called hidden or covert discrimination.

Support Person may be a trusted colleague or a representative of the union of which the employee is eligible to be a member. A legal representative may not act in

their legal capacity on behalf of a complainant as part of these processes. A support person advises and supports the employee, but does not speak on behalf of, or answer questions for the employee they are supporting.

Code of Conduct

All staff are expected to conduct themselves in a manner consistent with the Code of Conduct for the Victorian Public Sector and in accordance with the Box Hill Institute Code of Conduct for Staff.

Principles

The Institute is committed to providing all employees with equal opportunity during all aspects of the employment relationship.

Personal attributes or characteristics covered by Victorian and Federal law will not be taken into account when employment decisions are made.

Equal Opportunity and Discrimination training will be provided to employees.

Whenever necessary, possible and reasonable, appropriate adjustments to the work environment will be made to accommodate a person's disability. This is commonly referred to as 'reasonable adjustment'.

No employee or prospective employee will be discriminated against because of any of the personal attributes or characteristics covered by Victorian and Federal law.

Discrimination will not be tolerated and where a formal complaint of discrimination is substantiated disciplinary action will be taken against those responsible.

Employees and prospective employees have a right to raise concerns through this policy and procedure when they believe that the behaviour of another employee has been inappropriate.

The complaint process must be implemented as early as possible and should be resolved within a reasonable timeframe.

The principles of procedural fairness and natural justice will be observed. Procedural fairness and natural justice consists of the following:

- A person must be allowed an adequate opportunity to present their case. The respondent should be given prior notice of the allegations with appropriate details, and the opportunity to respond to the allegations.
- The person who is alleged to have engaged in discrimination must be regarded as being innocent unless the allegations are proved to be true.
- Investigators and decision-makers must act without bias, declare any conflicts of interest, and where appropriate exclude themselves in all procedures connected with the making of a decision. A decision-maker must be impartial and must make a decision based on a balanced and considered assessment of the information and evidence before him or her without favouring one party over another.
- Decisions must be based upon verifiable evidence, judged on the basis of a balance of probability rather than on speculation or suspicion. A decision maker should be able to clearly point to the evidence on which the inference or

determination is based.

The confidentiality of affected individuals must be maintained. Disclosure of information related to a grievance will be limited to those who have a legitimate involvement in the grievance resolution process, and only to the extent required.

Both the complainant and respondent to a complaint are entitled to have a support person present during any interviews associated with the complaints process.

Victimisation towards a person who makes a complaint or has furnished evidence or information in relation to a grievance is unacceptable and will be treated in the same way as the complaint itself.

Where a complaint is found to be frivolous, vexatious, misconceived or lacking in substance the Institute will advise the complainant that further action will not be taken under this policy. This does not preclude the Institute developing an alternative strategy to deal with the complainant's expressed concerns.

Responsibilities

Employees are required to:

- participate in training to provide them with an awareness that discrimination is unacceptable
- ensure that they do not discriminate against others
- avoid aiding, abetting or encouraging other persons to discriminate
- act to prevent discrimination in the workplace
- treat colleagues, students, clients or customers fairly, equally, and with respect
- be open, honest and transparent when making decisions or providing advice or service
- recognise and respect the skills and talents of others
- recognise cultural and social differences of colleagues, students, clients or customers.
- where they are the victim of alleged discrimination, inform the alleged discriminator of their concern over the behaviour, if this is possible and/or appropriate, and request that such behaviour ceases immediately;
- where alleged discrimination cannot be resolved by the staff member as above report incidents of alleged discrimination to their supervisor or, if appropriate, the next level supervisor or, the Workplace Support Manager;
- where they witness discriminatory behaviour, provide appropriate support to their colleagues and where appropriate raise the matter with the person who is discriminating against others or with the relevant manager.
- cooperate with any investigation or workplace programs designed to address discrimination.

Managers in addition to the requirements for an employee are also required to:

- be aware of, identify, and where possible, prevent discrimination in the workplace;
- ensure that where discriminatory behaviour is observed appropriate action is taken regardless of whether a complaint is received about that behaviour;
- encourage all staff to behave in accordance with the principles of equal opportunity and anti discrimination;
- provide leadership and role modeling in relation to appropriate and professional behaviour in the workplace; and
- respond promptly, sensitively and confidentially to all situations where inappropriate behaviour is exhibited or alleged to have occurred.
- provide and maintain as far as is practicable a working environment for employees that values staff diversity, abilities and contributions and is free from discrimination

Records

Any documents produced or gathered will be handled and retained in accordance with the Collection Storage and Access to Employee Information Policy and Procedure.

References and Compliance Requirements

- Public Administration Act 2004
- Code of Conduct for the Victorian Public Sector
- Box Hill institute of TAFE Code of Conduct
- Age Discrimination Act 2004 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Equal Opportunity for Women in the Workplace Act 1999 (Cth)
- Victoria Equal Opportunity Act 2004(Vic)
- Racial and Religious Tolerance Act 2001 (Vic)
- Charter of Human Rights and Responsibilities Act 2006

Related Documents

[Equal Employment Opportunity and Discrimination Procedure](#)

[Employee Discipline Policy](#)

[Employee Discipline Procedure](#)

[Workplace Bullying Policy](#)

[Workplace Bullying Procedure](#)

[Workplace Support Policy](#)

Workplace Support Procedure

Review

This policy must be reviewed no later than **five (5)** years from the date of endorsement. The policy will remain in force until such time as it has been reviewed and re-approved or rescinded. The policy may be withdrawn or amended as part of continuous improvement prior to the scheduled review date.

DOCUMENT CONTROL

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