Bullying and Harassment Policy and Procedure

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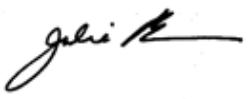
Responsible person CEO	Mark Favetta	Signature	Date: 21/09/22
Approved by the Board:			
On behalf of the Board	Julie Hodgkins President	Signature 	Date: 21/09/22
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Basic Beliefs/Purpose

Diamond Valley Learning Centre (DVLC) is committed to providing a safe, flexible and respectful working and learning environment that is free from discrimination, harassment, bullying or unreasonable behaviours. DVLC seeks to promote an environment where people are treated with dignity, courtesy and respect, and where complaints of bullying or harassment are addressed in a timely, fair and confidential manner.

Scope

This policy applies to DVLC staff, students, volunteers and Board members. It applies to behaviour which occurs:

- during work or learning activities;
- during work or learning-related activities that may occur outside of normal working hours;
- at work and learning-related events; and
- through emails and text messages, and/or on social media, where workers interact with colleagues or students.

Policy Guidelines

DVLC seeks to provide a non-discriminatory workplace and learning environment that fosters positive and professional working relationships between staff, students, volunteers and Board members, and to promote a workplace and learning culture based on courtesy, dignity and respect.

DVLC acknowledges that everyone has a right not to be bullied or harassed at work or in training, and recognises that bullying and harassment may have a range of negative impacts on the work or learning environment.

DVLC expects its staff, students, volunteers and Board members to promote an environment free from bullying and harassment by:

- behaving responsibly and professionally;
- treating others with courtesy and respect;
- listening and responding appropriately to the views and concerns of others;
- being fair and honest with everyone;
- taking reasonable care, under workplace health and safety laws, not to adversely affect the health and safety of others; and
- reporting incidences of bullying or harassment.

Recognising bullying behaviours

Bullying may involve, but is not limited to:

- physical or verbal abuse;
- sarcasm and other forms of demeaning language;
- derogatory or intimidating remarks;
- threats, abuse, shouting or offensive language;
- coercion;
- isolation;
- inappropriate blaming;
- ganging up;
- constant unconstructive criticism;
- deliberately withholding information or equipment needed for work or learning;
- unreasonable refusal of requests for leave, training or other workplace benefits;
- unwelcome and unreasonable behaviour that creates a hostile, uncomfortable, offensive or 'charged' atmosphere leading to stress;
- misuse of relative and / or assumed power;
- taking deliberate advantage of a lack of understanding or knowledge due to inexperience;
- unreasonable demands and impossible targets;
- phone calls, letters or emails which are threatening, abusive or offensive;
- constant, intrusive surveillance or monitoring;
- unnecessary intrusion into the personal relationships of a person;
- restrictive and petty work rules;

- being intentionally overworked and being forced to stay back or perform additional tasks;
- open or implied threats of demotion, dismissal or disciplinary action; and
- emotional blackmail.

Cyberbullying is a particular type of bullying and may include behaviour such as:

- sending threatening or hurtful messages by text, or through social networking sites;
- sending photos and videos of someone to others without permission in order to hurt or embarrass;
- spreading rumours or lies via emails, social networking sites, or text messages;
- trying to stop someone from communicating with others or excluding them from chat groups;
- stealing passwords or logging into someone's accounts and changing the information there; and
- setting up fake profiles pretending to be someone, or posting messages or status updates from someone's accounts.

Harassment may include behaviour such as:

- telling insulting jokes about particular racial groups;
- sending explicit or sexually suggestive emails or text messages;
- displaying racially offensive or pornographic posters, calendars, photos, objects or screensavers;
- making derogatory comments or taunts about a person's disability, and
- asking intrusive questions about someone's personal life, including sex life.

Reasonable actions taken by DVLC managers, supervisors or teachers to direct and control the way work or learning is carried out, including legitimate comments, advice or feedback, should not be confused with bullying, harassment or *discrimination*.

Responding to incidents of bullying and harassment

DVLC will take all reports of bullying seriously, and will investigate all allegations of bullying and harassment. Students, volunteers, DVLC staff and Board members are encouraged to report any bullying behaviour they have experienced or witnessed as soon as possible. Reports of bullying or harassment can be made in confidence to the Chief Executive Officer (CEO), a trusted DVLC staff member or a DVLC Board member.

If a DVLC staff member is notified of alleged bullying behaviour they must:

- complete a Bullying / Harassment Incident Report; and
- notify the CEO who will investigate the situation in a timely and sensitive manner.

When sufficient information has been collected to understand the circumstances of the alleged bullying, the CEO or Board may implement some or all of the following responses:

- professional counselling support for the victim, alleged bully, witnesses or others;
- mediation with an impartial third party;
- ongoing monitoring of the situation, with follow-up action taken if required;
- disciplinary consequences for a student and/or an employee (such as directing them to stop their bullying, requesting an apology, issuing a verbal or written warning, employee transfer, reassignment, demotion or dismissal);
- training, coaching and mentoring for the participants in the alleged behaviour and/or all DVLC staff, volunteers and Board members;
- changed work arrangements, reassessment of workloads and staffing levels;
- review of organisational policies and processes for preventing bullying or unreasonable behaviour; and
- assessment of any other organisational issue that may have contributed to the problem.

Bullying prevention

DVLC has a number of strategies in place to prevent or reduce bullying or harassment, and manage complaints or reports. These include:

- ensuring that all employees, students, volunteers and Board members are aware of the prohibition on bullying and harassment, and of their rights and responsibilities under legislation (e.g. health and safety, workers compensation, anti-discrimination law, equal opportunity). This may occur at induction, through staff meetings and training sessions, and will be documented in DVLC policies and the Student Handbook;

- ensuring that employees are aware of their right to take any *workplace bullying* or harassment complaint to the Fair Work Commission, or another appropriate industrial forum, for resolution by mediation, conciliation or arbitration;

- ensuring that employees, students, and volunteers understand how to report alleged bullying, and what will happen next;

- providing training for employees on recognising and preventing bullying, including risk factors, control measures and recognising any workplace arrangements or workplace cultural activities that are considered normal but may comprise or lead to bullying;

- investigating all alleged bullying and harassment in a sensitive and timely manner, with procedural fairness, confidentiality, and in recognition of the right for union representation;

- ensuring that the investigation process establishes the facts, makes findings, develops recommendations and provides written advice regarding findings to all parties;

- taking appropriate disciplinary action if an employee is found to have breached this policy;

- promoting positive leadership styles by providing training and mentoring for managers and supervisors (such as training on how to effectively manage workloads and performance, manage difficult conversations, or escalate issues);

- maintaining a work culture that facilitates teamwork, consultation and co-operation, including effective communication during workplace changes such as downsizing or restructuring; and

- monitoring and reviewing internal processes to ensure their effectiveness in preventing bullying and harassment. This may be achieved through management meetings, staff meetings, reviews of staff and student complaints, records of sick leave and exit interviews.

Procedure for reporting bullying or unreasonable behaviour

A bullying complaint or report may be made by anyone who:

- experiences bullying, harassment or unreasonable behaviour (refer to definitions); or
- witnesses bullying, harassment or unreasonable behaviour; or
- is uncomfortable with dealing with a problem / has been unsuccessful at dealing with a problem related to bullying, harassment or unreasonable behaviour.

1. Urgently report this problem to your teacher (students) or manager (employees). Your report will be taken seriously. If your report is verbal, you may be asked to complete a bullying / harassment incident report. If the incident implicates your teacher or manager, report it directly and urgently to the next level manager or the CEO. If the CEO is implicated in the problem, please urgently report the problem to the Board.

2. The CEO or their representative will immediately investigate the problem or complaint, and will:
    a. speak to all parties concerned, including notification to the person against whom allegations made;
    b. listen respectively, and treat the report as credible and reliable (unless conclusively proved to be otherwise);
    c. show impartiality and avoid personal or professional bias or *victimisation*;
    d. gather information from all parties so that the facts and merits of the problem can be assessed;
    e. keep records of conversations, meetings and interviews;
    f. keep matters confidential, and known only to those directly concerned;
    g. treat the person alleged to have behaved unreasonably as innocent until reports are proven to be true;
    h. provide information to all parties of the support available, including the opportunity to have a support person available at meetings and interviews;

i. ensure that all parties are protected from *victimisation*; and
j. keep all parties informed of the progress of the investigation, what will happen next and reasons for delays (if any).

3. The CEO and / or Board will be responsible for completing the investigation, determining the outcome, and determining what remedial or disciplinary action must be taken. This must occur whether or not bullying has occurred. Due consideration must be given to:
    a. the seriousness and complexity of the report or complaint;
    b. the clarity of available information, and whether additional information is required;
    c. the nature of the problem or complaint (e.g. unlawful discrimination, bullying, sexual harassment, physical violence) and the appropriate response;
    d. the need for interim measures to minimise the risk of ongoing harm e.g. temporary reassignment of tasks, separation of the parties involved, or granting of leave;
    e. the need for specialist assistance to identify issues and develop potential responses (e.g. assistance on how to deal with discrimination or sexual harassment is available from the Australian Human Rights Commission, Fair Work Commission or the Victorian Equal Opportunity and Human Rights Commission);
    f. the potential for an internal resolution of the problem or complaint (e.g. by self-managing or adopting a no-blame conciliatory approach to resolving the issue) or whether an external investigation or assistance is required;
    g. whether disciplinary action must be taken;
    h. available rights of appeal and review;
    i. whether organisational issues may have contributed to the problem and how they should be addressed;
    j. how the outcome or response will be implemented and monitored; and
    k. how the investigation outcome will be communicated to the parties involved and others.

4. If the report or complaint is substantiated, the CEO and / or Board must carefully consider what actions should be taken. Actions may include:
    a. directing the person to cease the behaviour, obtaining a commitment from him / her that this will not be repeated, and ensuring that compliance is monitored over time;
    b. providing training or coaching;
    c. providing counselling support;
    d. requesting an apology;
    e. issuing a verbal or written warning that is kept on the employee's HR file;
    f. transferring or reassigning employees;
    g. demoting or dismissing an employee (subject to workplace relations laws);

h. reviewing organisational policies and processes for preventing bullying or unreasonable behaviour; and
i. addressing any other organisational issues that may have contributed to the problem.

5. If the report or complaint is not substantiated, the CEO and / or Board may require actions to be taken to resolve outstanding issues. These actions may include:
    a. arranging mediation (voluntary) with an impartial third party;
    b. offering professional counselling;
    c. changing work arrangements;
    d. providing training or skill development workshops;
    e. providing information to employees about bullying or harassment and how to report it;
    f. providing support and mentoring from a senior manager; and
    g. reassessing workloads and staffing levels.

6. The CEO and / or Board, or their representative, must communicate the findings to the parties involved and advise them of:
    a. actions to be taken and the reasons for those actions;
    b. rights of appeal or review;
    c. support to be provided;
    d. redress measures to be applied;
    e. how the resolution will be monitored;
    f. how the report or complaint will be documented and retained on employee HR files; and
    g. external agencies that may provide further assistance, such as the Fair Work Commission or Worksafe Victoria.

7. If the CEO and / or Board determine that the report or complaint is vexatious or malicious, they may take disciplinary action or require the complainant to undergo counselling.

Definitions

Bullying means the repeated and intentional use of words or actions against someone or a group of people, to cause distress and risk to their wellbeing. These actions are usually done by people who have more influence or power over someone else, or who want to make someone else feel less powerful or helpless. Bullying is not the same as conflict between people or disliking someone, even though people might bully each other because of conflict or dislike. The sort of repeated behaviour that is considered bullying includes:

- keeping someone out of a group (online or offline);
- acting in an unpleasant way near or towards someone;
- giving nasty looks, making rude gestures, calling names, being rude and impolite, constant negative teasing;
- spreading rumours or lies, misrepresenting someone (e.g. using their Facebook account to post messages as if it were them);

- mucking about that goes too far;
- harassing someone based on their race, sex, religion, gender or disability;
- intentionally and repeatedly hurting someone physically;
- intentionally stalking someone;
- taking advantage of any power over someone else.

Bullying can be direct (face to face), indirect (covert) or take the form of cyberbullying (Australian Human Rights Commission).

Cyberbullying refers to bullying that is carried out using information or communication technologies such as Instant Messaging or chat, text messages, email and social networking sites or forums. It has many similarities with offline bullying, but it can also be anonymous. It can reach a wider audience, and sent or uploaded material can be difficult to remove. Most people who cyberbully also bully offline (Australian Human Rights Commission).

Discrimination is treating, or proposing to treat, someone unfavourably because of their background or a personal characteristic (attribute). In Victoria it is against the law for someone to discriminate against you because of a characteristic that you have, or are assumed to have, including age, / parental status, disability, employment activity, gender identity, marital status, physical features, political belief or activity, pregnancy and breastfeeding, race, religious belief or activity, sex, or because you have a personal association with someone who has, or is assumed to have, one of these personal characteristics. This is called direct discrimination. Indirect discrimination occurs when there is an unreasonable rule or policy that is the same for everyone, but has an unfair effect on people who share a particular attribute.

Harassment is any form of behaviour that is not wanted, asked for, or returned, that is likely to create a hostile or uncomfortable learning or working environment by humiliating, intimidating or offending a person because of an attribute protected by the law. This includes their race, culture, ethnic origin, religion, physical characteristics, gender, sexual orientation, marital, parenting or economic status, age, ability or disability. It can take many forms, such as sexual harassment and disability harassment.

Victimisation is defined as subjecting or threating to subject a person to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination or harassment.

Workplace bullying is defined as repeated unreasonable behaviour by an individual towards a worker or group of workers that creates a risk to health and safety. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Related Policies

- P-8 Student Welfare and Duty of Care Policy
- P-13 Code of Conduct and Ethics Policy
- P-11 Occupational Health and Safety Policy
- P-16 Student Complaints and Appeals Policy and Procedure
- P-24 Critical Incident and Emergency Management Policy
- P-26 Diversity, Access and Inclusion Policy
- P-31 Student Safety and Security Policy
- P-35 Mandatory Reporting Policy
- P-40 Child Safe Policy
- P-42 Consumer Protection Policy
- P-43 Privacy Policy
- P-44 Student Engagement Policy
- P-50 Staff Complaints Policy
- P-56 Accident and First Aid Policy
- P-59 Computers, Internet and Email Policy
- P-60 Social Media Policy

Related Documents

- D-028 Student Handbook
- D-037 Complaints and Appeals Register
- D-044 Human Resources Policy and Procedure Manual
- D-066 Child Safe Code of Conduct
- F-034 Bullying and Harassment Incident Report Form
- F-035 Complaints and Appeals Form
- NHACE Agreement 2018

Legislation and Regulation

- Age Discrimination Act 2004
- Australian Human Rights Commission Act 1986
- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Child Wellbeing and Safety Act 2005 (Vic)
- Children, Youth and Families Act 2005 (Vic)
- Competition and Consumer Act 2010
- Disability Act 2006 (Vic)
- Disability Discrimination Act 1992
- Education and Training Act 2006 (Vic)
- Education and Training Reform Regulations 2017 (Vic)
- Equal Opportunity Act 2010 (Vic)
- Fair Work Act 2009
- Health Records Act 2001 (Vic)
- Occupational Health and Safety Act 2004 (Vic)
- Privacy Act 1988
- Privacy and Data Protection Act 2014 (Vic)
- Racial Discrimination Act 1975
- Racial and Religious Tolerance Act 2001 (Vic)
- Sex Discrimination Act 1984
- Worker Screening Act 2020 (Vic)

Mapping Information

- AQTF Condition 3
- AQTF Standards 2 and 3
- VRQA VET Provider Guidelines