

Anti-Discrimination, Bullying and Harassment Policy & Procedure

Purpose

The purpose of this policy is to make CEAV Institute students aware of what constitutes harassment and bullying and their responsibilities in preventing and managing such incidents.

The intended outcome is a training centre that is free from all forms of discrimination, bullying and harassment.

This policy covers:

- Any behavior or series of behaviors that unfairly or unreasonably offends, humiliates, intimidates, belittles, undermines, scares, excludes, or embarrasses anyone it is directed at or anyone who sees or overhears it.

This policy does not cover:

- Interpersonal conflicts and occasional differences of opinion or disagreement with decisions.
- Reasonable and appropriate corrective management of a student's poor behaviour; or
- Enforcement of lawful directions issued by CEAV Institute.

Harassment on the grounds of race, gender, religion, political opinion, sex, pregnancy or potential pregnancy, marital status, physical or mental disability, sexual preferences, national extraction or social origin, age and/or family responsibilities is an offence under various Commonwealth anti-discrimination and workplace legislation. Further, employees, sessional contractors and students must not harass others on the grounds of political or religious conviction or union membership status.

CEAV Institute has a responsibility under the Occupational Health and Safety Act 2004 to ensure the health, safety and welfare of students and others in the workplace. Individual employees may be liable to prosecution under the OHS Act for failure to provide a safe workplace.

Scope

This policy applies to all the CEAV Institute (RTO 22523) students and stakeholders.

CEAV Institute/ACCE employees, contractors, work placement participants and workplace participants are to comply with the Australian Centre for Career Education's Anti-Discrimination, Bullying and Harassment Policy & Procedure.

Definitions

- **Breach** – an act of breaking or failing to observe a law, agreement, policy, procedure, or a code of conduct.
- **Complainant** - means the person making a complaint.
- **Discrimination** – CEAV Institute is committed to providing an equal training centre environment to all

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students on the basis of individual performance and qualification without improper regard to race, national origin, sex, marital status, religion, age, medical record, physical or mental disability, sexual orientation, pregnancy or potential pregnancy, family or carer's responsibilities, or any other attribute protected by applicable laws.

'Discrimination' is unlawful conduct under the relevant legislation set out in Annexure C if it is based on a protected 'attribute' and/or creates a risk to health and safety. Although the applicable legislation may vary between each jurisdiction, 'discrimination' generally occurs where a person is treated unfavourably or less favourably on the basis of a protected attribute such as age, disability, race, gender or parental/carer status, unless an exception applies. Discrimination may be direct or indirect.

(a) **'Direct discrimination'** generally occurs where a person proposes to treat a person, or has treated a person, unfavourably or less favourably because of a protected attribute.

(b) **'Indirect discrimination'** generally occurs where an unreasonable requirement, condition or practice is imposed or proposed and a person with a particular protected attribute is unable to comply with it or it has, or is likely to have, the effect of disadvantaging such a person.

- **Harassment** – includes any unwelcome behaviour that offends, intimidates or humiliates a person. Harassment is discriminatory and therefore unlawful where it is based on the following attributes:

- Age
- Breastfeeding
- Carer or parent status
- Disability/impairment
- Gender identity
- Industrial activity
- Lawful sexual activity
- Marital status
- Parental status
- Physical features
- Race
- Pregnancy
- Political belief or activity
- Religious belief or activity
- Sex
- Sexual orientation
- Spent convictions
- Person associated with someone who has, or is assumed to have, one of these personal characteristics

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- **Sexual Harassment** - means any unwanted, unwelcomed, or uninvited behaviour of a sexual nature, which makes a person feel humiliated, intimidated, or offended. Unlike bullying, this behaviour can be considered harassment even if it only occurs once.

The intention of the alleged harasser is irrelevant under CEAV Institute's policy and procedure and legislation.

Sexual Harassment may include:

- Unwanted sexual propositions or suggestive remarks
- Suggestive looks, leering or wolf whistling
- Uninvited physical contact
- Spreading sexual rumours about someone
- Repeated, unwelcome questions about someone else's personal life
- Smutty sexual jokes, comments or innuendo
- Displaying offensive material on walls, computer screen savers, faxes, e-mail and in other work areas
- Making promises or threats in return for sexual favours
- Display of racist graffiti or material
- Derogatory comments about a person's appearance

Harassment should not be confused with behaviour which is based on mutual attraction, friendship, and respect. If the interaction is consensual and welcome, it is not harassment.

- **Stalking and cyber-bullying** - can constitute bullying or otherwise breach this Policy. It is conduct that arouses apprehension and fear placing physical or mental health and safety at risk. The behaviour can be in person including utilising a third party, or via surveillance, photos, interfering with property, or the delivery of notes, items, or gifts.

Cyber-bullying utilises technology, including phones, mobile phones and computers and operates via social media sites, text messages, chat and websites. Examples of cyber-bullying could include abusive text messages or emails, rumours sent by email or posted on social networking sites, and offensive and embarrassing pictures, uploaded videos, derogatory website commentary or establishing fake profiles.

Stalking and cyber-bullying can amount to criminal offences and result in fines or even jail terms. This is particularly the case if abusive or offensive acts are directed towards the victim in a way that could be expected to cause physical or mental harm, including causing the victim to self-harm.

Workplace Participants and students must not engage in stalking or cyber-bullying.

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- **Bullying** – 'Bullying' is unlawful conduct under the relevant legislation set out in **Annexure C**.

Bullying is any repeated, unreasonable behaviour directed toward a person or group of people that creates a risk to health and safety. '**Unreasonable behaviour**' includes any behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, intimidate, or threaten a person and can either be overt or covert. Bullying may include physical and/or verbal abuse, intimidation, or belittling, threatening, or taunting, excluding, or isolating individuals, giving meaningless or impossible tasks or deliberately changing schedules to inconvenience particular students.

Bullying is different to harassment and discrimination in that the behaviour does not need to have occurred because of a protected attribute.

Some examples of repeated overt behaviour that may constitute bullying include:

- (a) physical abuse or verbal abuse (including swearing, yelling or screaming);
- (b) intimidating or threatening behaviour such as stalking, threatening to make a persons' life difficult or blocking a person's path;
- (c) victimising, teasing, sarcasm, joking, ridiculing or belittling a workplace participant;
- (d) coercion;
- (e) isolation;
- (f) inappropriate blaming;
- (g) ganging up;
- (h) spreading malicious rumours; and
- (i) sending offensive, intimidating, threatening, or humiliating emails, messages or posts on social media (such as Facebook, Twitter or LinkedIn)

The above list is not exhaustive. Other types of behaviour may also constitute bullying.

Some examples of repeated covert behaviour that may constitute bullying include:

- (j) deliberately undermining performance such as refusing to give sufficient instructions, withholding vital information, imposing unnecessary deadlines or impossible assignments or giving someone the majority of unpleasant or difficult tasks;
- (k) deliberately withholding information that a person needs to exercise his or her role or entitlements;
- (l) repeated refusal of requests for leave or training without adequate explanation and suggestion of alternatives;
- (m) deliberately isolating or excluding others from study-related discussions, communication or training centre or class-related activities; and
- (n) damaging another person's belongings, work, or equipment.

Bullying, both intentional and unintentional, and whether overt or covert, is prohibited by this Policy. The repeated unreasonable behaviour does not have to be the same behaviour and may be a series of actions, incidents or comments that may create a risk to health and safety. A one-off instance of unreasonable behaviour that creates a risk to health and safety may not constitute bullying (as it is not repeated) but may otherwise be a breach of this Policy or considered unacceptable conduct.

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Bullying may also constitute unlawful harassment or unlawful discrimination under anti-discrimination or related legislation. However, bullying which is not unlawful may still be a breach of this Policy.

Whilst single incidents that do not fit the definition of bullying, CEAV Institute may take action where the single incident creates a risk to the health and safety of our students.

HR Representative – may include ACCE CEO, Operations Manager or HR Manager

Policy

CEAV Institute will strive to achieve a healthy and safe training centre by addressing the issues of anti-discrimination, bullying and harassment.

CEAV Institute will endeavour to ensure that anti-discrimination, bullying and harassment does not occur, but in the event it does, appropriate action will be taken quickly.

CEAV Institute commits itself to educating its students as to the nature and effects of harassment and bullying in the training centre and to provide the necessary resources to inform them of the contents of this policy.

Students must not engage in harassing or bullying behaviour towards another student, sessional contractor, trainer, employee, or a member of the public with whom they have contact with in the course of their training. CEAV Institute does not tolerate such behaviour and may take disciplinary action up to and including dismissal against any student who:

- Participates in harassing, discriminatory, or bullying behaviour; or
- Victimises or retaliates against an employee, sessional contractor, trainer, or student who has lodged a complaint about harassment or workplace bullying.

Accordingly, all CEAV Institute Students are to:

- Comply with ACCE's Code of Ethics
- Comply with CEAV Institute's Student Code of Conduct
- Treat each other in a professional, courteous, respectful and fair way
- Treat harassment and workplace bullying matters seriously and deal with them in a prompt confidential and fair manner.

Procedure

1. The Direct Approach or Informal Approach

1.1 Where a student feels bullied or harassed, they may talk to the person directly and ask them to stop the behaviour. The CEAV Institute staff member/student/external stakeholder who has observed the inappropriate behaviour may ask the person directly to stop the behaviour. Offensive behaviour against an individual can be stopped if the individual confronts whoever is upsetting them and firmly objects to the behaviour. This should occur when the offensive behaviour is taking place, however if this is not possible, it should happen as soon as possible afterwards.

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This is not a compulsory step. The CEAV Institute acknowledges that this avenue of resolution is not always appropriate and depends on the individual circumstances of the complaint.

1.2 The individual making a complaint about the behaviour should remember the following points when asking someone to stop certain behaviour:

- Use direct eye contact.
- Speak firmly and with conviction.
- State clearly what behaviours, actions or comments makes them uncomfortable or angry.
- Say that they want such behaviours, actions and/or comments to end immediately.
- Do not confuse or dilute the message with a smile.
- Do not be concerned about hurting the other person's feelings or ego.
- Do not feel guilty.

2. The Formal Approach

2.1 The formal approach is appropriate when:

- The incident brought about the complaint is considered very serious by the claimant.
- Informal routes have been unsuccessful; and
- One or more students prefer the formal process

2.2 A student who believes they have been bullied should:

- Keep a diary recording negative behaviours.
- Gather evidence to support the grievance.
- Set out the grievance in writing as a letter and send a copy to the RTO Manager – Head of Teaching & Learning or an ACCE Human Resources representative, if the RTO Manager – Head of Teaching & Learning is identified as being involved in the bullying.
- Take part in the investigation process.
- Identify a supporter/colleague to accompany them through the formal procedures.

2.3 A student accused of bullying should:

- Read the contents of the grievance.
- Recognise where there may be some truth in the grievance.
- Gather evidence in support of their actions/behaviours.
- Take part in the investigation process.
- Identify a supporter/colleague to accompany them through the formal process.

2.4 If this approach fails, or the person does not wish to verbally confront someone about his/her behaviour, the other option is the formal approach letter. A letter may be particularly useful where there has been a genuine personal misunderstanding. A letter may lead to clarity in communication and therefore improved

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communication. If an individual requires assistance with writing a letter, they should request Human Resources to assist them with this task. A copy of the letter should be kept by the individual making the complaint should the behaviour continue. The letter can be used as part of the documentation when making a formal complaint.

3. Mediation or Discussion Involving a Third Party

This approach involves a neutral person assisting resolution through a discussion of the issues. Discussions should focus on resolving the problem and agreeing on actions that will assist resolution. This approach is appropriate when:

- There is a need for support in dealing with the problem.
- There is agreement on the existence of an issue.
- Both parties are willing to work for a win-win solution.

To instigate Mediation, the following needs to be undertaken:

- Contact the RTO Manager – Head of Teaching & Learning, who will either undertake the Mediation or if this is unacceptable, organise for a professional mediator to attend.

4. Victimisation

Victimisation is against the law and a breach of CEAV Institute's Policies and Procedures and will not be tolerated. Victimisation is a form of harassment and occurs when one person is treated less favourably than another because they are suspected or know to have complained, or may have given evidence about behaviour, which has resulted in an allegation of harassment or bullying.

Disciplinary action will be taken against any staff member who victimises or retaliates against another person.

5. Neutrality

All matters will be dealt with impartially. The person in charge of an investigation or resolution should not be directly involved in the incident they are investigating or attempting to resolve.

6. Where to go for more information regarding workplace bullying and harassment at CEAV Institute.

Internally

- RTO Manager – Head of Teaching & Learning – CEAV Institute
Human Resources Representative – ACCE (this may include ACCE CEO, Operations Manager or HR Manager)

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Externally

- Worksafe – 1800 136 089
- Equal Opportunity Commission – 1300 891 848

7. Outcomes of Investigation of Bullying, Harassment or Occupational Violence

If anti-discrimination, bullying or harassment or occupational violence is found to have occurred, dependent upon the circumstances and issues, the potential outcome for the person identified as being the bully, harasser may either receive a Final Warning or if it is not the first time the issue has been raised with an individual in regard to their bullying behaviors, dismissal may be considered.

In the case of it being found that the perpetrator did physically attack/assault another person, in all cases Summary (Instant) dismissal shall occur.

If the perpetrator is a student, their enrolment will be cancelled immediately, and they will be asked to leave CEAV Institute. They will be issued with a Statement of Attainment (if all due monies have been paid) for any competencies achieved within 30 days of cancellation of enrolment.

Meeting the requirements of the VET Quality Framework

- Standards for Registered Training Organisations:
Standard 5 Each learner is properly informed and protected.


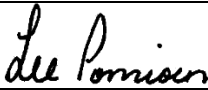
Related Documents

- Access and Equity Policy
- ACCE Code of Ethics
- ACCE Code of Conduct
- Diversity & Inclusion Policy
- Students Code of Conduct
- Student Handbook
- Student Support Policy & Procedure
- Trainer Handbook
- Complaints and Appeals Policy and Procedure

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Approved By CEO, ACCE:	Penne Dawe	
Approved By Operations Manager, ACCE	Lee Ponsioen	
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Legislation	Relevant Websites
Commonwealth	
National Vocational Education and Training Regulator Act 2011, including the July 2020 amendments	https://www.legislation.gov.au/Details/C2020C00250
Australian Privacy Principles	https://www.oaic.gov.au/privacy/australian-privacy-principles
Commonwealth Privacy Act 1988 and Amendments	https://www.legislation.gov.au/Details/C2014C00076
Public Records	https://www.legislation.vic.gov.au/in-force/acts/public-records-act-1973/041
Victorian	
Education and Training Reform Act 2006	https://www.legislation.vic.gov.au/in-force/acts/education-and-training-reform-act-2006/091
Victorian Privacy Act 2008	https://www.vic.gov.au/privacy-vicgovau
Privacy and Data Protection Act 2014	https://www.legislation.vic.gov.au/in-force/acts/privacy-and-data-protection-act-2014/027