



Melbourne College of Hair & Beauty

teaching excellence since 1962

MCOHB Bullying Prevention and Management Policy

1.0 Purpose

1.1 ... To affirm Melbourne College of Hair and Beauty (MCOHB) commitment to providing and maintaining a healthy and safe environment free from bullying, violence or threats of violence or restriction of academic freedoms and freedom of speech.

2.0 Scope

2.1 ... This policy applies to all persons at MCOHB who meet the definition of a worker, as defined by the *Fair Work Act 2009*, in situations related to their employment or other activities at MCOHB.

2.2 ... This policy also applies to workers, and other members of MCOHB engaged in activities reasonably connected with MCOHB. Such activities may extend beyond the RTO's premises. For example, use of social media, field trips or excursions organised by MCOHB, staff functions both during and after working hours and staff attending conferences.

3.0 Responsibilities

3.1 ... The Chief Executive Officer (CEO) has responsibility for the implementation and management of this policy in accordance with the relevant Acts and legislative instruments.

3.2 ... The CEO may delegate the daily management and implementation to managers of MCOHB.

3.3 ... The Human Resources Manager has overall responsibility for the operation of this policy in relation to workers and other members of MCOHB.

3.4 ... The Director of Studies as nominee of the CEO has overall responsibility for the implementation and review of this Policy.

3.5 ... Head Trainers, Department Managers have responsibility for the daily management of this policy in their respective departments and schools.

3.6 ... Workers and other members of MCOHB:

- a) must comply with relevant policies or guidelines that address expected standards of behaviour at MCOHB;
- b) must participate in training and information sessions about preventing bullying within MCOHB;
- c) are responsible for their own behaviour and must not participate in or encourage bullying;
- d) who believe they are being bullied, or who are aware of or witness bullying within MCOHB should report it promptly in accordance with the Procedure;
- e) will face disciplinary action if allegations are proven they participated in or encouraged bullying.

4.0 Legislative Context

1. Anti Discrimination Act 1977;
2. Commonwealth Human Rights and Equal Opportunity Commission Act 1986;
3. Equal Opportunity for Women in the Workplace Amendment Act 2012;
4. Equal Opportunity Act 1995 of Victoria;
5. Freedom of Information Act 1989;
6. Work Health and Safety Act 2011;
7. Occupational Health and Safety Act 1983;
8. Workplace Relations Act 1996;
9. Commonwealth Disability Discrimination Act 1992;
10. Commonwealth Crimes Act 1995;
11. Commonwealth Fair Work Act 2009;
12. Commonwealth Racial Hatred Act 1995;
13. Commonwealth Age Discrimination Act 2004;
14. Victorian Crimes Act 1958;
15. Victorian Equal Opportunity Act 2010 (from 1 August 2011);
16. Victorian Occupational Health and Safety Act 2004;
17. Victorian Racial and Religious Tolerance Act 2001;
18. Victoria's anti-bullying legislation 2011 (Brodie's Law);
19. Racial Discrimination Act 1975;
20. Sex Discrimination Act 1984;
21. National Employment Standards;

5.0 Definitions

<p>Academic freedom</p>	<p>The freedom of academic staff to teach, discuss, exhibit artistic works or public performances, research, as well as disseminate and publish the results of their research.</p> <p>The freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research.</p> <p>The freedom of academic staff and students to express their opinions in relation to the VET provider in which they work or are enrolled.</p> <p>The freedom of academic staff, without constraint imposed by reason of their employment by MCOHB, to make lawful public comment on any issues in their personal capacities.</p> <p>The freedom of academic staff to participate in professional or representative academic bodies.</p> <p>The freedom of students to participate in student societies and associations.</p>
<p>Bullying</p>	<p>As defined by the Fair Work Act 2009 bullying is: <i>"repeated, unreasonable behaviours directed towards a worker or a group of Workers that creates a risk to health and safety"</i>.</p> <p>Examples of workplace bullying may include but are not limited to:</p> <ul style="list-style-type: none"> • Abusive, insulting or offensive language; • Behaviour or language that frightens, humiliates, belittles or degrades; • Teasing or regularly making someone the brunt of practical jokes; • Spreading gossip, rumours and/or innuendo. • Workplace bullying may also take more subtle or covert behaviours including: • Deliberately excluding or isolating a person from normal workplace activities; • Tampering with personal effect or work equipment; • Intimidating someone through inappropriate personal comments, belittling opinions or unjustified criticisms; • Overloading a person with work; • Setting timelines that are difficult to achieve or constantly changing deadlines; • Setting tasks that are unreasonable or beyond a person's ability; • Deliberately isolating a person or ignoring them; • Deliberately denying access to information relevant to the person's duties.

Fair Work Commission (FWC)	<p>The Fair Work Commission is the national workplace relations tribunal. It is an independent body with power to carry out a range of functions relating to:</p> <ul style="list-style-type: none"> • the safety net of minimum wages and employment conditions; • enterprise bargaining; • industrial action; • dispute resolution; • termination of employment; and • other workplace matters.
Freedom of speech	<p>The freedom of staff, students, and invited visitors to MCOHB to express lawful opinions publicly, without undue restriction.</p>
Supervisor	<p>A Worker who has designated responsibility for managing and/or overseeing the performance and workplace behaviour of other Workers.</p> <p>If the complaint is against the Worker's immediate Supervisor that person's one-up Supervisor will be deemed to be the Supervisor for the purposes of this procedure.</p>
Senior Management	<p>Chief Executive Officer, Director of Studies, Head Trainers, Department Managers.</p>
Violence or threats of violence	<p>Violence and aggression is defined as any incident where a member of MCOHB is abused, threatened or assaulted in circumstances arising out of, or in the course of, their employment or other activities at MCOHB.</p> <p>Within this definition: Threat means a statement or behaviour that causes a person or a third party to believe they are in danger of being physically attacked. It may involve an actual or implied threat to safety, health or wellbeing; and</p> <p>Physical attack means the direct or indirect application of force by a person to the body of, or clothing or equipment worn by, another person, where that application creates a risk to health and safety.</p> <p>Neither intent nor ability to carry out the threat is relevant. The key issue is that the behaviour creates a risk to health and safety.</p> <p>Examples of occupational violence and aggression include, but are not limited to, verbal, physical or psychological abuse, punching, scratching, biting, grabbing, pushing, threats, stalking, attack with a weapon, throwing objects/furniture, sexual harassment or assault, and any form of indecent physical contact. Occupational violence need only be a single incident or circumstance.</p>

Repetition	Refers to the persistent nature of the behaviour, not the specific form the behaviour takes. Behaviour is considered "repeated" if an established and consistent pattern can be identified over a period of time.
Reasonable Management Action	<p>Reasonable management action can include but is not limited to:</p> <ul style="list-style-type: none"> Setting reasonable performance goals, standards and deadline in consultation with workers and after considering their respective skills and experience; Allocating work to a worker in a transparent way; Fairly rostering and allocating working hours; Transferring a worker for legitimate and explained operational reasons; Deciding not to select a worker for promotion, following a fair and documented process; Informing a worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements; Informing a worker about inappropriate behaviour in an objective and confidential way; Implementing organisational changes or restructuring; and Performance management processes.
Staff Member (employee)	Any person who is an employee of MCOHB at the time of the alleged incident(s). This includes full-time, part-time, sessional or casual staff.
Unreasonable Behaviour	Refers to behaviour that a reasonable person, having regard to all the circumstances, would expect to humiliate, intimidate, undermine or threaten. In this context, the hypothetical reasonable person does not require total knowledge of every aspect of the situation – rather this person knows as much as the alleged bully could reasonably be expected to know.
Worker	<p>A worker, as defined by FWC is: An individual who performs work in any capacity including but not limited to:</p> <ul style="list-style-type: none"> • An employee; • A contractors; • A sub-contractor; • An out-worker; • An apprentice; • A trainee; • A student gaining work experience; and • A volunteer.

6.0 Policy Statement

- 6.1 ... Workplace bullying, violence or threats of violence are totally unacceptable at MCOHB.
- 6.2 ... All employees and other members of MCOHB are expected to treat each other with respect.
- 6.3 ... All employees and other members of MCOHB are required to comply with the standards expressed in the Staff Code of Conduct Policy. Bullying leads to individual distress and organisational disruption. It can cause physical and psychological harm.
- 6.4 ... Reasonable management action, carried out in a fair way is not bullying. Supervisors have a right to direct the way work is carried out and to monitor and give feedback on performance, giving due consideration to the manner in which this is done.
- 6.5 ... MCOHB encourages the early reporting of any allegations of bullying, violence and/or threats of violence and is committed to implementing a prevention program which will include the following measures:
- a. creating awareness of this Policy and Procedure;
 - b. providing ongoing online and workshop-based training programs for all staff;
 - c. informing, instructing and training for supervisors;
 - d. encouraging reporting; and
 - e. fair and timely procedures for managing incidents of bullying violence or threats of violence.
- 6.6 ... In some circumstances, the seriousness of allegations or information provided may place MCOHB under a legal obligation to investigate beyond that which the worker intends or wishes, in which case MCOHB may initiate a complaint or progress a complaint of its own volition.
- 6.7 ... If a staff member is found to be guilty of workplace bullying as defined in this policy and by any of the Acts and/or legislative instruments identified in clause 4.0, MCOHB has the right to suspend and/or terminate an employee's employment with MCOHB immediately.
- 6.8 ... If a staff member is found to be guilty of workplace bullying as defined in this policy and by any of the Acts and/or legislative instruments identified in clause 4.0, MCOHB has a legal responsibility to report the employees' behaviour to the police and/or the relevant Commonwealth and/or State Government department for further action against the employee.

7.0 What is Unacceptable Conduct?

- 7.1 ... Behaviour of the following kinds is defined as "Unacceptable Conduct":
- Harassment
 - Bullying
 - Vilification
 - Sexual Harassment
 - Retaliation or victimisation against someone involved in a complaint

7.2 ... Each of these types of Unacceptable Conduct is defined below.

8.0 What is Harassment?

8.1 ... Harassment is any verbal, written or physical behaviour or conduct that is of an offensive, threatening, intimidating, abusive or belittling nature and that is unwelcome, unreciprocated, uninvited and usually, but not always, repeated.

8.2 ... It can also be based on race, disability, age, pregnancy, marital status, homosexuality, transgender, or HIV/AIDS status.

8.3 ... Workplace harassment usually consists of a pattern of unwelcome behaviour. However, it can consist of just one act where this is of a serious nature. Also, there is no requirement that the harasser intended to offend or harm in order for it to be unlawful. All that is required, under the law, is that a reasonable person would consider that the person being harassed would be offended, humiliated or intimidated by the behaviour in question.

8.4 ... Harassment in the workplace can create an unpleasant or even hostile environment. Harassment makes work difficult for everyone: the person being harassed, as well as personnel witnessing the harassment. The harasser is not concentrating on their work when they engage in this type of behaviour.

9.0 What isn't Workplace Harassment and Bullying?

9.1 ... It is important for personnel to be aware that workplace harassment and bullying does not include the legitimate exercise of authority by an employer or manager/supervisor to direct and control how personnel perform their duties whilst at work, to monitor work flow or to provide feedback to personnel about their performance.

This also includes:

- a. Reasonable action taken in a reasonable manner by an employer to transfer, demote, discipline, counsel, retrench or dismiss personnel;
- b. A decision by an employer, based on reasonable grounds and consistent with MCOHB Policy, not to award or provide a promotion, transfer, or benefit in connection with personnel employment;
- c. Reasonable administrative action taken in a reasonable manner by an employer in connection with personnel employment;
- d. Reasonable action taken in a reasonable manner under an Act affecting personnel.

9.2 ... MCOHB recognises that workplace harassment and bullying may involve comments and behaviours that offend some people and not others. MCOHB management acknowledges that individuals may react differently to comments and behaviour and therefore expects its personnel to maintain a standard of behaviour that is respectful of everyone at all times.

9.3 ... For the purposes of this policy, the following applies:

10.0 What is bullying?

10.1 . 'Bullying' as defined by the *Occupational Health, Safety and Welfare Act 1986* is behaviour that is directed towards a person or a group of persons, that is repeated and systematic, and that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten personnel to whom the behaviour is directed, creating a risk to health or safety.

10.2 . Bullying has many similarities to harassment, but the reasons for bullying behaviour do not have to be based upon an unlawful or discriminatory ground.

11.0 What is vilification?

11.1 . 'Vilification' is publicly encouraging or inciting hatred, ill-feeling or severe contempt for someone or a group of people on the basis of race and certain other personal characteristics.

12.0 What is Sexual Harassment?

12.1 . 'Sexual harassment' is defined as:

1.... as *"any unwelcome sexual advance, or unwelcome request for sexual favours to a person, or engagement in other unwelcome conduct of a sexual nature in relation to that person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the person complaining would be offended, humiliated or intimidated."*

12.2 . MCOHB advises that incidents of sexual harassment may, in fact, constitute a criminal offence, and therefore MCOHB may report any such instances to the appropriate authorities.

13.0 What is aggression?

13.1 . 'Aggression' includes: verbal abuse; physical violence against an individual in the form of hitting, slapping, spitting, scratching, pinching, kicking; threats of violence; and physical violence against objects, such as kicking or throwing property.

14.0 What is occupational violence?

14.1 . 'Occupational violence' can be defined as any incident where personnel is physically attacked or threatened in the workplace.

14.2 . MCOHB identifies that incidents of occupational violence may, in fact, constitute criminal assault, and therefore MCOHB may report any such instances to the appropriate authorities.

14.3 . Within the above definitions, it is generally accepted that:

- a. **"repeated"** refers to the persistent nature of the behaviour, not the specific form of the behaviour. For example, the harassment or bullying may involve a variety of unreasonable and inappropriate behaviours such as verbal abuse, persistent and unwarranted criticism and open or implied threats of being demoted or terminated;
- b. **"systematic"** means having, showing or involving a method or plan; and
- c. **"risk to health or safety"** includes the risk to the physical or emotional health of personnel concerned.

15.0 Examples of harassing or bullying behaviour

15.1 . Harassing or bullying behaviour may include (but is not limited to):

- offensive comments on physical appearance, dress or private life;
- unwanted physical contact such as patting, hugging, touching or unnecessary familiarity;
- sexual jokes, suggestive behaviour, sexual innuendo, spoken comments or offensive telephone calls, emails;
- demands for sexual favours or unwanted comments about a person's sex life;
- leering, wolf whistles, catcalls and obscene gestures;
- display of offensive posters, pictures, graffiti, or pornographic material;
- racially based jokes or comments;
- mimicking someone with a disability;
- isolating someone;
- unfair or excessive criticism;
- initiation 'rituals'; and/or
- using aggressive language.

15.2 . It is up to each of us, if possible, to tell others in our workplace if their conduct is causing offence. Equally, if an issue is raised with us it is up to each of us to moderate our behaviour accordingly.

15.3 . If a complaint of harassment/bullying is ignored or the behaviour condoned, it can lead to serious disciplinary action consistent with the process outlined below, both in relation to the employee initiating the behaviour and anyone who fails to act to stop the behaviour.

15.4 . Any personnel found guilty of perpetrating or permitting workplace harassment or bullying will be appropriately disciplined, and may, in serious or repeated cases, be dismissed. Any person found guilty of making malicious, vexatious or frivolous allegations of workplace harassment or bullying that are held to be unfounded, will also be appropriately disciplined and, dependent upon all the circumstances, may also be dismissed.

15.5 . MCOHB recognises the rights of the person accused of workplace harassment or bullying to be treated with natural justice. This includes the right to know full details of allegations against them, a right of reply to those allegations, a presumption of innocence until evidence against them shows otherwise and the benefit of any reasonable doubt.

15.6 . As part of the MCOHB commitment to minimising and eliminating instances of workplace harassment and bullying at work, the MCOHB will:

- a. provide and make accessible, resources for all personnel relating to workplace harassment or bullying, including the attached Workplace Harassment and Bullying Procedure;
- b. distribute and regularly promote this Policy statement to all existing and new personnel;

- c. model appropriate behaviour and monitor the working environment to ensure that the appropriate standards of behaviour and conduct are observed at all times;
 - d. treat all complaints of workplace harassment and bullying seriously and take immediate action to investigate and resolve any complaint quickly and fairly and with complete confidentiality, consistent with the attached Workplace Harassment and Bullying Procedure;
 - e. ensure that personnel who make or support a complaint of workplace harassment or bullying are not subsequently subjected to victimisation; and
 - f. take all reasonable steps to ensure there is no recurrence of the offence.
- 15.7 .All personnel have a responsibility to take reasonable care to protect their own health, safety and welfare whilst at work and to avoid adversely affecting the health, safety and welfare of any other person at work as outlined in the Occupational Health, Safety and Welfare Act 1986. Further, all personnel have a responsibility to comply with this Policy by ensuring that they do not commit or encourage workplace harassment or bullying in the workplace.
- 15.8 .Personnel should be aware that they could be held personally liable for harassing or bullying another person or aiding, abetting, encouraging or condoning other persons to harass or bully.
- 15.9 .To ensure that this Workplace Harassment and Bullying Policy is complied with, MCOHB has appointed the CEO as the Responsible Officer, who will be responsible for the education and training of all staff on workplace harassment and bullying issues and assist with the implementation of this Policy.
- 15.10 If any personnel feel that they have been harassed or bullied, they may make a complaint in accordance with the attached Workplace Harassment and Bullying Procedure or other appropriate MCOHB Procedures. If personnel are not satisfied with the way their complaint has been handled by MCOHB, they have the right to refer the matter to an external party.

16.0 Workplace Harassment and Bullying Procedure

What do you do if you believe you are being harassed or bullied?

Allegations and incidents of workplace harassment and bullying can often be most effectively resolved if they are dealt with at an early stage, rather than left until the matter has become serious and attitudes entrenched. Therefore, MCOHB encourages all personnel to report all allegations of workplace harassment or bullying as soon as they occur.

If personnel experience any behaviour that they find offensive or unacceptable, they must, if possible, tell the person concerned that their behaviour is objected to strongly and they do not want it repeated.

It is important that personnel focus on the specific behaviour concerned and explain why it is offensive.

Often, this is all that is required to put an end to the matter. Often a person is not aware that their behaviour is upsetting or intimidating, and they will stop immediately once they are told.

16.1 . However, if personnel feel that they are unable to resolve the matter by raising it directly or, if the behaviour does not stop, the matter should immediately be referred to the following support mechanisms:

17.0 Contact Officers

17.1 . A Contact Officer will provide advice and support for any person who believes they have been harassed and/or bullied, even if they do not wish to take formal action. The Contact Officer will not be involved in any way with the formal investigation or resolution of a complaint.

17.2 . If, due to the circumstances, it is inappropriate to refer the complaint to a Contact Officer, the complaint should be referred directly to the Responsible Officer. The MCOHB Responsible Officer is the CEO.

17.3 . Personnel who believe that they are or have been harassed or bullied within the workplace should report the incident(s) to one of the following nominated Contact Officers:

- Head trainer/trainer
- Human Resources Manager

17.4 . Any personnel who requires advice, information or support in relation to workplace harassment or bullying should contact their manager/supervisor or the nominated Contact Officer to assist them in such matters.

18.0 Grievance Officer

18.1 . The Grievance Officer is responsible for conducting any necessary investigations into allegations of workplace harassment and bullying. This person is independent from the Contact Officer and will only become involved when a formal complaint is made.

18.2 . The MCOHB current Grievance Officer is the CEO.

18.3 . In addition to the Contact and/or Grievance Officer, personnel may approach WorkSafe Vic or the Equal Opportunity Commission for independent advice at any time.

19.0 What will happen if you make a complaint or report?

19.1 . Any complaints or reports of harassment will be treated seriously and sympathetically and acted upon quickly. They will be investigated thoroughly, impartially and confidentially. Managers, Supervisors and Human Resources personnel must act immediately on any reports of harassment. Personnel will not be disadvantaged in their employment conditions or opportunities as a result of lodging a complaint.

20.0 What will happen to the person against whom personnel has made a complaint?

20.1 . Appropriate action, where necessary, will be taken against anyone, including employees or independent contractors, who are found to have harassed or bullied personnel or any other person during the course of their employment.

20.2 . This may include counselling, disciplinary action, termination of employment and/or being reported to the Police.

21.0 Confidentiality

- 21.1 . While it is recognised that personnel who experience an instance of bullying or harassment may want to talk about their situation, they should not discuss it with their fellow team members or other personnel.
- 21.2 . All personnel are advised that a complaint of harassment or bullying is a serious matter and where possible needs to be substantiated.
- 21.3 . The principles of procedural fairness require that all parties to a complaint will have the opportunity to put their positions fully if an allegation is made. Procedural fairness also means that no decision will be made about the validity of a complaint until all parties have has a chance to respond.
- 21.4 . Personnel will be protected from intimidation, victimisation or harassment as a result of filing a complaint or assisting in an investigation.
- 21.5 . Any personnel who feel that they have been subjected to intimidation, victimisation or harassment as a result of filing a complaint or assisting in an investigation should advise their manager or Contact Officer immediately.