**MILC**

**Equal Employment Opportunity and Anti-Discrimination Policy**

**1. RATIONALE**

This policy outlines MILC’s position and commitment to the provision of Equal Employment Opportunities (EEO) in a discrimination-free workplace and aims to ensure compliance with its legislative obligations.

This policy also provides guidelines about acceptable behaviour in the workplace and the responsibilities of everyone at MILC to promote and uphold the principles of EEO and anti-discrimination. It also aims to ensure that MILC attracts and retains the best people.

**2. BODY OF POLICY**

**2.1. Policy Statement**

MILC is an Equal Employment Opportunity employer committed to the implementation of fair, equitable and non-discriminatory employment and operational practices. MILC considers all types of workplace inequality and Discrimination to be unacceptable and has a zero tolerance in this regard.

MILC is committed to ensuring every current and potential staff member will be given a fair and equitable chance to compete for appointment, promotion, secondments, professional development and terms of employment and to pursue their career aspirations as effectively as others and will not be unfairly treated on the basis of a trait that could be considered as Discrimination.

Through the establishment of robust policies and procedures that support safe and harmonious work environments, MILC is committed to the following objectives:

* to create a work environment where all staff are treated with respect, dignity and courtesy.
* to ensure there is no Discrimination in recruitment, selection, training, promotion and termination within MILC;
* to conduct professional development to ensure all staff understand their rights and responsibilities.
* to provide an effective procedure for complaints based on the principles of natural justice and procedural fairness;
* to treat all complaints in a sensitive, fair, timely and confidential manner;
* to ensure that no staff member is victimised for lodging a complaint or helping in an investigation of a complaint;
* to promote the appropriate standards of conduct.

**2.2. Application**

This policy applies to all MILC staff and contractors. It also applies to current or potential staff and customers or stakeholders of MILC.

This policy extends to conduct in any work-related context within or outside of normal working hours including (but not limited to) working remotely from home or any other location, at conferences, functions, parties, trips / tours, excursions, and meetings conducted outside normal business hours (work related or social) whether or not on MILC premises. It covers interactions with students, parents, customers, suppliers and other third parties as well as colleagues.

This policy also applies when providing access to opportunities related to all stages of the employment life cycle, including recruitment, terms of employment, professional development, promotion, secondment and termination of employment.

**2.3. Definitions**

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| **Word/s** | **Definition** |
| **Bullying** | Workplace Bullying is **repeated** and unreasonable behaviour directed towards a staff member or a group of staff that creates a risk to health and safety. Repeated behaviour refers to persistent behaviour and can involve a range of behaviours over time. It includes behaviour that would be considered unreasonable, and includes behaviour that intimidates, offends, degrades or humiliates at work.  Bullying can include the following types of behaviour if repeated:   * Verbal abuse (e.g. being sworn at, yelling, screaming, offensive language, threats, insults, continual criticism, name calling, practical jokes, unjustified threats of dismissal), * Direct violence including physical abuse, assault and Harassment, * Abusive messages (email, SMS, social media etc.), * Threatening body language, * Spreading rumours about a person, * Deliberately excluding or isolating colleagues, * Intimidation, * Assigning meaningless tasks unrelated to the job, * Giving employees impossible tasks to complete, * Unreasonably undermining work performance, deliberately withholding work-related information or resources, or supply of incorrect information, * Constant intrusive surveillance or monitoring, * Inappropriate interference with personal belongings or work equipment.   Bullying can be carried out verbally, physically or in writing. Bullying can be directed in a range of ways in a workplace – downwards (from supervisors / managers to staff), sideways (between staff and co workers) and upwards (from staff to supervisors / managers / executive). Bullying can be directed at a single staff member or at more than one staff member. It can also be carried out by more than one individual. |

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| Bullying (cont) | **What is not Bullying?**  If the above behaviour is not repeated then the behaviour could be considered unacceptable behaviour, but not meet the definition of Bullying. In these instances, staff should still raise the issue with their Manager, for guidance and support.  Genuine and reasonable management action is not Bullying. All employers have fundamental rights to direct and control how work is done.  The following types of behaviours are not considered Bullying, discrimination or Harassment:   * Feedback, coaching or counselling on work performance or work related behaviours that are intended to assist staff to improve performance or the standard of their behaviour. Feedback, coaching and counselling should always be carried out in a constructive manner, * Fair and appropriate supervisory or management instructions delivered in a fair and appropriate manner eg without any belittling, sarcasm, favouritism, unlawful discrimination, aggression or other abusive behaviour.   Some forms of Bullying and Workplace Violence, such as physical assault and stalking via SMS/email /social media platforms etc., may be criminal offences and in addition to having implications in the workplace, may result in action being taken by the Police. |
| Equal Employment Opportunity (EEO) | In Australia, national and state laws cover EEO in the workplace. Employers are required by these laws to create a workplace free from Discrimination and Harassment |
| Discrimination | Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability. Discrimination may be either direct or indirect. |

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| Direct Discrimination | Direct Discrimination is when a person or group is treated unfavourably because of a personal characteristic protected by law (refer list below).  Protected personal characteristics in Victoria are:   * a disability, disease or injury, including work-related injury; * parental status or status as a carer, for example because they are responsible for caring for children or other family members; * race, colour, descent, nationality, ancestry or ethnic background; * age, whether young or old, or because of age in general; * sex; * employment activity, for example because they ask questions or raise concerns about their rights or entitlements at work; * industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union; * physical features, such as height, weight, size, hair or birthmarks * religious belief or taking part in religious activity, or not holding a religious belief; * pregnancy and/or breastfeeding; * lawful sexual activity; * sexual orientation or gender identity * marital status, whether married, divorced, unmarried or in a de facto relationship; * political belief or political activity; * an association with someone who has, or is assumed to have, one of these characteristics.   It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future. |
| Indirect Discrimination | When an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (refer to the above list). |
| Victimisation | Victimisation occurs when a staff member is treated unfairly or less favourably by another staff member because they have reported or intend to report a workplace incident. Alternatively, they may be involved in an investigation or be acting as a witness over an incident.  It is unlawful to retaliate against a person just because that person wishes to make a complaint of discrimination or other unlawful conduct under the EEO legislation. |

**2.4. Implementation**

**2.4.1. Equal Employment Opportunity**

It is MILC’s policy to create a favourable work environment in which all staff can enjoy equal opportunities in their employment relationship with MILC.

MILC’s policy concerning equal opportunity, requires the following:

* Recruitment, selection and promotion practices which are open, competitive and based on merit, ensuring that the best applicant is selected for the job. In establishing qualifications for employment, no provision or requirement will be adopted that would be discriminatory on the basis of protected characteristics such as race, colour, national origin, age, sex, impairment or religious affiliation, except where a bona fide occupational qualification exists;
* no questions in any interview, application form or other Human Resources process will be so framed as to attempt to elicit information concerning protected characteristics from an applicant, eligible applicant or staff member;
* no appointment to, or removal from, a position will be affected in any manner solely by the person’s protected characteristics and, further, it will be the responsibility of staff to abide by and carry out the provisions of MILC’s
* commitment to Equal Employment Opportunity, affirmative action and work environments free from Discrimination.

All internal and external recruitment will be conducted in accordance with legislative requirements.

**2.4.2. Discrimination in the Workplace**

Discrimination is unacceptable at MILC and is strictly prohibited.

Staff who are found to have engaged in such conduct may be counselled, warned or disciplined. Severe or repeated breaches will lead to formal disciplinary action, up to and including termination of employment.

Please refer to the Definitions table above to review the definitions of Discrimination.

In addition to EEO practices, the following should be observed, to ensure discrimination against staff in the workplace does not occur:

* Access for all staff to professional development;
* Where School requirements permit, flexible working arrangements that create a productive workplace and meets the needs of staff (refer to MILC’s Flexible Working Arrangements Policy);
* Complaint handling procedures that are accessible to all staff and deal with workplace complaints promptly, confidentially and fairly (refer to MILC’s Complaint Handling – Staff Policy and Procedure);
* Communication processes to give staff access to information and allow their view to be heard;
* Management decisions being made without bias.

**2.4.3. Victimisation**

Any staff found responsible for victimising another staff member because of reporting a workplace incident will face disciplinary action, up to and including termination.

**2.4.4. What is NOT Considered Discrimination or Victimisation?**

The following types of behaviours are not considered Discrimination or Victimisation:

* Administration Action: Leadership frequently has to make difficult decisions, such as changing work allocation or moving staff. These decisions may not please everybody but they will not generally constitute discrimination.
* Performance Management: Feedback or counselling on work performance or work-related behaviours that are intended to assist staff to improve performance or the standard of their behaviour. Feedback and counselling should always be carried out in a constructive manner.
* Leadership Instructions: Fair and appropriate supervisory or management instructions delivered in a fair and appropriate manner e.g. without any belittling, sarcasm, favouritism, unlawful Discrimination, aggression or other abusive behaviour.
* Consensual Relationships: A friendship or consensual relationship of a sexual nature does not constitute Harassment, provided the interaction is consensual, welcome and reciprocated. However, the fact that a consensual relationship existed between two colleagues in the past will not provide a defence to Harassment that takes place by one against the other when the interaction is no longer consensual or welcome.

**2.4.5. Commitment and Responsibilities**

It is MILC’s legal responsibility to ensure that Harassment (including Discrimination), does not happen in the workplace. If it does occur, complaints of Discrimination will be taken seriously by MILC and all staff concerned with the matter / incident should follow the **Complaint Handling – Staff Policy and Procedure**. The complaint will be investigated in a sympathetic, fair and confidential manner.

Should a complaint be substantiated by talking with all parties involved and possible witnesses, action will be taken to make sure that the Discrimination ceases.

Appropriate warnings or disciplinary action will be taken where Discrimination is found to have occurred. Staff members will not be victimised or treated unfairly for making a Discrimination complaint.

**Leadership**

The Executive, Managers and any other staff in a leadership role are responsible for ensuring that:

* They understand their obligations under legislation and this policy, are committed to the principles of EEO and that these policies and principles are applied in the workplace;
* All decisions relating to appointment, promotion and career development are made without regard to any matters, other than the individual’s inherent ability to carry out the role;
* They provide an environment which encourages compliance with this policy and set an example by their own behaviour;
* They model appropriate standards of behaviour and School behaviours;
* They take steps to educate and make staff aware of their obligations under this policy and the law;
* They intervene quickly and appropriately when they become aware of inappropriate behaviour, ensuring the correct Complaint Handling – Staff Policy and Procedure is followed;
* They help staff resolve informal complaints and ensure staff who raise an issue or make a complaint are not victimised;
* Recruitment decisions are based on merit and that no discriminatory requests for information are made;
* They refer formal complaints about breaches of this policy to the HR Manager for investigation.

**Staff and Contractors**

Staff and School contractors are responsible for ensuring that:

* They comply with this policy;
* They treat all colleagues, students, parents, contractors etc. with respect and professionalism without regard to non-relevant criteria or distinctions;
* They offer support to people who experience Discrimination, including providing information about how they can make a complaint;
* They respect the confidentiality of complaint resolution procedures.

**2.4.6. Reporting Incidents**

Any person who feels that he or she has been subjected to any form of Discrimination, Bullying, Harassment or Victimisation must report it as soon as possible and refer to the Complaint Handling – Staff Policy & Procedure in the first instance to guide them on resolving the issue internally in an informal or formal manner (as appropriate).

MILC’s Complaint Handling – Staff Policy and Procedure is based on confidentiality (as far as possible), procedural fairness, protection from Victimisation and prompt resolution. Any complaints relating to breaches under the EEO and Anti-Discrimination Policy will be dealt with in accordance with those principles.

The Complaint Handling - Staff Policy & Procedure clearly outlines the steps staff can take when reporting an incident.

**2.4.7. Vexatious Claims**

Inaccurate, misleading, malicious or false accusations have negative consequences for the person(s) concerned, interpersonal relationships and the morale of MILC community.

Where it is found that a complaint has been made in bad faith to cause distress to one or more persons, or as a practical joke, disciplinary measures will be taken up to and including termination of employment.

**2.5. Breaches of this Policy**

Any staff member found to have engaged in unfair or discriminatory conduct will be deemed to be in breach of this policy and will face disciplinary action proportionate to the breach and its consequences, which may result in termination of employment. Discrimination in the workplace can also lead to prosecutions under equal opportunity and anti-discrimination legislation.

**3. RELATED DOCUMENTS**

Recruitment & Selection Policy

Anti-Bullying, Violence and Harassment Policy

Code of Conduct for Working with Students Policy

Staff Code of Conduct

Privacy Policy

**4. RELEVANT LEGISLATION**

Equal Opportunity Act 2010 (Victoria);

Age Discrimination Act 2004 (Cth);

Sex Discrimination Act 1984 (Cth);

Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021 *(****Respect@Work Act****)* Racial Discrimination Act 1975 (Cth);

Disability Discrimination Act 1992 (Cth);

Disability Discrimination and other Human Rights Legislation Amendment Act 2009; Human Rights and Equal Opportunity Commission Act 1986 (Cth);

Charter of Human Rights and Responsibilities Act 2006 (Vic);

Workplace Gender Equality Act 2012;

Occupational Health & Safety Act 2004;

Multicultural Victoria Act 2011 (Vic)

Crimes Act 1958 (Victoria);

Racial and Religious Tolerance Act 2001 (Victoria);

Pregnancy Guidelines (Published by the Human Rights and Equal Opportunity Commission, Sydney, March 2001);

Equal Employment Opportunity (Commonwealth Authorities) Act 1987 (Cth);

Equal Employment Opportunity for Women in the Workplace Act 1999 (Cth);

Fair Work Act 2009 (Cth)