

EQUAL OPPORTUNITY POLICY

Mandatory Quality Area 4 & 7

PURPOSE

This policy is designed to ensure that Camberwell Kindergarten and Child Care Centre Inc. complies with all of its obligations under the relevant legislation. The legislation covers a wide range of unlawful discrimination areas both direct and indirect. Commonly included are: race, colour, national or ethnic origin, nationality, religion, sex or gender, marital status, pregnancy, intellectual or physical impairment and disability.

POLICY STATEMENT

VALUES

Camberwell Kindergarten and Child Care Centre Inc. is an equal opportunity employer and will provide equality in employment for all people employed or seeking employment.

This service is committed to:

- Giving each person (employee) a fair and equitable chance to apply for a promotion to pursue their career as effectively as others.
- Not condoning any form of unlawful discrimination or vilification (abusively, disparaging speech or writing).
- Promoting equal opportunity.
- Creating and providing a workplace that all employees are treated with courtesy, dignity and respect.
- Preventing unlawful, direct and indirect discrimination, including sexual harassment.
- Ensuring that all employees are educated in the prevention of inappropriate workplace behaviour.

SCOPE

This policy applies to the Approved Provider, Nominated Supervisor, and Person Responsible, all other employees, sub-contractors, students on placement, volunteers, and parents/guardians.

BACKGROUND AND LEGISLATION

Background

Equal opportunity is a requirement under both Victorian and Commonwealth legislation. In Victoria, the main piece of legislation which makes it unlawful to discriminate is the Equal Opportunity Act 2010 (Vic) (EO Act 2010).

Both Commonwealth and Victorian equal opportunity legislation apply to the service as an employer and to all employees.

The EO Act 2010 protects people from discrimination on the basis of the individual attributes in certain areas of public life (such as in employment and education) and provides redress for people who have been discriminated against. It also aims to eliminate, as far as possible, discrimination, sexual harassment and victimisation.

Legislation and standards

Relevant legislation and standards include but are not limited to:

- Age Discrimination Act 1992.
- Australian Human Rights Commission Act 1986.
- Charter of Human Rights and Responsibilities (2006)
- Disability Discrimination Act 1992.
- Equal Opportunity Act 2010.
- Fair Work Act 2009.
- Information Privacy Act 2000.
- National Quality Area 7 – Governance and Leadership, Standard 7.2 – Effective leadership builds and promotes a positive organizational culture and professional learning community.
- Occupational Health and Safety Act 2004.
- Racial Discrimination Act 1975.
- Sex Discrimination Act 1984.
- The Public Administration Act 2004(Vic)

1. DEFINITIONS

The terms defined in this section relate specifically to this policy.

- **Approved Provider:** An individual or organisation that has completed an application and been approved by the Regulatory Authority as fit and proper (in accordance with Sections 12, 13 and 14 of the National Law) to operate one or more education and care services. Where the applicant is an organisation, each person with management and control of that organisation must complete a separate application form. (Note: Under the *Education and Care Services National Law Act 2010*, Section 5, Definitions: “**person with management or control**, in relation to an education and care service, means – (b) if the provider of the service is an eligible association, each member of the executive committee of the association who has the responsibility, alone or with others, for managing the delivery of the education and care service”.)
- **Bullying:** Is defined as repeated and unreasonable behaviour directed towards a person or group of people that creates a risk to health and safety. These unsolicited, vindictive attacks on personal or professional performance are typically unpredictable, irrational and unseen. Interactions outside the workplace, in person or via social media, can also be considered part of workplace bullying in certain circumstances.
- **Code of Conduct:** A set of rules or practices that establish a standard of behaviour to be followed by individuals and organisations. A code of conduct defines how individuals should behave towards each other and towards other organisations and individuals in the community (refer to *Code of Conduct Policy*).
- **Criminal Conduct:** The following forms of more serious inappropriate behaviour may also constitute a criminal offense: eg; stalking, sexual assault, indecent exposure, physical molestation or assault, requests for sexual activity under threat.
- **Discrimination:** Unlawful discrimination occurs when someone or a group of people, is treated less favourably than another person or group of people, on account of personal characteristics as specified under anti-discrimination and human rights legislation. Discrimination can be direct or indirect. Indirect discrimination occurs when there is a workplace policy, rule or requirement that disadvantages one group more than another and this rule is not reasonable.
- **Diversity:** Diversity is about inclusiveness. It means understanding that each individual is unique and recognising and understanding the benefits of these individual differences. Diversity is the exploration of these differences in a safe, positive and nurturing environment. It is about understanding each other and embracing these differences within the workplace.

- **Equal Employment Opportunity:** Equal employment opportunity is the practice which ensures that all employees and potential employees are treated equitably and fairly, regardless of their race, gender, marital status, age, physical or intellectual impairment or sexual preference.
- **Harassment:** Harassment is any uninvited or unwelcome behaviour that is reasonably likely to offend, humiliate or intimidate another person. For behaviour to be considered harassment it must be based on personal characteristics protected by law, the same characteristics that apply for discrimination.
- **Inappropriate Workplace Behaviour:** Inappropriate workplace behaviour that constitutes harassment, discrimination, sexual harassment and bullying. Some types of inappropriate behaviour may be unlawful and may lead to disciplinary actions including possible termination.
- **Nominated Supervisor:** A person who has been nominated by the Approved Provider of the service under Part 3 of the Act and who has consented to that nomination in writing can be the Nominated Supervisor. All services must have a Nominated Supervisor with responsibility for the service in accordance with the National Regulations. The Approved Provider must take reasonable steps to ensure the Nominated Supervisor is a fit and proper person (refer to *Definitions*), with suitable skills, qualifications and experience. The Regulatory Authority must be notified if the Nominated Supervisor for the service changes or is no longer employed at the service.
- **Occupational Health and Safety:** Is a multidisciplinary field concerned with the safety, health and welfare of people at the workplace.
- **Person Responsible:** An educator who has been nominated by the Approved Provider or the Nominated Supervisor of a service (in accordance with the National Regulations), and consents in writing to being placed in day-to-day charge of the education and care service. A Person Responsible can be any person engaged to be responsible for the day-to-day management of the service, or with supervisory and leadership responsibilities at the service. Any person placed in day-to-day charge of the service must be assessed as a fit-and-proper person (refer to *Definitions*) and have suitable skills, qualifications and experience as determined by the service. Individual supervisor certificates are also still valid.

A Person Responsible placed in day-to-day charge of a service **does not** have the same responsibilities under the National Law as the Nominated Supervisor

- **Serious Misconduct:** Is a behaviour that could cause serious and imminent risk to the reputation or profits of the business, or health and safety of another person, or is deliberate behaviour inconsistent with continuing the employment.
- **Sexual Harassment:** Sexual harassment is behaviour of a sexual nature that involves uninvited or unwelcome behaviour that makes a person feel offended, humiliated or intimidated, where that reaction is reasonable in the circumstances.
- **Victimisation:** Victimisation involves subjecting, or threatening to subject, an employee to a disadvantage as a result of an employee. It also includes subjecting a person to less favourable treatment, or targeting them with abuse, altering their employment conditions to their detriment, or dismissing the person.
 - Making or intending to make an equal opportunity complaint.
 - Providing information as a witness.
 - Supporting a complainant.
 - Having an equal opportunity complaint made against them.
 - The person has made, or proposes to make a report about bullying or inappropriate behaviour or inappropriate material.
 - Has provided information or documents.
 - Has attended a conference in relation to a report of bullying or inappropriate behaviour.
 - Has supported someone lodging a report.
 - Has spoken about bullying or inappropriate behaviour.

2. SOURCES AND RELATED POLICIES

Sources

- *Early Learning Association Australia – ELAA.*
- *Victorian Chamber of Commerce and Industry – VECCI*
- *Community Child Care.*
- *Fair Work Australia.*
- *United Voice – (Union)*

Service policies

- *Anti-bullying Policy.*
- *Code of Conduct Policy.*
- *Grievances and Complaints Policy.*
- *Occupational Health and Safety Policy.*
- *Person Responsible Policy.*
- *Privacy and Confidentiality Policy.*
- *Serious Misconduct Policy.*
- *Staffing Policy.*

PROCEDURES

The Approved Provider will oversee and is responsible for:

- Reading and complying with the Equal Opportunity Policy.
- Ensuring management decisions are fair and equitable, especially when recruiting and selecting employees.
- Ensuring that all employees are following the grievances handling procedures.
- Ensuring all employees understand and are committed to the principles and legislation relating to equal opportunity and applying it in the workplace.

The Nominated Supervisor is responsible for:

- Ensuring that the equal opportunity policy is communicated to all employees and have an understanding of their obligations, responsibilities and rights in relation to equal opportunity.
- Ensure that all employees have equal access to employment opportunities.
- Ensuring that all employees are treated with courtesy, dignity and respect.
- Ensuring that the service has a workplace culture that encourages equal employment opportunity and sets an example by their own behaviour.
- Providing ongoing support and guidance to all employees in relation to the equal employment opportunity and practices at the service.
- Ensuring the appropriate steps are taken to minimise or eliminate unlawful harassment, discrimination and bullying at the workplace.

Person Responsible and other educators/staff are responsible for:

- Comply with this policy and treat all colleagues and other educators, students, volunteers and contractors with respect and professionalism.
- Informing the nominated supervisor if they believe that they or someone else has been treated unfairly.
- Comply with the legislation and this policy.
- Ensuring the working environment is safe, inclusive and promotes respect for others.

All parents/guardians are responsible for:

- Reading and complying with this Equal Opportunity Policy.

Students, volunteers, and contractors while at the service, are responsible for following this policy and its procedures.

EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, the Approved Provider will:

- Regularly seek feedback from everyone affected by the policy regarding its effectiveness.
- Monitor the implementation, compliance, complaints and incidents in relation to this policy.
- Keep the policy up to date with current legislation, research, policy and best practice.
- Revise the policy and procedures as part of the service's policy review cycle, or following a hypo emergency at the service, to identify any changes required.
- Notify parents/guardians at least 14 days before making any changes to this policy or its procedures.

ATTACHMENTS

Nil

AUTHORISATION

This policy was adopted by the Approved Provider of Camberwell Kindergarten and Child Care Centre Inc. on 01/10/2018

REVIEW DATE: 01/10/2020