Equal opportunity and anti-discrimination policy

**Acknowledgement**

The Victorian Curriculum and Assessment Authority proudly acknowledges and pays respect to Victoria’s Aboriginal and Torres Strait Islander communities and their rich and enduring cultures.

We acknowledge Aboriginal and Torres Strait Islander people as Australia’s first peoples and as the Traditional Owners and custodians of the lands and waters on which we rely. We pay respect to Elders past and present of the lands where we conduct our work and recognise their ongoing contributions as the first educators on the land now known as Victoria.

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1. Overview

The Victorian Curriculum Assessment Authority (VCAA)is an equal opportunity employer committed to providing respectful, safe and inclusive working environments where all employees are treated fairly with respect and dignity.

The core elements of the VCAA’s equal opportunity and anti-discrimination policy are:

* freedom from discrimination and harassment
* merit selection focusing on essential job requirements
* respect for diversity
* good people management.

These core elements recognise and value the diversity of the Victorian community, enable attraction of the best skills from a wide talent pool and ensure that employees can realise their potential with the VCAA.

This policy applies to all employees within the Victorian Curriculum and Assessment Authority (VCAA). For the purposes of this policy, the term 'employees' encompasses VCAA employees of the direct workforce, as well as any individuals or groups undertaking an activity for or on behalf of the VCAA, including:

* all employees (fixed term, casual, sessional) employed under Ministerial Order No. 1451 – Victorian Curriculum and Assessment Authority employees (Employment Conditions, Salaries, Allowances, Selection and Conduct) Order 2023 (referred to as ‘The MO’)
* Board members.

However, it may be the case that some of the legislation, policies and instruments mentioned in this policy may only apply to particular categories of employees.

1. Objectives

The objectives of this policy are to:

* ensure that all employees are treated equally, are respected for their unique attributes and are not excluded or treated in a way that may form the basis of discrimination, harassment, vilification, or victimisation.
* The VCAA will not tolerate inappropriate behaviours, including but are not limited to victimisation, vilification, discrimination and harassment.

1. Principles
   1. Diversity and inclusivity

The policy aims to create an inclusive environment where employees of all backgrounds are treated fairly, respectfully, and with dignity.

* 1. Merit-based selection

The VCAA recognises and values the diversity within the community, aiming to attract the best talent from a wide pool and enable all employees to realise their full potential.

* 1. Respect for all

This policy promotes a culture of respect for diversity and individual attributes, ensuring that employees are treated equally, free from exclusion, discrimination, harassment, vilification, or victimisation.

* 1. Effective management

Enforces clear processes for raising grievances, offers support and assistance, and monitors compliance to maintain a respectful and safe working environment.

1. Roles and responsibilities
   1. The employer

The employer (VCAA) recognises its obligation under this policy to take reasonable and proportionate measures to eliminate unlawful discrimination and harassment of all kinds from its workplaces*.*

* ensuring information and training to support the effective implementation of this policy is accessible and available
* monitoring the implementation of this policy
* Taking action if the VCAA is aware of any behaviour which could constitute discrimination and/or harassment, even if no complaint has been lodged. All employees can be liable for the actions of others if they authorise, encourage or assist discrimination and/or harassment to occur in the workplace.
* Identifying potential risk factors and taking prompt, reasonable action to minimise those risks, including managing organisational change in an inclusive and participatory way, for example, by consulting with employees affected as early as possible and developing and maintaining effective communication throughout the process and implementing work systems to prevent the risk of discrimination and/or harassment. Ensuring these systems maintain privacy and confidentiality of data collected, and reviewing and evaluating those systems, for example, by seeking feedback from employees through the People Matter Survey.
* understanding what constitutes discrimination and/or harassment and knowing how to prevent or respond to any alleged discrimination and/or harassment
* promoting and modelling appropriate behaviour and the VCAA’s values (our values)
* ensuring that recruitment decisions are based on merit and that no discriminatory requests for information are made
* taking steps to educate and ensure employees are aware of their obligations under this policy and the law
* promoting awareness of the avenues for advice and the complaints procedures with respect to discrimination and/or harassment as set out in this policy
* monitoring the working environment to ensure as far as practicable that acceptable standards of conduct are maintained at all times and that discrimination and/or harassment are not tolerated
* treating complaints and behaviour which may constitute discrimination and/or harassment seriously and taking immediate action
* ensuring that an employee is not victimised for making, or being involved in, a complaint of discrimination and/or harassment
* taking action to comply with any compliance notice issued by the Australian Human Rights Commission.
  1. Employees
* complying with this policy
* reporting any incident of discrimination and/or harassment that they have experienced or witnessed
* modelling appropriate behaviour, including the employment principles, the Victorian Public Sector standards and [our](https://www.education.vic.gov.au/hrweb/workm/Pages/PublicSV-Corporate.aspx) values
* treating any allegations or complaints of discrimination and/or harassment with appropriate confidentiality.

1. Expectations
   1. Request for information

An individual must not request or require another individual to supply information that could be used by the first individual to form the basis of discrimination against the other individual on the ground of the other individual’s protected attribute.

An exception to this rule is that information that could be used to form the basis of discrimination against the other individual can be requested or required if it is reasonably required for a purpose that does not involve prohibited discrimination. The information must be used for those non-discriminatory purposes.

* 1. Reasonable adjustments

Both Commonwealth and Victorian legislation require employers to make reasonable adjustments for employees and contract workers with disabilities who require adjustments to perform the genuine and reasonable requirements of their employment.

In determining whether a particular adjustment is reasonable, all relevant facts and circumstances must be considered, including:

* the employees’ circumstances, including the nature of their disability
* the nature of the employees’ role or the role that is being offered
* the nature of the adjustment required to accommodate the employees’ disability
* the financial circumstances of the employer
* the size and nature of the workplace
* the effect on the workplace of making the adjustment, including the financial impact, the number of employees who would benefit or be disadvantaged by doing so, the impact on efficiency and productivity and, if applicable, on customer service of doing so
* the consequences for the employee of not making the adjustment
* the consequences for the employer of making the adjustment.
  1. Reporting or making a complaint

If you are the subject of the alleged conduct or witness the alleged conduct and you feel comfortable doing so, you are encouraged to let the individual know that you find their behaviour unacceptable and/or unlawful and that you want the behaviour to stop. Sometimes, individuals may be unaware of the impact their behaviour is having on those around them. Calling out the behaviour and its impact can prompt individuals to acknowledge their behaviour and modify how they engage with others in future. Raising issues early can help prevent them from escalating further and assist with a respectful resolution, where circumstances permit.

If the behaviour does not stop, or you do not feel able to discuss the matter with the individual, you should raise the matter in one of the ways outlined below:

* emailing or speaking to your manager; if you are not comfortable talking to your manager, you may contact:
* an authorised delegate
* the VCAA human resources area
* the VCAA's workplace contact officers, or
* the VCAA division’s executive director.

Complaints will be dealt with in accordance with relevant VCAA policies, procedures and industrial instruments. Schedule 1 of the MO sets out the management procedure of unsatisfactory performance for employees covered by the MO.

The VCAA encourages any employee who believes they have been the victim of a criminal offence to report the incident to Victoria Police as soon as possible, as well as reporting the matter to a manager or authorised delegate. In relation to complaints involving employees, close liaison by the manager with the VCAA Human Resources area and/or the police is necessary at the outset. This is to ensure that a police investigation is not interfered with or compromised in any way.

If a complaint of discrimination and/or harassment is made, managers and/or authorised delegates must consider all matters raised with them and refer those which may be in breach of this policy to VCAA Human Resources.

Where discrimination and/or harassment is found to be substantiated, the consequences for the individual against whom the complaint is made will depend on the circumstances. The consequences may include an apology, counselling, undertaking training, or disciplinary action up to and including termination of employment.

At any time, employees may also choose to take a complaint of discrimination and/or harassment to the following organisations:

* Australian Human Rights Commission
* Victorian Equal Opportunity and Human Rights Commission
* Fair Work Commission.
  1. Bystander intervention

Bystanders, including employees, who witness or are aware of discrimination, can play an important role in responding to discrimination in the workplace. When grounded in behaviours of integrity and respect, action taken by employees can positively impact on defining workplace culture.

Bystanders that are aware of discrimination are encouraged to:

* provide support to the colleague subjected to the discrimination
* formally or informally challenge concerning behaviour, and
* report discrimination.
  1. Information or claims without substance

Knowingly providing false information or baseless allegations may result in disciplinary action.

* 1. Confidentiality

Reports of discrimination will be handled confidentially to safeguard the personal privacy of employees to the fullest extent possible.

Managers may be required to refer matters even where the information has been relayed on a confidential and informal basis. This is because the VCAA may have an obligation to address the matter formally. Managers need to advise employees making the report of this requirement when they seek to raise matters confidentially and informally.

Only relevant VCAA employees will be advised of the declaration/report and any arrangements necessary for the purpose of managing the disclosure or report.

* 1. Anonymous reporting

Employees who report discrimination, or who have witnessed discrimination may request to remain anonymous. However, it may not be possible in all circumstances to keep the identity of an individual, or individuals providing information, confidential. In some situations, it may be the case that a respondent may need to be provided with the full details of allegations when consideration of procedural fairness and natural justice are taken into account.

Disclosure may also be required for safety or legal reasons, and employees will be notified if this happens.

* 1. Support and assistance

Support is available to all employees, and individuals involved in reporting and managing a complaint, even after the matter has been resolved.

The VCAA encourages all employees to speak to their manager to discuss any questions or concerns they may have regarding the conduct of any other employee.

Employees can also seek support through the following free and confidential dispute resolution services:

* the Employee Assistance Program (EAP)
* the Victorian Equal Opportunity and Human Rights Commission
* the Australian Human Rights Commission
* the Fair Work Commission.
  1. Legal framework
* Equal opportunity is a requirement under both Victorian and Commonwealth legislation. In Victoria, the key legislation which makes discrimination unlawful is the *Equal Opportunity Act 2010* (Vic).
* Other relevant laws in Victoria are the *Charter of Human Rights and Responsibilities Act 2006* (Vic),the *Gender* [*Equality Act 2020* (Vic)](https://www.legislation.vic.gov.au/in-force/acts/gender-equality-act-2020/004)*,* the *Racial and Religious Tolerance Act 2001* (Vic) and the *Spent Convictions Act 2021* (Vic).
* The *Public Administration Act 2004* (Vic) outlines the values, employment principles and standards that apply to public officials and all public sector employers. Under this Act, the Victorian Public Sector Commissioner must promote the public sector values and principles and issue standards concerning the application of the principles.
* At the Commonwealth level, there is a range of equal opportunity legislation which prohibit discrimination, including the *Fair Work Act 2009* (Cth), the *Racial Discrimination Act 1975* (Cth), the *Sex Discrimination Act 1984* (Cth), the *Disability Discrimination Act 1992* (Cth), the *Age Discrimination Act 2004* (Cth) and the *Carer Recognition Act 2012* [(Cth)*.*](https://www.legislation.gov.au/Details/C2010A00123)
  1. Definitions

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| --- | --- |
| Term | Definition |
| **Discrimination** | Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as race, gender or disability. It is unlawful under both state and federal legislation to discriminate against a person directly or indirectly on the basis of a protected attribute in an area of public life (such as in employment).  Direct discrimination is when a person or group of people treats, or proposes to treat, a person with a protected attribute unfavourably, because of that attribute. In determining whether a person directly discriminates, it is irrelevant whether the attribute is the only, or dominant reason for the unfavourable treatment, provided it is a substantial reason.  Indirect discrimination occurs if a person imposes or proposes to impose, an unreasonable requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons or groups of people with a protected attribute. Whether a requirement, condition or practice (or proposed requirement, condition or practice) is reasonable depends on all relevant circumstances.  The following are the attributes on the basis of which discrimination is prohibited under state and federal legislation:   * age, race, gender, religion disability, marital status, parental status * pregnancy, breastfeeding * employment activity, industrial activity * lawful sexual activity * physical features * political belief or activity * profession, trade or occupation * sex characteristics * sexual orientation * an expunged homosexual conviction * a spent conviction * personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes. |
| **Sexual harassment** | Sexual harassment occurs in circumstances in which the conduct is unwelcome, sexual in nature, and where a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated. Sexual harassment and harassment on the ground of sex are unacceptable and will not be tolerated under any circumstances. Refer to the VCAA Sexual Harassment Policy. |
| **Harassment on the ground of sex** | Harassment on the grounds of sex includes demeaning conduct or statements related to the person's sex or a characteristic associated with that sex. This behavior doesn't necessarily have to be sexual in nature. Some examples of sex-based harassment could include:   * asking intrusive personal questions based on a person's sex * making inappropriate comments and jokes to a person based on their sex * displaying images or materials that are sexist, misogynistic or misandrist * making sexist, misogynistic or misandrist remarks about a specific person * requesting a person to engage in degrading conduct based on their sex. |
| **Victimisation** | Victimisation occurs when an individual faces harm or threats as a result of lodging an allegation of discrimination or harassment or asserting their rights under this policy or relevant legislation.  It is unlawful for a person to subject or to threaten to subject another person to any detriment because the other person, or someone associated with the other person, has made an allegation or complaint of discrimination or harassment based on a protected attribute and/or asserted their rights under this policy or other relevant legislation. |
| **Vilification** | Vilification is when a person engages in conduct that incites hatred towards, serious contempt for, or revulsion or severe ridicule of, a person or group of people based on race or religion. This can occur through a single act or a number of acts over a period of time. |
| **Positive duty** | The VCAA has a positive duty to take reasonable and proportionate measures to eliminate discrimination, sexual harassment and harassment on the ground of sex, hostile workplace environments, and other forms of harassment and victimisation from the workplace. This means, for example, taking measures to ensure staff are undertaking training and regularly assessing workplace compliance to achieve improvement. |

1. Managing this policy
   1. Authorisation

This policy is issued under the authority of the Chief Executive Officer.

* 1. Accountability for the policy

The owner for this policy is VCAA Human Resources. The owner reports to the Chief Executive Officer on the management of this policy.

The owner is responsible for:

* development and regular review of this policy
* development of protocols, processes and guidelines to support implementation
* monitoring compliance of applicable employees, organisational units, and/or locations.
  1. Important dates

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| Date of adoption: | July 2024 |
| Date of last amendment: | July 2024 |
| Date of next review: | July 2026 |

1. Related documents

* Ministerial Order No 1451
* Victorian Public Service Enterprise Agreement 2020
* Victorian Public Sector Code of Conduct
* [Equal Opportunity Act 2010 (Vic)](https://www.legislation.vic.gov.au/in-force/acts/equal-opportunity-act-2010/030)
* [Charter of Human Rights and Responsibilities Act 2006 (Vic)](https://www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006/015)
* [Gender](https://www.legislation.vic.gov.au/in-force/acts/gender-equality-act-2020/004) [Equality Act 2020 (Vic)](https://www.legislation.vic.gov.au/in-force/acts/gender-equality-act-2020/004)
* [Racial and Religious Tolerance Act 2001 (Vic)](https://www.legislation.vic.gov.au/in-force/acts/racial-and-religious-tolerance-act-2001/011)
* [Spent Convictions Act 2021 (Vic)](https://www.legislation.vic.gov.au/in-force/acts/spent-convictions-act-2021/004)
* [Public Administration Act 2004 (Vic)](https://www.legislation.vic.gov.au/in-force/acts/public-administration-act-2004/082)
* [Fair Work Act 2009 (Cth](https://www.legislation.gov.au/Details/C2023C00072))
* [Racial Discrimination Act 1975 (Cth)](https://www.legislation.gov.au/Details/C2022C00366)
* [Sex Discrimination Act 1984 (Cth)](https://www.legislation.gov.au/Details/C2023C00003)
* [Disability Discrimination Act 1992 (Cth](https://www.legislation.gov.au/Details/C2022C00367))
* [Age Discrimination Act 2004 (Cth)](https://www.legislation.gov.au/Details/C2022C00360)
* [Carer Recognition Act 2012](https://www.legislation.gov.au/Details/C2010A00123) [(Cth).](https://www.legislation.gov.au/Details/C2010A00123)
* [Victorian Equal Opportunity and Human Rights Commission](https://www.humanrights.vic.gov.au/complaints/make-a-complaint/)
* [Australian Human Rights Commission](https://humanrights.gov.au/complaints/make-complaint)
* [Fair Work Commission](https://www.fwc.gov.au/apply-or-lodge/apply-now)
* VCAA Values (Our Values)
* VCAA Sexual Harassment Policy.