HUMAN RESOURCES POLICY

HR-002 Equal Opportunity Policy
1  Purpose

Bacchus Marsh Grammar is committed to the principle of equity in employment, education and welfare for current and prospective employees and students.

This policy demonstrates Bacchus Marsh Grammar’s commitment to providing employees and students with an educational and employment environment that provides equal opportunity and is free from unlawful discrimination, harassment, sexual harassment, victimisation and bullying.

This policy is designed to provide a process for resolving complaints relating to this policy.

2  Scope

This policy applies to all employees across Bacchus Marsh Grammar, including the School Council, contractors and other authorised personnel of Bacchus Marsh Grammar.

3  References

3.1  Legislation

- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Crimes Act 1958 (Vic)
- Crimes Amendment (Bullying) Act 2001 (Vic)
- Disability Discrimination Act 1992 (Cth)
- Equal Opportunity Act 2010 (Vic)
- Fair Work Act 2009 (Cth)
- Information Privacy Act 2000 (Vic)
- Occupational Health and Safety Act 2004 (Vic)
- Protected Disclosure Act 2012 (Vic)
- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Workplace Gender Equality Act 2012 (Cth)

3.2  Related Policies

- Employee Code of Conduct;
- Grievance Resolution and Investigation Policy; and
- Performance Management, Misconduct and Disciplinary Policy.

4  Definitions

<table>
<thead>
<tr>
<th>Word/Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Officer</td>
<td>The Principal of Bacchus Marsh Grammar.</td>
</tr>
<tr>
<td>Supervisor</td>
<td>An individual who has been delegated the authority to be responsible for another employee in respect of specified workplace matters and/or decisions.</td>
</tr>
</tbody>
</table>
5 Principles
This policy is based on the principles of respect, equality and natural justice.

6 Bacchus Marsh Grammar’s Policy Statement

Bacchus Marsh Grammar is committed to providing an environment of equal opportunity and maintaining positive and safe conditions where all employees are treated with respect and equality, which contributes to employee commitment, job satisfaction, improved productivity and employee wellbeing.

Bacchus Marsh Grammar will not tolerate any type of workplace inequality, harassment and discrimination, including:
- Discrimination
- Bullying
- Workplace violence
- Harassment (including sexual harassment)
- Victimisation
- Vilification

Bacchus Marsh Grammar recognises that such behaviour and practices are against the law, and disciplinary action, will be taken against any employee who breaches this policy and where appropriate, the matter will be referred to the relevant enforcement authority. An outcome of disciplinary action as a result of breach of this policy may result in termination of employment if appropriate.

Bacchus Marsh Grammar encourages reporting of any behaviour which is in breach of this policy. All complaints will be dealt with in a proper and timely manner.

6.1 Discrimination

Discrimination has two meanings, which can be classified as either direct discrimination or indirect discrimination. For discrimination to be unlawful, it must be on the basis of an attribute listed in State or Federal legislation.

6.1.1 Direct discrimination means to treat someone with a particular attribute less favourably than a person without the particular attribute in the same or similar circumstances.

For example, an employee is harassed and humiliated because of their race or an employee is refused promotion because they are “too old”

6.1.2 Indirect discrimination means when a requirement, condition or practice is imposed and a person with an attribute cannot comply with the requirement, whereas others can, and that requirement, condition or practice is not reasonable.

For example, redundancy is decided based on people who have had a worker’s compensation claim, rather than on merit.

6.1.3 An attribute can one or more of:
- gender;
- relationship status;
- parental status;
- family responsibilities;
- pregnancy;
- breastfeeding;
- age;
- race;
- nationality;
- social origin;
- colour;
- impairment or disability;
- religious belief or activity;
- irrelevant criminal or medical record;
- physical features;
- participation in lawful industrial activity;
- lawful sexual activity;
- gender identity;
- political belief or activity; or
- association with a person identified by one of the above grounds.

6.1.4 Examples of conduct that may amount to discrimination includes but are not limited to:
- judging someone on their political or religious beliefs, rather than their work performance;
- using stereotypes or assumptions to guide decision making about a person’s career;
- undermining the person’s authority because of their race, gender or sexual preference;
- denying promotion opportunities to staff members on the basis of age or gender;
- making offensive jokes or comments about another worker’s racial or ethnic background, gender, sexual preference, age, disability or physical appearance; or
- denying further training to employees on the basis of impairment.

6.2 Bullying

6.2.1 Bullying is repeated unreasonable behaviour directed towards a person or group that is intimidating, insulting, offensive, humiliating or abusive.

6.2.2 Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

6.2.3 Unreasonable behaviour means behaviour that a reasonable person, having regard to the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

6.2.4 Bullying may occur in relation, but not limited, to:
- culture;
- gender;
- race;
- ability or disability;
- physical appearance;
- beliefs;
- age;
- religion; or
- economic status

6.2.5 Types of bullying include direct physical bullying, direct verbal bullying, indirect bullying and cyberbullying.

6.2.6 Direct physical bullying includes punching, kicking, pushing and interfering with or damaging property.

6.2.7 Direct verbal bullying includes threatening, verbal abuse, shouting, teasing;

6.2.8 Indirect bulling includes:
- spreading malicious rumours;
- deliberately excluding someone from relevant workplace activities or functions;
- victimising someone because that person has made a complaint, is proposing to make a complaint, has helped someone else make a complaint and / or is acting or acted as a witness to a complaint;
- Mimicking.
6.2.9 **Cyberbullying** includes behaviour that constitutes direct and indirect bullying, using digital technologies such as a mobile phone or over the internet on social networking sites such as Facebook or Twitter.

6.2.10 For conduct to constitute bullying there does not have to be any intention to cause harm or discomfort. All employees should therefore consider how their conduct could be perceived by others, even in circumstances where they think their behaviour is acceptable.

6.2.11 Bullying is **not**:
- setting performance standards and deadlines;
- allocating work;
- informing a worker about inappropriate behaviour;
- performance management; and/or
- requiring compliance with Bacchus Marsh Grammar policies

6.2.12 Bullying is unacceptable at Bacchus Marsh Grammar and may also breach occupational health and safety laws.

6.3 **Workplace violence**

6.3.1 **Violence** is force directed towards a person or group that is damaging, destructive, injurious, harmful or hurtful. Violence can be a one-off incident or repeated force that can be physical, verbal or sexual.

6.3.2 Verbal force may be threatening to use physical force.

6.4 **Harassment**

Unlawful **Harassment** is defined under federal and state legislation, as any form of behaviour toward an individual or group, where a person is made to feel intimidated, insulted or humiliated because of a particular characteristic(s) e.g. race, sex specified under anti-discrimination or human rights legislation. It can be a single unwelcome incident or a persistent pattern of unwanted behaviour. Some forms of harassment may also amount to criminal behaviour, when violence and vilification are involved.

Examples of Harassment:
- Asking intrusive questions about someone’s personal life;
- Offensive communications including digital communications (Facebook, twitter, e-mails), written, images and telephone;
- Derogatory or demeaning jokes intended to offend on the basis of stereotyped characteristics.

6.4.1 **Sexual Harassment**

**Sexual harassment** is unwelcome conduct of a sexual nature that is likely to offend, humiliate or intimidate the person at whom it is directed. The harassing behaviour may include (but is not limited to):
- unwelcome physical contact (e.g. kissing, touching, patting or brushing against a person);
- demands for sexual favours;
- offensive or demeaning comments;
- jokes and innuendo;
- staring;
- sexually explicit conversations;
- gender based insults;
- displaying, sending, emailing or downloading offensive material; and questions, remarks or insinuations about a person’s sexual activities or private life.

6.4.2 A single act or continuing courses of conduct is equally capable of constituting sexual harassment.
6.4.3 Further, it is important to note that it is irrelevant at law as to whether or not the inappropriate behaviour was intended by an employee.

6.4.4 Whether the behaviour is unwelcome is determined by reference to the person being subjected to the behaviour.

6.4.5 Sexual harassment is covered in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

6.5 Victimisation

Victimisation is any detriment suffered because a person has asserted their rights under equal opportunity law, helped someone else make a complaint, expressed a concern, or made a complaint in good faith about conduct covered by this policy.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

Bacchus Marsh Grammar will ensure that workers who make reports in good faith and others who may be involved as witnesses are not victimised.

6.6 Vilification

Vilification is any form of conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of a person or group of people because of their race or religion. This includes spoken, written, online or physical behaviour towards a particular race or religious group that encourages others to ridicule them, be hateful or violent towards them, damage their property or make false claims against them.

Such conduct can be a single event or series of events over a period.

7 Responsibilities

7.1 Bacchus Marsh Grammar Responsibility

7.1.1 Bacchus Marsh Grammar is responsible for providing employees with advice and guidance on the application of this policy and use of the reporting and grievance procedure.

7.1.2 Bacchus Marsh Grammar will ensure that employees are trained appropriately and procedures are implemented to reasonably monitor employee behaviour.

7.1.3 Bacchus Marsh Grammar will refer to the Grievance Handling and Investigation Policy to deal with reports of any conduct under this policy.

7.2 Management Responsibility

7.2.1 Managers are responsible for carrying out their duties in a safe manner, and in particular:

- Model appropriate standards of behaviour;
- Take steps to educate and make staff aware of their obligations under this policy and the law;
- Intervene quickly and appropriately when they become aware of inappropriate behaviour;
- Act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard;
- Help staff resolve complaints informally;
- Refer formal complaints about breaches of this policy for investigation;
- Handle matters confidentially; and
- Ensure staff who raise an issue or make a complaint are not victimised.
7.3 Employee Responsibility

7.3.1 All employees, contractors and other authorised personnel are responsible for ensuring compliance with this policy and maintaining acceptable standards of conduct at all times.

7.3.2 All employees, contractors and other authorised personnel must abide by this policy and take steps to prevent instances of any conduct occurring under this policy.

7.3.3 Employees, contractors and other authorised personnel must not, in any circumstances, discriminate against or harass, bully or be violent towards colleagues, visitors, students or any other person dealt with in the course of their employment at Bacchus Marsh Grammar.

7.3.4 An employee who believes that they are being bullied or are the victim of violence or have witnessed another individual being bullied or be the victim of violence, are encouraged to report the bullying or violence to the Contact Officer.

7.3.5 An employee, contractor or other authorised personnel should feel confident that all reports of conduct under this policy will be taken seriously, handled confidentially and will be dealt with thoroughly and professionally as is outlined in the Grievance Handling and Investigation Policy.

7.3.6 Employees also have a responsibility in the event that a student reports an incident of bullying or violence. Employees will assess the situation and implement a process which is appropriate in the circumstances. This may involve:

- interviewing all the parties involved either separately or together;
- discussing an appropriate cause of action with each student;
- encouraging the recipient and the offender to meet together to resolve the issue;
- documenting the incident and the interview;
- discussing the incident with the parents;
- informing the offender that further action will be taken if it continues;
- reporting the incident to a supervisor or the Principal if it is appropriate.

8 Grievance Procedure

8.1.1 Bacchus Marsh Grammar encourages all workers to take action to manage workplace bullying and to report workplace bullying in line with this procedure.

8.1.2 All reports will be treated seriously and dealt with promptly, confidentially and impartially.

8.1.3 Where appropriate this will include the conduct of a formal investigation.

8.1.4 Employees, contractors and other authorised personnel who have experienced any conduct under this policy should utilise this grievance procedure in order to attempt to resolve any complaint. Note also that the Employee Assistance Program is available if employees wish to confidentially discuss the matter at any stage either prior to or during the grievance procedure.

8.1.5 The steps in the grievance procedure to be followed by employees who feel that they have been bullied, harassed, discriminated or victimised against, are as follows:

Where it is appropriate to do so, employees, contractors and other authorised personnel:

- are encouraged to raise the issues or behaviours with the other person concerned and resolve the issues directly,
- should make it clear to the person that their behaviour is unwelcome and unwanted.
8.1.6 In circumstances where:

- the issue is not able to be resolved informally, either because the other person is unapproachable or they ignore the requests to try and resolve issues or stop the inappropriate behaviour; or
- the complaint relates to a serious incident of harassment or discrimination;
- employees, contractors and other authorised personnel may approach their Contact Officer, raise and discuss their concerns, and lodge a formal complaint.

8.1.7 The Contact Officer will then consider and/or investigate the complaint and work with the employees involved to remedy the situation and take steps to prevent similar incidents from arising in the future. Every complaint will be taken seriously and will be handled in a confidential manner and without bias.

8.1.8 Employees, contractors and other authorised personnel who wish to make a formal complaint will need to document their complaint in writing and where possible state:

- the name of the person against whom the complaint is made;
- the nature of the behaviour complained of;
- date(s) and time(s) when the behaviour complained of occurred;
- names and witnesses to any incidence of the behaviour complained of; and
- any action taken by the employee to stop the behaviour complained of.

8.1.9 Where an investigation is commenced:

- the investigation will be handled impartially, confidentially and efficiently;
- the person against whom the complaint has been made will be provided with details of the allegations and will be given an opportunity to respond;
- relevant witnesses may be interviewed where necessary and any statements taken will be securely kept to ensure confidentiality;
- both parties will be regularly updated throughout the investigation and advised of the outcome when it is reached.

8.1.10 Following the investigation:

- if the allegations are substantiated, immediate steps will be taken to ensure that the behaviour is not repeated and appropriate disciplinary action is taken; or
- if the allegations are not substantiated, the Contact Officer is required to monitor workplace behaviour.
- If all efforts to resolve the matter internally have been unsuccessful, a grievance may be referred to an agreed external mediator if approved by the Contact Officer.

9 Implementation

This policy is implemented through a combination of:

- Staff training;
- Effective incident notification procedures;
- Internal grievance procedures; and
- Initiation of corrective actions where necessary.

10 Consequences of a Breach of this Policy

10.1.1 Bacchus Marsh Grammar emphasises the need to comply with the requirements of this policy.

10.1.2 Any employee found to be in breach of the requirements of this policy may be subject to disciplinary action up to and including termination of employment.

10.1.3 Employees should refer to the Performance Management, Misconduct and Disciplinary Action Policy for further information.
11 Further Action

If an employee is not satisfied with the process or the outcome of this process, they may seek further advice from the workplace safety regulator, the Fair Work Ombudsman, or apply to the Fair Work Commission.

12 Implications for Practice

12.1 At School Council/Principal Level

12.1.1 To properly implement this policy, Bacchus Marsh Grammar, the School Council and/or the Principal must ensure:

- that this policy is endorsed on an annual basis;
- that copies of this policy are made available to employees, for example on the Bacchus Marsh Grammar intranet, in physical form in the staff room and on employee bulletin notice boards;
- that this policy is incorporated into the School Council / Principal’s record of current policies;
- that this policy is incorporated into Bacchus Marsh Grammar’s induction program, to ensure that all employees are aware of the Policy, have read and understood the policy, and acknowledge their commitment to comply with the policy;
- that periodic training and refresher sessions are administered to all employees in relation to this policy;
- that mechanisms necessary to establish the complaints and grievance process are put in place. This will involve:
  a. appointing one or a number of existing employees as Contact Officers;
  b. training and educating all individuals involved in handling formal complaints and conducting proper investigations so as to ensure that they understand the steps that must be taken to resolve claims of conduct under this policy; and
  c. generating formal complaints forms for employees, contractors and other authorised personnel to complete, listing all relevant information required to conduct an appropriate investigation.

12.2 At Other Levels

12.2.1 To properly implement this policy, all Bacchus Marsh Grammar’s employees, contractors and other authorised personnel must ensure that they will abide by this policy and assist Bacchus Marsh Grammar in the implementation of this policy.

13 Authorisation

<table>
<thead>
<tr>
<th>Council Document No.</th>
<th>HR-002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council Document Name</td>
<td>Equal Opportunity Policy</td>
</tr>
<tr>
<td>Approval Authority</td>
<td>Chairperson BMG Council</td>
</tr>
<tr>
<td>Administrator</td>
<td>Secretary to BMG Council</td>
</tr>
<tr>
<td>Approval Date</td>
<td>27 April 2016</td>
</tr>
<tr>
<td>Effective Date</td>
<td>28 April 2016</td>
</tr>
<tr>
<td>Amendment History</td>
<td>1</td>
</tr>
<tr>
<td>Date of Next Review</td>
<td>28 April 2019</td>
</tr>
</tbody>
</table>