

RESPECTFUL WORKPLACE POLICY

PRESHIL VALUES FRAMEWORK

We treat each other with respect and kindness.

We have the courage to grow and improve, and

We are a community that collaborates.

PRESHIL VISION STATEMENT

At our core remains an unshakeable commitment to encouraging all children to progress at their own pace towards their own goals and to be respected as individuals in their own right. As global citizens, we encourage an awareness of world issues and encourage efforts to make a positive difference. We believe that education should prepare students to be thoughtful, peace-loving and active citizens of the world. Preshil will remain a school that puts kindness, compassion and social relationships at the centre of its operations.

INTRODUCTION

Preshil (the School) is committed to providing a respectful and safe working environment for all staff.

The School recognises that all staff are entitled to work in an environment that is free from all forms of bullying, unlawful discrimination, sexual harassment and conduct that creates a hostile workplace environment, vilification and victimisation (collectively unacceptable behaviours). This policy reflects the spirit and intent of Federal and State legislation prohibiting these types of unacceptable behaviours, under which the School may be held vicariously liable for the unlawful behaviour of its employees and agents.

Preshil is committed to ensuring a safe and healthy environment characterised by tolerance and support, which also celebrates diversity and inclusion. This commitment ensures that the School staff members have access to processes that allow for grievances to be managed appropriately promptly, fairly and with sensitivity. The School takes all complaints and concerns received from staff, volunteers and those engaged in work at the School, seriously.

This policy provides

- guidance on unacceptable behaviours, and sets out the process that should be followed for raising concerns relating to these issues;
- sets out how the School will respond to unacceptable behaviours.

RELEVANT PRINCIPLES

This policy is underpinned by the following principles regarding unacceptable behaviours.

Serious - concerns or complaints are serious and will be treated as such.

Prompt - concerns or complaints will be dealt with promptly.

Impartiality - the School will act impartially when dealing with concerns or complaints.

Respectful Workplace Policy

Confidentiality - concerns or complaints will be treated confidentially, in so far as is possible, provided that maintaining confidentiality does not compromise the School's ability to collect information during an investigation or conduct an investigation.

Support - the School will inform anyone involved in a complaint management process about the support services available at the School, including access to any Employee Assistance Program (EAP)¹.

Breach of this policy - staff found to have breached this policy may face disciplinary action (up to and including termination of employment/engagement).

APPLICATION

This policy applies to all Board members, the Principal, employees, volunteers, contractors and other authorised personnel required to perform functions on the School's premises, or at School organised events and activities. Collectively, these individuals are referred to as 'staff' in this policy.

This policy applies at all times, to all staff for the duration of their employment or engagement. The application of this policy is not limited to the School's grounds and operating hours. This policy extends to situations where staff are:

- on School grounds
- at any school-related activities and events (including speech nights, parent-teacher conferences, camps and similar activities or events held by or in connection with the School.
- representing the School, including when off-campus or in a digital environment.
- travelling to and from the School, as well as to and from off-site activities or events.
- wearing School logos or uniforms (including staff name badges).
- upholding the School's or a teacher's legal duty of care owed to students.
- otherwise engaging in behaviour which in the reasonable opinion of the School may adversely affect student health and safety, student relationships, staff health and safety, staff-student relationships, perceptions regarding a staff member's professionalism, a staff member's relationship with other members of the School community or the reputation of the School.

Please note that different procedures for dealing with unacceptable behaviours may apply to contractors, volunteers and other members of the school community. However, the procedure for raising concerns outlined in this policy may also be used to bring to the School's attention any concerns about the conduct of those individuals.

RESPONSIBILITIES

Preshil School:

- does not tolerate unacceptable behaviours;
- will ensure recruitment and selection decisions are based on merit, and not influenced by irrelevant personal attributes;
- will support a workplace free from unacceptable behaviours;

¹ **Access EAP** - AccessEAP is a leading Employee Assistance Programs (EAP) provider in Australia. For urgent counselling request, please call **1800 81 87 28**. Whatever the nature and extent of your concern, feel free to call us. Simply provide some basic details about yourself and we will offer you a confidential appointment with a counsellor at a time that suits you.

Respectful Workplace Policy

- will review and revise measures to control risks of unacceptable behaviours in the workplace as it considers appropriate; and
- will treat concerns about unacceptable behaviours seriously and with respect.

THE POLICY

The School is committed to the prevention of a hostile work environment on the ground of sex, sex discrimination, sexual harassment, victimisation, and other unacceptable behaviours, and will take all reasonable and proportionate measures to eliminate the risk of an incident occurring.

ROLES AND RESPONSIBILITIES

The **Principal** is ultimately responsible for ensuring formal complaints about unacceptable behaviours, other than those concerning the Principal, are handled in accordance with this policy.

The **Human Resources Compliance Manager** will assume a key advisory role providing the Principal, the Heads of Campus and the Business Manager with timely advice in relation to industrial and employee relations for school staff (K-12). Under the direction of the Principal they are responsible for managing complaints under this policy.

The Heads of Campus, the Business Manager and other members of the Leadership Team are responsible for ensuring that this policy is adhered to in their respective areas. Members of the *Leadership Team* should model appropriate leadership behaviours consistent with this policy. Any breaches of this policy observed by a member of the Leadership Team should be addressed promptly in accordance with this policy.

Staff also have an important role in the prevention of unacceptable behaviours. They must take reasonable care for their own health and safety, as well as that of others in the workplace. They must comply with this policy, and they must not engage in unacceptable behaviours, or encourage or allow others to do so.

In practice, this means that staff are expected to:

- treat others with dignity, courtesy and respect at all times;
- consider how their behaviour may be perceived by others;
- act as upstanders when unacceptable behaviours occur, including by reporting unacceptable behaviours in accordance with this policy;
- demonstrate accountability and insight when concerns are raised about their own behaviours, including by cooperating with the School's processes;
- not make frivolous or vexatious complaints about unacceptable behaviours.

DISCRIMINATION EXPLAINED

What is discrimination?

- Under State and Federal law, it is unlawful to discriminate against someone in their employment or the provision of services because of a protected attribute. Limited exceptions to the law may apply.
- **Discrimination** can be classified as either direct discrimination or indirect discrimination.
- **Direct discrimination** means treating someone with a protected attribute less favourably than a person without that attribute in the same or similar circumstances.

Respectful Workplace Policy

- For example, **direct discrimination** could occur if the School refused to transfer a suitably qualified teacher to the role of Japanese Teacher because they were not ethnically Japanese, and instead hired a less qualified person with a Japanese ethnic background.
- **Direct discrimination** may also include making assumptions about what a person with certain personal attributes, such as a disability, is able or unable to do.
- **Indirect discrimination** occurs if a person imposes, or proposes to impose, an unreasonable requirement, rule, condition or practice that has, or is likely to have, the effect of disadvantaging a group of people with a particular attribute.
- For example, a policy which states that only full-time workers will be promoted could indirectly discriminate against people with carer or parental responsibilities.

A **protected attribute** includes:

- gender;
- marital or 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;
- sexual orientation;
- intersex status;
- political belief or activity; or
- association with a person identified by one of the above grounds.

Examples of conduct that may amount to discrimination include:

- refusing to hire someone because you disagree with their political or religious beliefs;
- using stereotypes about disabled persons to guide decisions about what an employee is capable of achieving, or what work the employee should be given;
- criticising an employee's commitment to their job because they work flexible hours to care for their children;
- 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.

The School has a positive obligation to take reasonable and proportionate steps to prevent unlawful discrimination.

Vilification

- Vilification is behaviour 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.
- It is unlawful to vilify another person or group of people, or to give permission or help someone to vilify others, for example, by publishing or distributing information about them.
- Some behaviour may not be vilification, if it is reasonable and done in good faith, such as publishing a media report about racist behaviour. Some comments or jokes about a person's race, or religion, may not be vilification, but they could still be discriminatory if they happen at work.

SEXUAL HARASSMENT EXPLAINED

Under Federal and State law, it is unlawful to engage in sexual harassment. Sexual harassment is unacceptable and can also be serious misconduct warranting summary dismissal under the Fair Work Regulations 2009 (Cth). In some circumstances, sexual harassment can amount to criminal conduct.

Sexual harassment occurs where a person:

- makes an unwelcome sexual advance to another person;
- makes an unwelcome request for sexual favours to another person; or
- engages in any other unwelcome conduct of a sexual nature to another person,
- in circumstances where a reasonable person would have anticipated that the other person would be offended, humiliated or intimidated.
- Sexual harassment which has a connection to work, including in circumstances where the offending conduct does not occur on School grounds, or which is directed towards staff and prospective employees.

Examples of sexual harassment may include:

- 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;

Respectful Workplace Policy

- displaying, sending, emailing or downloading sexual content;
- questions, remarks or insinuations about a person's sexual activities or private life.

A single act or continuing course of conduct may constitute sexual harassment.

Sexual harassment only captures unwanted conduct. However, unwanted conduct of a sexual nature, even if it is intended in a friendly or humorous way, can be sexual harassment.

BULLYING EXPLAINED

- The School has a duty under workplace health and safety laws to eliminate or minimise, so far as is reasonably practicable, the risks to health and safety in the workplace. This includes the risks associated with bullying.
- Some behaviour, which might constitute bullying, may also amount to a criminal offence (such as physical assault, threats or stalking) and may be reported to the police.

What is bullying?

- Bullying is repeated unreasonable conduct directed at a person or group of people that creates a risk to health and safety. That risk may be to a person's physical health or to their mental health.
- Bullying can occur in person, or through other forms of communication (including online). Examples of bullying behaviours include:
 - physical violence or threats;
 - verbal abuse;
 - manipulation;
 - undermining and discrediting;
 - initiation rites;
 - practical jokes;
 - psychological harassment;
 - teasing, ridicule and belittling remarks;
 - unjustified criticism;
 - excluding or isolating workplace participants;
 - intimidation;
 - assigning meaningless tasks unrelated to the job; and
 - deliberately withholding work or information that is vital for effective work performance.
- Bullying may also constitute unlawful discrimination if a person or group of people is targeted because of a protected attribute.
- While bullying involves repeated conduct, the School's expectation is that employees also refrain from one-off instances of bullying behaviour.

What is not bullying?

- Differences of opinion and disagreements are generally not regarded as bullying.
- Reasonable management action carried out in a reasonable manner does not constitute bullying. Management is entitled to direct work, issue instructions, provide feedback, and take disciplinary action in a reasonable manner.

Respectful Workplace Policy

- Reasonable management action can include:
 - performance management and disciplinary processes;
 - the reasonable allocation, monitoring and management of work;
 - setting reasonable deadlines, goals and standards;
 - making reasonable decisions about promotions, transfers, restructures and other organisational change; and
 - providing constructive criticism.

VICTIMISATION EXPLAINED

Victimisation can be unlawful, and occurs when a person treats another person unfairly because:

- that person, or someone associated with that person, has made, or intends to make, a complaint about unacceptable behaviours;
- that person is assisting a person in making a complaint about unacceptable behaviours; or
- that person is assisting the School in investigating a complaint (for instance, by acting as a witness or giving evidence regarding a complaint); or
- that person has exercised their rights under an equal opportunity law.

Examples of what might constitute victimisation include:

- an employee being moved to a position with less responsibilities while their complaint of sexual harassment is being considered;
- an employee being bullied or ostracised by other employees because they have or intend on making a complaint of sexual harassment;
- an employee being denied a development opportunity because they have lodged a complaint;
- It is also victimisation to threaten someone (such as a witness) who may be involved in investigating a concern or complaint. A threat may be express or implied.

HOSTILE WORK ENVIRONMENT

It is unlawful to subject another person to a hostile work environment on the ground of sex, and to do so is unacceptable behaviour.

A person will be found to have subjected a person to a hostile work environment where:

- the conduct occurs at the School;
- the person is at the School workplace at the same time as or after the conduct occurs; and
- a reasonable person would expect that the conduct would result in the person's workplace environment being offensive, intimidating or humiliating to the other person because of:
 - that person's sex;
 - a typical characteristic of their sex (e.g. that women use sanitary items for menstruation); or

Respectful Workplace Policy

- a characteristic that is generally attributed to persons of that sex (e.g. that women have greater domestic/carer responsibilities than men).

The following factors will be considered when determining if behaviour creates a hostile work environment include:

- the seriousness of the conduct;
- whether the conduct was continuous or repetitive;
- the role, influence or authority of the person engaging in the conduct; and
- any other circumstances which may be relevant.

An important distinguishing feature of this behaviour from sexual harassment is that this conduct does not need to be directed at a specific person, it needs only to result in an offensive, intimidating and humiliating workplace environment for people of a certain sex.

Examples of what might constitute conduct that creates a hostile work environment include:

- displaying pornographic material.
- general sexual banter.
- making sexist comments or telling offensive jokes that reinforce stereotypes (for example, the strength of women versus men).

CONSEQUENCES OF BREACH

- 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. Employees should refer to the Performance and Conduct Management Policy for further information.

RELATED DOCUMENTS

Legislation

Age Discrimination Act 2004 (Cth)
Australian Human Rights Commission Act 1986 (Cth)
Crimes Act 1958 (Vic)
Disability Discrimination Act 1992 (Cth)
Equal Opportunity Act 2010 (Vic)
Fair Work Act 2009 (Cth)
Occupational Health and Safety Act 2004 (Vic)
Racial and Religious Tolerance Act 2001 (Vic)
Racial Discrimination Act 1975 (Cth)
Sex Discrimination Act 1984 (Cth)
Workplace Gender Equality Act 2012 (Cth)

Policies

Complaints and Grievance Policy - Staff
Occupational Health and Safety Policy

Respectful Workplace Policy

Performance and Conduct Management Policy (under development)

REVIEW

This policy was drafted in April 2023 (based on a Russell Kennedy template) and will be reviewed again by the Leadership Team every two years or following a critical incident.

APPENDIX 1: RAISING CONCERNS ABOUT BEHAVIOUR / REPORTING SUSPECTED BREACHES

The School endeavours to resolve any concerns about unacceptable behaviours in a timely manner. To this end, the School encourages the early intervention and local resolution of issues.

The School expects staff to report any conduct where they have observed another person has been exposed to or is engaging in conduct that may be in breach of this Policy. Everyone plays a role to ensure that the School's culture and environment is healthy and safe and free from unacceptable behaviours through intervening (when appropriate and safe to do so) and taking action to report behaviours that are inconsistent with the School's expectations.

Any person who witnesses or experiences unacceptable behaviours has a number of options available to them. Above all, it is important that staff do not ignore concerns about unacceptable behaviours, and simply hope that the concerning behaviour will stop. If you believe that an employee has breached this policy, you should follow the processes set out below.

The Employee Assistance Program is available if employees wish to confidentially discuss concerns about unacceptable behaviours at any stage (whether prior to or during the processes set out below).

Informal resolution

- Where it is appropriate to do so, employees are encouraged to raise their concern with the other person and resolve the issue directly and politely.
- This may be appropriate where you and the person are both staff members, and can be done respectfully by telling the person concerned that the behaviour is unacceptable and asking them to stop. If you are not comfortable with telling them in person, you could write to them.
- This may not be appropriate where the concern involves a serious breach of this policy, or if the employee raising the complaint is uncomfortable raising it directly with the other person (e.g. because the other person is more senior).

What to do if a person takes issue with your behaviour

- If a person approaches you and suggests that your behaviour towards them has been inappropriate, you must take that comment seriously and attempt to understand that person's point of view.
- An apology at an early stage may resolve the issue without a formal complaint becoming necessary.
- If you are not sure how to respond, or if your apology does not appear to resolve the issue, you should approach a Contact Officer for guidance.

Lodging a formal complaint

If raising the concern directly is not appropriate, or if the concerning behaviour continues, employees should approach the Contact Officer with their concerns

The **Contact Officer** is:

- the Human Resources Manager at first instance;
- for concerns relating to the Human Resources Manager, the Principal; and

Raising Concerns About Behaviours / Suspected Breaches of Policy

- for concerns relating to the Principal, the Chair of the Board.

Ideally, a formal complaint should, where possible, state in writing:

- 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.

The Contact Person will listen, clarify the complaint and provide the employee with information about the process that the School will follow to resolve the complaint, which may involve:

- informal discussions;
- mediation;
- an investigation.

At this point, if any further action is to be taken, the respondent (the person about whom the complaint is made) will need to be informed about the complaint. The complaint shall otherwise remain confidential.

Please note that the School has a legal obligation to provide a safe working environment to its employees and other workers. In some cases, depending on the nature of the concern, the School may need to take further action to discharge that obligation, even if the employee who made the complaint does not want this to happen.

Informal discussions

- An employee may ask the Contact Person, or another employee nominated by the Contact Person, to facilitate an informal discussion between the employee and the respondent to resolve the complaint.
- This might involve both parties meeting in the presence of the facilitator. Alternatively, it might involve the facilitator meeting with the respondent and informally conveying the substance of the complaint to the respondent.
- If this process resolves the complaint, no further action will be taken. The informal discussions shall be kept confidential by all parties.

Mediation

- The School may decide that mediation is an appropriate response to a formal complaint, either as an outcome or in lieu of an investigation. An employee may request that a formal complaint be dealt with through a mediation; however, the final decision rests with the School.
- Where mediation is considered appropriate, the mediator will be nominated by the contact person, and may be another employee or someone outside the school.
- The mediation process is confidential. However, the parties may agree to each have a support person at mediation.

Raising Concerns About Behaviours / Suspected Breaches of Policy

- The purpose of the mediation is to allow each party to hear the other's point of view, and to seek to find a way in which the complaint can be resolved and the parties can rebuild their working relationship.
- If the mediation is successful and the complaint is resolved, no further action will be taken.
- The mediation process is confidential, and the discussions at the mediation shall be kept confidential by all parties.

Investigation

- In certain circumstances, the School may decide that an investigation is warranted. The purpose of an investigation is two-fold; first to determine what has happened (findings), and second to determine what outcomes should follow those findings.
- An investigation will usually involve:
 - interviewing the subject of the concern and key witnesses or individuals (noting that more than one interview may be required);
 - reviewing relevant documents, correspondence and materials of substance;
 - taking notes of any interviews (or where appropriate, transcripts of audio recordings of any interviews) during the investigation;
 - the relevant decision-maker determining whether, on the balance of probabilities, the concern is substantiated.
- Witnesses being interviewed will not be unreasonably refused a support person.
- Following the conclusion of its investigation, the School will indicate the outcomes of the investigation to:
 - the person, or student who raised the concern;
 - the person subject of that concern (where appropriate);
 - any external authorities (e.g. CCYP, Victoria Police, VIT) to whom a report is required to be made.
- It is essential for the integrity of the investigation process that participants do not discuss the allegations or their recollections of events with each other, and that the allegations remain confidential, to the extent possible.

Outcomes

Some examples of outcomes are:

- mutually acceptable resolution of the complaint;
- withdrawal of the complaint;
- parties ceasing or modifying their behaviour;

Raising Concerns About Behaviours / Suspected Breaches of Policy

- disciplinary action.

The School reserves the right to take action to support a respectful and safe work environment for all staff, even in circumstances where allegations about unacceptable behaviours are not substantiated.

External reports

If a matter is not resolved, an employee may wish to report the matter to an external body such as WorkSafe Victoria, Victoria Police, Australian Human Rights Commission, Victorian Human Rights and the Equal Opportunity Commission, or the Fair Work Commission. If an employee makes external complaint, depending on the circumstances the School may decide to suspend any internal complaint management process until the external complaint is resolved.

Vexatious Complaints

- Inaccurate, misleading, malicious or false accusations have negative consequences for the person concerned, interpersonal relationships and the morale of the school 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.