

# Policy Statement 1.6 – Equal Employment Opportunity and Workplace Diversity

## Position Summary

Employers of dental practitioners should have policies and processes that address equal employment opportunity and workplace diversity to create workplaces that encourage and support equity and fairness and eliminate all forms of discrimination. Employers must respond quickly and appropriately to any issues raised in accordance with relevant federal, state and territory legislation.

## 1. Background

- 1.1. Australia has one of the most diverse populations in the world. People come from a wide range of ethnic and cultural backgrounds, with different religious beliefs, sexual orientation, disabilities, family responsibilities, socio-economic background, life, and work experience. By managing equal opportunity and workplace diversity, employers, including the ADA, demonstrate a commitment to reflecting the composition of the Australian community in our own workforce.
- 1.2. Workplace Diversity is an umbrella title for strategies that recognise and accommodate the differences in ethnic, cultural and socio-economic backgrounds, different religious beliefs, sexual orientation, disabilities, family responsibilities, life and work experience of our workforce.
- 1.3. Workplace Diversity maintains the basic principles of equity, merit and non-discrimination which formed the basis of equal employment opportunity (EEO) legislation and puts a new emphasis on valuing workplace difference as good management practice.
  - 1.3.1. EEO policies address the disadvantage experienced by particular groups of people in the workplace including women, Aboriginal and Torres Strait Islander peoples, people with a disability and those who may experience disadvantage on the basis of race or ethnicity.
  - 1.3.2. Workplace diversity also encompasses, age, language, cultural background, sexuality, religious belief, political belief and family responsibilities. Additionally, workplace diversity recognises the other ways in which people are different from each other, such as level of education, life experience, work experience, socio-economic background, personality, marital status and personal commitments.
- 1.4. Diversity in the workplace enhances the ability to provide excellent services to members and the Australian community, and ensures employees are working in a safe and harmonious atmosphere.
- 1.5. A workplace that recognises and engages diversity, values and utilises peoples' different backgrounds, experiences, and perspectives to achieve its objectives, is able to be innovative and generate new ideas.
- 1.6. All persons have the right to an equal opportunity environment.
- 1.7. All persons have an obligation to act in accordance with the law and their professional and ethical obligations with regard to equal opportunity and workplace diversity.
- 1.8. There are national equal opportunity laws and state and territory health and safety bodies that provide mechanisms to help people subject to bullying, discrimination and harassment in the workplace and provide the general legal framework to support workplace diversity.
  - 1.5.1. Sex Discrimination Act 1984 (Cth) - It is unlawful to discriminate in employment on the grounds of gender, marital status, pregnancy or potential pregnancy, or to sexually harass another person.
  - 1.5.2. Racial Discrimination Act 1975 (Cth) – It is unlawful to discriminate in employment on the grounds of race, colour, national or ethnic origin.
  - 1.5.3. Disability Discrimination and Other Human Rights Legislation Amendment Act 2009 - It is unlawful to discriminate on the grounds of disability.

This Policy Statement is linked to other Policy Statements: 5.4 Complaints Resolution, 5.8 Dental Acts and Boards, 5.21 Regulatory Authorities, 6.3 Dental Health Care Workers [Incl. Students] and Blood-borne Viruses, 6.4 Management of Impaired Dental Practitioners & 6.20 Social Responsibility

- 1.5.4. Age Discrimination Act 2004 (Cth) - It is unlawful to discriminate on the grounds of age.
  - 1.5.5. Australian Human Rights Commission Act 1986 (Cth) - Sets up a mechanism to deal with complaints of discrimination in employment through the Australian Human Rights Commission.
  - 1.5.6. Work Health & Safety Act 2011 - Requires employer / Person Conducting a Business or Undertaking (PCBU) and employees to maintain a secure, healthy, and safe working environment. It also requires the employer / PCBU to take practical precautions to prevent harassment.
  - 1.5.7. Fair Work Act 2009 - Prohibits discrimination against a person who is an employee, or prospective employee, because of the person's race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin in awards and agreements and in the termination of employment.
- 1.9. ADA's Code of Conduct requires that dental practitioners behave in a respectful way towards others and upholds that good practice involves genuine efforts to understand the cultural needs and contexts of all patients and clients, to obtain good health outcomes.

## Definitions

### 1.10. BULLYING is when:

- A person or group of people repeatedly act unreasonably towards another or others;
- The behaviour creates a risk to health and safety;
- Unreasonable behaviour includes victimising, humiliating, intimidating or threatening behaviour;
- Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Examples include but are not exclusive to:

- Behaving aggressively
  - Teasing or practical jokes
  - Pressuring someone to behave inappropriately
  - Excluding someone from work-related events or
  - Unreasonable work demands or allowing insufficient time for completion and criticising the employees work in relation to this.
  - Yelling, screaming or offensive language;
  - Excluding or isolating employees;
  - Psychological harassment;
  - Assigning meaningless tasks unrelated to the job;
  - Giving employees impossible jobs;
  - Deliberately changing work rosters to inconvenience particular employees;
  - Undermining work performance by deliberately withholding information vital for effective work performance;
  - Constant unconstructive criticism and/or nitpicking;
  - Suppression of ideas;
- Bullying does not apply to reasonable management action carried out in a reasonable manner.

### 1.11. DISCRIMINATION is treating, or proposing to treat, someone unfavourably because of a personal characteristic (protected attribute) protected by the law, such as sex, age, race or disability.

- 1.11.1. 'Adverse action' includes doing, threatening or organising any of the following:

- dismissing an employee
- injuring the employee in their employment, e.g. not giving an employee legal entitlements such as pay or leave
- changing an employee's job to their disadvantage
- treating an employee differently than others
- not hiring or treating someone unfavourably due to protected attributes
- offering a potential employee different and unfair terms and conditions for the job compared to other employees.

1.11.2. 'Protected attributes' include:

- race
- colour
- sex
- sexual orientation
- age
- physical or mental disability
- marital status
- family or carer's responsibilities
- pregnancy
- religion
- political opinion
- national extraction
- social origin.

1.11.3. Discrimination towards an employee can occur:

1.11.3.1. Not only during employment but also during the pre-employment phase.

'Employee' includes full time, part time and casual employees, probationary employees, contractors, apprentices and trainees, and individuals employed for fixed periods or fixed tasks.

1.11.3.2. Directly, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).

*For example, a worker is harassed and humiliated because of their race*

*or*

*A worker is refused promotion because they are 'too old'*

1.11.3.3. Indirectly, 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 (see list below).

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

1.11.4. Certain actions may not be considered discrimination if they:

- are allowed under state or federal anti-discrimination law
- are taken against an employee of a religious institution to avoid harming the organisation's religious beliefs
- do not relate to one of the protected attributes (but may instead constitute bullying and harassment) or
- relate to the necessary requirements of the job

1.12. EQUAL OPPORTUNITY is the right to be treated fairly and so encompasses bullying, discrimination and harassment issues.

1.13. HARASSMENT is when:

1.13.1. A person is subjected to one-off or repeated behaviour or conduct of a sexual nature, by another person, including the person's employer or co-workers, that:

- is unwelcome and unsolicited; and
- the person considers to be offensive, intimidating, humiliating or threatening;

## 2. Position

2.1. Workplace diversity principles should be incorporated into all aspects of human resource management, including workforce planning, recruitment and selection, performance management, learning and development, leadership development, workplace health and safety and workplace relations.

2.2. Employers should embed the principles of equal employment opportunity and workplace diversity through policies, processes and procedures.

2.3. Employers should support the principles and practices of equal employment opportunity and workplace diversity by enforcing them.

2.4. The ADA should advocate for the principles and practices of equal employment opportunity and workplace diversity to its members. This includes:

- Promoting and upholding ADA's values and Code of Conduct and embedding the principles of equal employment opportunity and workplace diversity into its governance model.
- Seeking to improve our ability to attract, recruit and retain people of diverse backgrounds and targeted under-represented diversity groups.
- Increasing the recruitment and retention of Aboriginal and/or Torres Strait Islander employees.
- Supporting gender equality and the advancement of women.
- Providing an inclusive and flexible work environment for all staff.
- Provision of CPD to members in relation to diversity and inclusion.

2.5. Employers should ensure that investigative and procedural mechanisms are well documented, expedient, accessible to all staff, and performed in such a manner as to protect all staff.

2.6. Employers and principals must respond quickly and appropriately to any issues raised regarding equal opportunity and workplace diversity and try to address them within the workplace.

2.7. All persons should be encouraged to raise any equal opportunity issues and should contribute to making a workplace that is inclusive and free from bullying, harassment and discrimination.

2.8. Where a person does not believe the workplace will be able to address their concerns about discrimination, they have the right to raise their complaint directly with external anti-discrimination bodies including the Australian Human Rights Commission, and the relevant state and territory agencies.

### **Policy Statement 1.6**

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