RISSALAH COLLEGE

WH&S POLICY
2014
WORKPLACE GRIEVANCE RESOLUTION
(UPDATED 2014)
Foreword

Rissalah College along with the NSW Department of Education, Training and Employment has a strong commitment to effective and equitable management practices. The successes of the school's strategic directions are dependent on the effective management of all employees. The Grievance Resolution Policy affirms the resolve to ensure our human resource management practices continue to address the needs and rights of all employees. It provides clear and fair avenues of redress for grievances, based firmly on legislative requirements and best practice. The Grievance Resolution Policy provides a framework for implementing relevant procedures within the school. The rapidly changing environment of education, training and employment requires our workforce to be adaptable, responsive and flexible. Underpinning this goal are clear principles and declared rights of employees. The school endorses this policy and associated policies and procedures recognising the importance of a principled grievance resolution process in contributing to the maintenance of a harmonious learning and working environment.

Policy Statement

Rissalah College has a strong commitment to achieving equal employment opportunity, optimal educational outcomes and the provision of harmonious and cohesive working and learning environments. Providing proper and fair avenues of grievance redress for employees which are accessible and consistently applied across the school is essential to the success of a positive, secure workplace culture which values people.

This policy applies to all employees. This policy is only applicable to teachers and administrative support staff within the school. Grievances involving students will continue to be managed in accordance with the relevant published policies within the Child Protection framework and administrative instructions and guidelines.

These grievance procedures should be reviewed regularly to ensure their consistency with this policy and associate grievance procedures.
Rationale

Rissalah College will:

a) base all selection decisions on a proper assessment of merit;
b) treat employees fairly and consistently and not subject employees to arbitrary or capricious administrative decisions;
c) prevent unlawful discrimination against employees or persons seeking employment on the grounds of sex, sexuality, marital status, pregnancy, race, physical impairment or any other ground;
d) use diversity in its workforce to advantage and afford employees equal opportunities to secure promotion and advancement in their employment;
e) afford employees reasonable avenues of redress against improper or unreasonable administrative decisions;
f) provide safe and healthy working conditions; and

g) prevent nepotism and patronage.

Rissalah College will also ensure that employees treat the public and other employees with respect and courtesy, and conduct themselves in public in a manner which will not reflect adversely on the school or its employees. In addition it is unacceptable for any victimisation to occur toward a person because they have lodged or intend to lodge a grievance.

For discrimination to be unlawful under the Equal Opportunity Act it must be based on one or more of the following grounds: sex, race, age, impairment (physical and/or intellectual), sexuality, marital status, pregnancy or mental illness.

It is the responsibility of the worksite manager/supervisor to monitor the working environment to ensure that unlawful discrimination does not occur. The *Work Health, Safety and Welfare Act 2011* (NSW) requires the school to maintain a safe and healthy working and learning environment.

Principles of Good Practice

Grievance procedures must take account of the principles drawn from administrative law. These include the principles of procedural fairness and those principles concerned with appropriate use of discretion. These principles apply to the complainant, the respondent and the investigating officer.

The principles of procedural fairness include:

- Providing time to reflect on the information;
- The respondents right to know the allegations;
- The respondents and complainants right to respond;
- The right for any inquiry to be free from bias;
- Grievance procedures should be explicit and known to all;
• Personnel with grievances should have access to the stated grievance procedures;
• Grievances should be made as soon as practicable after the alleged behaviour/incident occurs;
• The grievance should be clearly defined;
• The grievance should be dealt with as soon as possible; and
• Prompt action must be taken against vexatious or frivolous complaints and relevant disciplinary procedures applied to protect employees from such conduct.

It is recognised that the application of the principles of procedural fairness can vary depending upon the context and nature of the grievance and the nature of the proposed response.

The principles of appropriate use of discretion require that decisions:

• take into account all relevant factors and are not based on irrelevant factors;
• are reasonable in the circumstances of the case;
• are made for a proper purpose;
• are based on evidence;
• are not the result of undue influence by a person without appropriate authority;
• are clearly articulated; and
• are not made in abuse of the position of authority which the decision maker holds.

The principles of good practice also provide that complainants and respondents:

• are entitled to appropriate representation throughout the process of grievance management; and
• can access support through the process of grievance management.

Confidentiality

Confidentiality must be adhered to during and after the process of making and resolving grievances. This requirement seeks to protect the rights and privacy of all involved and to ensure a comfortable and productive working environment. Should an individual’s grievance become more widely known, there is the potential for undue embarrassment and workplace tension. In addition, it is less likely the grievance will be successfully resolved.

The school reserves the discretion to reveal information to the respondent if required to do so by common law or the rules associated with procedural fairness. The complainant will be informed prior to the release of such information.

It is acknowledged that each party to a grievance is entitled to both personal and professional advice and support. This may involve approaching and confiding in a trusted friend, a personnel counsellor, the relevant contact person, and/or a responsible school representative with expertise in the area of grievance management. It is not the role of those people approached to make
judgements on the matter or to adopt an advocacy role on behalf of any party. It is expected these people will maintain strict confidentiality. It should be noted that inappropriate disclosure could leave an individual liable to a defamation claim, and to disciplinary action.

Levels of Grievance Resolution

The terms “complaint” and “grievance” are used interchangeably to describe allegations of personnel or management conflict, improper or unreasonable administrative action, or discrimination.

Employees may elect, according to the nature and seriousness of their grievance, to deal with their grievance in one or more of the following ways:

- personal resolution;
- an expression of concern, either verbally or in writing to the school Principal; or
- school based staff can raise a range of grievances with the School Board;
- a formal grievance;
- by contacting other agencies such the Equal Employment Opportunity arm of the NSW Government.

The choice of the resolution process remains with the complainant.

Employees are encouraged as far as possible to seek resolution of their grievance at the school in the first instance.

Local conflict resolution describes a process whereby:

- the complainant and respondent agree to discuss the grievance fully on an informal basis to determine a resolution; or
- where the Principal takes the complaint and is able to implement steps to redress the matter without further investigation.

Formal investigation refers to the process used to respond to written grievances, whereby an investigation is undertaken to gather information relating to the allegations to inform a recommended resolution.

Personal Resolution

An employee may wish to deal with a grievance or incident(s) personally, with or without reporting the incident(s) to anyone.

- Employees may choose to discuss and resolve the matter with the person responsible for the behaviour;
- Employees may seek confidential advice from their worksite manager/supervisor or relevant contact person in relation to strategies to deal personally with a grievance; or
- Employees may also seek confidential advice from their worksite manager/supervisor in relation to the different options available within the school or other agencies to resolve a grievance.

**Expression of Concern**

In cases where an employee does not wish to lodge a formal grievance, yet wants a behaviour to stop and/or believes there are implications for other employees, the employee may discuss the situation confidentially with the School Principal or another appropriate person.

When the Principal or other appropriate confidant receives a confidential expression of concern from an employee, the action taken will vary according to the nature and seriousness of the concern including consideration of the impact on the victim. For example, the Principal may monitor the situation to assess the appropriateness of the alleged behaviour and determine a course of action, which could include a review of the worksite.

In managing an expression of concern the Principal should report to the complainant about what action has been or will be taken within 3 days of having received the expression of concern from the complainant.

**FORMAL GRIEVANCES**

Formal investigation refers to the process used to respond to written grievances, whereby an investigation is undertaken to gather information relating to the allegations to inform a recommended resolution.

An employee may lodge a formal written grievance with the Principal who will work towards a resolution of the grievance at the school level.

Complaints against the Principal should be lodged with the School Board.

Written grievances should be marked “Confidential” and forwarded as soon as possible to the Principal or School Board after the event(s) which prompted the grievance. The investigating officer (Principal or nominated investigating officer) will make a determination on the basis of an investigation whether or not to uphold the grievance.

The complainant and respondent will be informed of the outcome and action taken.

The grievance procedures will detail further action an employee can take if they are not satisfied that the grievance has been managed appropriately.
TYPES OF GRIEVANCES

UNLAWFUL DISCRIMINATION

The Grievance Resolution Policy also applies to the management of complaints of discrimination and harassment which are covered by equal opportunity legislation, in the work or learning environment. Employees with grievances of sexual harassment and/or racist harassment should refer to the relevant policies for further information.

There are two types of unlawful discrimination:

*Direct discrimination* occurs when a person is treated unfairly, unequally or is harassed on the basis of a characteristic, or a presumed characteristic relating to that person's sex, sexuality, pregnancy, marital status, race, disability or age.

*Indirect discrimination* occurs when a requirement (written or unwritten rules, traditions, practices, procedures or structures) which is the same for everyone, has an unequal or disproportionate effect or result on particular groups of people. Indirect discrimination often appears fair but, on examination, treats one group unfavourably by comparison to other groups.

VICTIMISATION

Victimisation has occurred if a person(s) treats another less favourably because they have:

- lodged an informal/formal complaint of discrimination or harassment;
- provided evidence or information about a complaint; or
- reasonably maintained their right or the right of another person to lodge a complaint.

PERSONNEL MANAGEMENT GRIEVANCES

Personnel management grievances may be dealt with according to the appropriate level of grievance resolution detailed previously. The types of grievances that may be defined as personnel or management grievances are listed below:

*Employee conflict* refers to cases where an employee is experiencing conflict with another employee and it is directly affecting their work or home life. For example, an employee perceives that they are being harassed by another employee because their work practices or their personal life are being discussed.

*Employee-client conflict* refers to cases where an employee is experiencing conflict with a client and this conflict is directly affecting their work or work life. For example, difficulties experienced with a student’s parent/guardian relating to classroom practices may constitute employee-client
conflict. This also refers to complaints from an employee who is experiencing conflict with a student which directly affects their work or home life.

*Unreasonable management practice* refers to cases where an employee believes an unreasonable management decision has been made. This decision may impact upon the employee’s role or take the form of failure by management to adhere to the principles and guidelines outlined in industrial awards and agreements.

*Minor misconduct* refers to cases where an employee believes a colleague’s actions are inappropriate, for example where a colleague uses inappropriate language, or physically handles a student (where the student is not injured and the incident does not require mandatory notification).

**ANONYMOUS GRIEVANCES**

Anonymous grievances often present the worksite manager/supervisor with a dilemma in relation to appropriate action. An anonymous grievance is one which is lodged by a person whose identity is not known. The worksite manager/supervisor should consider the seriousness of the grievance and legislative responsibilities in relation to employees, students and government resources in determining what action, if any, is required. The action taken may range from dismissing the grievance to treating it as an expression of concern. Appropriate action should be taken with regard to anonymous complaints to ensure compliance with child protection legislation.

**RESPONSIBILITIES**

**Responsibility of all employees**

It is the responsibility of all employees to:

- conduct themselves in public in a manner which will not reflect adversely on the school, its employees or students;
- ensure that they understand the policy and grievance procedures and are familiar with their own responsibilities with respect to them;
- provide accessible and equitable services; and
- treat the public and other employees with respect and courtesy.

**Responsibility of all managers/supervisors**

It is the responsibility of all managers/supervisors to:

- be familiar with relevant government acts, regulations and awards and departmental policies, administrative instructions, guidelines and grievance resolution procedures;
- attempt to resolve all grievances in the workplace or learning environment either as they become aware of issues or when approached on an informal or formal level;
- when approached, treat all grievances seriously, investigate promptly and sensitively, and ensure that confidentiality is maintained at all times;
- refer employees, where appropriate, to relevant support personnel internally or externally;
- make grievance resolution procedures available to all employees for whom they are responsible;
- advise employees of the name and role of the relevant employees who can provide them with information about the grievance resolution process;
- ensure there is no victimisation of complainants, respondents, witnesses or anyone involved in the grievance resolution process; and
- monitor the working, teaching and learning environment to prevent discrimination or harassment.

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