

SECTION 5.1.1 BULLYING POLICY

The Australian Ballet School

RESPONSIBLE: Health and Wellbeing Committee (HWC)

VERSION 1 APPROVED BY THE BOARD: August 2020

LATEST VERSION: March 2024

REVIEW DATE: This policy will be reviewed after any significant child safety and bullying incident and at least every 2 years and improved where applicable.

POLICY ACCESS LOCATION: Staff Portal, Student Portal, The Australian Ballet School Website

1. PURPOSE

The purpose of this policy is to communicate that The Australian Ballet School (School) does not tolerate any form of **Bullying** (whether in a learning, boarding or working environment) and to set out the process if any instance of alleged Bullying is reported. The School, in line with its Code of Conduct (1.2), is committed to a culture of mutual respect, openness, support and accountability.

The School complies with their legal obligations that relate to managing the risk of child abuse under the *Children, Youth and Families Act (2005)* (Vic), the *Crimes Act (1958)* (Vic) and the recommendations of the *Betrayal of Trust Report*. The School follows compliance requirements of the Victorian Ministerial Order 1359 and considers protecting children as everyone's responsibility – parent/carers, communities, governments and the School and its boarding facility Marilyn Rowe House (MRH) as a business, have an integral role to play.

The School and its boarding community at MRH is committed to providing a child-safe and child-friendly environment which includes ensuring that children, families or personnel who wish to report allegations of abuse or child safety concern know how to report abuse allegations and are encouraged to do so.

Related Policies: This policy should be read in conjunction with Code of Conduct (1.2), Social Media Policy (3.1.2), ICT and Cyber Security (4.3.3), Workplace Behaviour (5.1), Equality, Respect and Diversity Policy (5.1.2) (currently under review), Sexual Harassment Policy (5.1.3), Safety, Health and Wellbeing - Occupational Health and Safety (5.2), and Child Safe Standards (6.4), Child Safety and Wellbeing Policy (6.4.2) (pending), Child Harm, Abuse and Complaints Policy (6.4.3) (pending), Child Safety Code of Conduct (6.4.5) (pending) and MRH Boarding Student Behaviour Management Policy.

2. WHO DOES THIS POLICY APPLY TO

This policy applies to all members of the **School Community**.

This policy applies in respect of all learning, boarding, work and related **School Activities**, performances, lunches, functions, meetings, travel occasions, training sessions, conferences and informal gatherings connected with learning, boarding or work.

3. DEFINITIONS

Bullying is repeated and unreasonable behaviour directed by one or more persons towards a person or group of persons that creates a risk to health (including psychological health) and safety. It includes behaviour that is degrading, offensive, victimizing, humiliating, undermining, intimidating or threatening.

Complainant(s) means the person(s) who makes a complaint about Bullying.

Conciliation is an alternate dispute resolution method whereby a neutral and impartial third party, the conciliator, assists the parties in their negotiations towards an outcome that is acceptable to all the parties. A conciliator plays a more proactive role than a mediator.

Discrimination: means treating or planning to treat someone unfavourably because of a personal characteristic protected by the law – Protected Attribute. This also includes Bullying someone because of a protected attribute.

Discrimination can occur either directly or indirectly:

- Direct Discrimination means treating a person with a **Protected Attribute** less favourably than a person who does not have a Protected Attribute in the same or similar circumstances.
- Indirect Discrimination occurs when a requirement or practice is imposed with unreasonable terms, which may appear to be fair or neutral, but has an underlying disproportionate negative impact on a person or group with a **Protected Attribute**.

Mediation is an alternate dispute resolution method whereby a neutral and impartial third party, the mediator, facilitates dialogue in a structured process to help the parties reach a conclusive and mutually satisfactory outcome. A mediator assists the parties in identifying and articulating their own interests, priorities, needs and wishes to each other.

Perpetrator(s) may refer to any member of the School Community. For example, Bullying can occur:

- Student(s) to student(s),
- Teacher(s) to student(s), student(s) to teacher(s), or
- **Staff Member(s)** to Staff Member(s), manager(s) to employee(s), employee(s) to manager(s).

Protected Attribute: a personal characteristic, including age, impairment/disability, industrial activity, pregnancy, race, sex, religious belief or activity, lawful sexual activity, gender identity, intersex status, sexual orientation, marital, parental or career status, breastfeeding, physical features, political belief or activity and personal association with a person who is identified by reference to any of the above attributes.

Respondent(s) is/are the person or persons who have been informed that an allegation of Bullying has been made against them.

Victimization: is to treat a person badly or unfairly because they have made a complaint about Discrimination, Sexual Harassment or **Vilification**, or have helped someone else to make a complaint.

Vilification: is behaviour that incites hatred, serious contempt, revulsion or severe ridicule for a person or group of people because of race or religion. Under the *Racial and Religious Tolerance Act 2001* (Vic), Vilification is against the law.

3.1 What constitutes Bullying:

Bullying may take many forms, including:

- **Verbal:** includes being sworn at, taunted, or threatened; teasing, name calling or use of offensive language; and may be directed to a particular characteristic, for example, race, gender, sexuality, religious beliefs, age, physical characteristics or family background.
- **Physical:** includes being hit, kicked, punched, pushed, hair pulled or spat on; and other unwanted physical contact such as inappropriate touching, poking with pencils, rubbers, etc.
Bullying that inflicts physical pain, harm, or humiliation that amounts to assault will be dealt with as a police matter (see: Section 5.5 - **Procedures for Dealing with Mandatory Reporting Requirements or Criminal Conduct**).
- **Psychological:** includes acts which make the Complainant feel uncomfortable, for example, spreading of rumours, giving of dirty looks, taking or hiding of belongings, using stand-over tactics.
- **Social:** includes being deliberately or unreasonably excluded from group activities or ganging up on an individual.
- **Sexual:** includes any unwelcome sexual behaviour; including verbal, cyber/online or physical. See also the Sexual Harassment Policy (5.1.3).
- **Harassment:** includes offensive, intimidating or threatening behaviour directed at an individual or a group in circumstances where a reasonable person would have anticipated that the other person would be offended, humiliated or intimidated. Harassment is often focused on the gender, sexuality, age, cultural or racial background or disability. Harassment is behaviour that is unwelcome, unsolicited, usually unreciprocated and usually (but not always) repeated.
- **Written:** includes notes, letters and electronic communication (e.g., email, text messages, online social sites) of an intimidating, defamatory, offensive or frightening nature.
- **Cyber-bullying:** is Bullying through the use of technology, for example, using the internet or a mobile phone to hurt, torment, threaten, harass, humiliate or embarrass someone.

Examples of behaviour, whether intentional or unintentional, that may be considered Bullying (whether in a learning, boarding or working environment) if they are repeated, unreasonable or create a risk to health and safety include but are not limited to:

- abusive, insulting or offensive language or comments
- unjustified criticism or complaints
- deliberately excluding someone from learning, boarding or workplace activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- spreading misinformation or malicious rumours
- changing work arrangements such as rosters and leave in order to deliberately inconvenience a particular worker(s).

3.2 What is not Bullying:

Reasonable staff management actions are not Bullying if carried out lawfully and in a reasonable manner in the circumstances and include but are not limited to:

- setting and managing reasonable performance goals, standards and deadlines;
- not selecting a Staff Member for promotion where a reasonable process is followed;
- informing a Staff Member about genuine unsatisfactory work performance in an honest, fair and constructive way;
- taking appropriate disciplinary action for misconduct, including suspension or termination of employment.

Teaching and instruction consistent with the training standards and assessment procedures is not Bullying, and includes but is not limited to:

- setting and managing reasonable performance goals, standards and deadlines;
- not selecting a student for a role, production or performance opportunity; decisions about repertoire and casting are entirely at the discretion of The Director of the School (Director), staff and/or choreographer;
- informing a student about genuine unsatisfactory performance in an honest, fair and constructive way;
- appropriate verbal or physical correction necessary for the teaching of dance;
- appropriate disciplinary action, including suspension or expulsion from the School.

Some behaviours, while not Bullying, may require support to resolve. Otherwise, with escalation, they risk developing into Bullying. For example:

- conflict – mere difference of opinion or disagreement; however, unresolved conflict can develop into Bullying if one of the parties targets the other repeatedly in retaliation;
- single acts of nastiness or aggression towards an individual or single episode of aggression directed towards multiple people, is not Bullying; however, any act of physical aggression is assault and is unacceptable.
- social rejection or dislike is not Bullying *unless* it involves deliberate and repeated attempts to cause distress, exclude or cause dislike by others.

Different strategies may be required to address these issues, for example, informal resolution options (identified below).

4. POLICY

The School has a duty of care to provide a safe learning, boarding and working environment, and to ensure, as far as reasonably practicable, that students, staff and Volunteers are not exposed to health and safety risks.

The School accepts and acts on its duty of care. Any reported allegations of Bullying at the School (whether in a learning, boarding or working environment) will be promptly, thoroughly and fairly investigated, while ensuring that anyone raising an issue or making a complaint is not Victimized.

4.1 Responsibilities:

It is the responsibility of every member of the School Community to ensure that the environment (whether learning, boarding or working) is free from Bullying. The Director and the Executive Director have overall joint responsibility for ensuring compliance with this policy. This includes ensuring that all students, Staff Members and Volunteers are regularly educated and made aware of their obligations and responsibilities in relation to providing a learning, boarding and working environment free from Bullying.

All students, boarders and Staff Members have:

- an entitlement to learn, board or work in a safe and healthy school, residence and workplace and to be treated with dignity and respect;
- an entitlement to make a complaint in respect of any Bullying;
- a responsibility to take reasonable care for their own health and safety;
- a responsibility to ensure they do not promote, excuse, condone or engage in Bullying, and otherwise take reasonable care that their acts or omissions do not adversely affect the health and safety of other people.

All Staff Members must ensure that:

- they understand, and are committed to, the right of all students, other Staff Members and Volunteers to participate in any learning, boarding, work or related activities (as the case may be) without fear of Bullying;
- so far as reasonably practicable, all steps are taken to eliminate Bullying;
- all applicable occupational health and safety legislation is observed;
- all complaints are treated seriously and **Confidentially**;
- they are attuned to the possible occurrence of Bullying, whether complaints are received or not, relying on such indicators as:
 - sudden increases in absenteeism;
 - unexplained requests for transfers;
 - behavioural changes such as depression;
 - sudden deterioration in learning or work performance;
- they take immediate and appropriate action if they become aware of or suspect any Bullying or offensive behaviour;
- any reported allegations of Bullying at the School requiring investigation (whether in a learning, boarding or working environment) are promptly, thoroughly, and fairly investigated;
- ongoing support and guidance are provided to students, Staff Members and Volunteers in relation to the prevention of Bullying.

5. PROCEDURES

5.1 Complaint Procedures:

If a student, Staff Member or Volunteer feels comfortable to do so, it is preferable that they raise any issue of Bullying with the alleged Perpetrator(s) directly, with a view to resolving the issue by discussion. They should identify the relevant behaviour(s), explain that the behaviour(s) is unwelcome and not reasonable, and ask that the behaviour stops.

If the behaviour continues, or if the student, Staff Member or Volunteer feels unable to speak to the alleged Perpetrator(s) directly, they should contact:

- if they are a student, the School Counsellor;
- if they are a parent/carer, the School Counsellor; or
- if they are a Staff Member or Volunteer, their line manager or the Director, the Executive Director or any other manager with whom they feel comfortable. (Complaint Receiver)

The Complaint Receiver must provide support to the Complainant and ascertain the nature of the complaint. The Complaint Receiver must not give the Complainant an undertaking that the matter and their identity will remain Confidential, as this may compromise the proper investigation and resolution of the complaint; see: Section (5.4) - **Confidentiality**.

No student or Staff Member is to knowingly make a false accusation, vexatious or malicious complaint or to make a complaint without a reasonable cause. Individuals are not to victimize or harass parties

involved in the matter. Any breaches of this policy will be treated seriously and may result in disciplinary action.

5.2 Informal Intervention:

An informal process may be appropriate if:

- it appears to the Complaint Receiver that the complaint can be readily resolved within the relevant learning, boarding or work area;
- the Complainant agrees to an informal process;
- the Complainant feels comfortable raising the issue with the alleged Perpetrator(s).

The Complaint Receiver must explain to the Complainant their rights and responsibilities under the School's relevant policies and procedures, including the option of seeking police support or intervention.

Informal interventions should be conducted in a Confidential, non-confrontational manner with a view to resolving the Complaint (see: Section (5.4) - **Confidentiality**).

It may be possible to conduct an informal intervention without disclosing to the alleged Perpetrator that they are the subject of a Bullying allegation or the specific allegation of Bullying that has been made against them (if this is the wish of the Complainant). However, in most instances the principles of **Natural Justice** will require that the alleged Perpetrator is informed of the nature of the Complaint and the identity of the Complainant so that they may have a fair opportunity to respond. Any Mediation or Conciliation will necessarily require that the alleged Perpetrator be so informed so as to enable their full participation in the Mediation or Conciliation (as the case may be).

In an informal intervention in which the Perpetrator (hereafter referred to as the Respondent), has been made aware of the Complaint, the intervention will be considered complete when the parties reach agreement as to how the Respondent will behave towards the Complainant in the future. This could include, for example, that the Respondent agrees to respect the Complainant's request to cease unwanted and unwelcome behaviour, or the Complainant accepts that the Respondent's behaviour is not properly characterized as Bullying. If the parties cannot reach agreement and the matter cannot be resolved using informal methods, the School's formal complaint procedure must be followed.

5.3 Formal Complaint Procedure:

A formal process will be required if:

- an informal intervention has failed;
- in the reasonable opinion of the Complaint Receiver, it is unlikely that an informal intervention will resolve the issue;
- the alleged behaviour is serious or longstanding or poses a risk to the health and safety of those concerned;
- there is significant disagreement about what has occurred and what should happen.

The formal complaint procedure involves a formal investigation of the Complaint, including informing the alleged Perpetrator of the Complaint (hereafter referred to as the Respondent), collecting information about the Complaint and making findings of fact, including whether or not the alleged behaviour occurred. Findings of fact will be made having regard to the evidence available and on the balance of probabilities.

If the Respondent is a Staff Member or Volunteer, a formal investigation will be initiated by the Director, Executive Director or Director of Development (depending on who has line management responsibility for the Respondent). If the Respondent is a student, only the Director may initiate a formal investigation.

If any formal investigation is initiated by the Director, Executive Director or Director of Development,

as soon as reasonably possible, they must notify the Chair of the Board about the nature of the investigation.

If the Director, Executive Director or Director of Development is the Respondent, the formal investigation must be initiated by the Board.

A formal investigation may be conducted internally by the Director, Executive Director, Director of Development, a senior Staff Member or the Board or by an external investigator (Investigator). The Complaint Receiver must not be the Investigator. If there is the possibility of a conflict of interest, it may be preferable to appoint an external Investigator.

The Director, Executive Director or Director of Development shall not be the Investigator if they have the line management responsibility for the Respondent.

Any investigation undertaken must adhere to the principles of Natural Justice.

Throughout the investigation, all parties involved will be regularly kept informed as appropriate about the investigation.

The Investigator may interview any party as the Investigator reasonably considers necessary or desirable, in order to assist the Investigator to conduct the investigation. This will include the Complainant, the Respondent, and any witnesses. Witnesses should only be asked about matters they have actually witnessed. The Investigator will comprehensively and accurately document all information obtained during any interview including the names of any parties and the timing, location and nature of the Complaint. The Investigator must direct all people involved in the investigation to maintain Confidentiality.

If the Director, Executive Director or Director of Development considers it appropriate for the safe and efficient conduct of an investigation, and no other safe options are available:

- student(s) may be suspended,
- Staff Members or Volunteers may be suspended from work or provided with alternative duties, during an investigation.

If a student(s) is suspended, as far as practicable, they will be provided with an alternative learning environment. If a Staff Member is suspended, they will be entitled to their normal remuneration during such period.

The Investigator will document the process of the investigation, the evidence collected and their findings of fact in an investigation report. The Investigator may make recommendations to the Director, Executive Director, Director of Development or the Board (as the case may be) about options for resolving the Complaint. The ultimate decision about any disciplinary or other action is the responsibility of:

- if the Respondent is a Staff Member or Volunteer, the Director, Executive Director or Director of Development (depending on who has line management responsibility for the Respondent);
- if the Respondent is a student, the Director; or
- if the Respondent is the Director, Executive Director, Director of Development or the Board.

Possible outcomes of an investigation may include but are not limited to any one or more of the following:

- Counselling, education, a restorative discussion for the purpose of repairing harm and restore or building the relationship between Complainant and Respondent;
- Official warning, a behaviour contract;
- Formal apology, an undertaking that the behaviour will cease;
- Conciliation or Mediation;

- Disciplinary action which may include:
 - expulsion from the School,
 - written warning (for staff),
 - termination of employment or other contract,
 - cessation of the opportunity to volunteer at the School.

On completion of the investigation, the Complainant and the Respondent (and any other parties as necessary) will be informed of those findings as are necessary to inform those persons of the outcome of the investigation, subject to any requirement to maintain Confidentiality about any disciplinary action against the Respondent. No party involved will have any entitlement to a copy of the investigation report. Following an investigation (irrespective of the findings):

- the Complaint Receiver concerned will consult with the parties involved to monitor the situation and their wellbeing; and
- the School will reinforce to all students, Staff Members and Volunteers their obligations and responsibilities in relation to providing a learning, boarding and working environment free from Bullying.

5.4 Confidentiality:

As far as circumstances allow, the outcome of any informal investigation will remain Confidential.

If the Complaint proceeds to a formal investigation, any disclosure of information relating to the Complaint will be on a “need to know” basis. For example, it will be necessary that:

- the Investigator is fully briefed;
- the Director, Executive Director, Director of Development or Board (as the case may be) is fully briefed ;
- as a matter of Natural Justice, the Respondent be informed of the nature of the Complaint and the identity of the Complainant so that they can have a fair opportunity to respond;
- witnesses be informed that a Complaint has been made and that they are a relevant witness who may be able to assist the Investigator in the investigation.

The Investigator will direct any person to whom it is necessary to disclose any information about the Complaint to keep the information Confidential and caution them against attempting to garner support from other members of the School Community.

5.5 Procedures for Dealing with Mandatory Reporting Requirements or Criminal Conduct:

The School is committed to addressing allegations of Bullying internally as far as possible.

To the extent that any allegation of Bullying triggers any mandatory reporting requirements, or the School considers that it may constitute criminal conduct, the Complaint cannot be solely resolved internally. The School will refer such Complaints to the relevant authorities in parallel. The School will apply its internal processes as far as the circumstances allow but will comply with any directions of any relevant authority.

Unless the alleged Bullying falls within the requirements of mandatory reporting or the School considers that it may constitute criminal conduct, the School is not required to make or report the Complaint to any authority on behalf of the Complainant but may at its discretion choose to do so.

Appendix: Bullying and Harassment Strategies

1. Strategies for students who feel unsafe or threatened include:
 - Be aware of your right to a safe and caring environment at the School;
 - Stay in sight of peers and adults;
 - Stay calm – be firm and clear – look bullies in the eye and tell them to stop;
 - If the situation continues – walk quietly, quickly and confidently away – dramatic reactions only encourage and entertain the bully;
 - Tell bullies that their behaviour is unwelcome and why – the person may not realize that their behaviour is unwelcome, and that it is causing distress;
 - Tell someone about it (sometimes your fellow students may be able to help or you may wish to talk to the School Counsellor);
 - Talk to an adult with whom you feel comfortable, such as a parent, teacher or the School Counsellor;
 - If you can't talk to someone face-to-face go online at Kids Helpline <http://www.kidshelp.com.au/> or call a Kids Helpline counsellor on 1800 55 1800.
2. If you witness Bullying:
 - Don't join in; being part of a group which is Bullying someone is just as bad as being a bully;
 - Where and or when it is safe to do so, tell those who are Bullying to stop;
 - Provide comfort and support and protection to the person who has been bullied;
 - Encourage the person who is being bullied or harassed to seek adult assistance; accompany them if necessary;
 - Report Bullying so that both the person being bullied, and the bully can receive help.
3. Suggestions for parents/carers:
 - Actively promote a positive and caring environment by helping your child develop a sympathetic and tolerant attitude towards others by modelling appropriate behaviour at

home and in all interactions with the School;

- Be aware of changes in mood and behaviour that may be indicative that your child is experiencing Bullying;
- Always be willing to listen and support your child if they want to talk about Bullying or harassment;
- If you have any concerns regarding your child's welfare or behaviour at the School, make contact as soon as possible with administration staff, a teacher or the School Counsellor;
- The School will listen to your concerns and discuss with you the most appropriate steps in order to resolve the issue;
- Communicate to your child that they need to work with the School to support them

4. Strategies for students who feel unsafe or threatened include:

- Be aware of your right to a safe and caring environment at the School;
- Stay in sight of peers and adults;
- Stay calm – be firm and clear – look bullies in the eye and tell them to stop;
- If the situation continues – walk quietly, quickly and confidently away – dramatic reactions only encourage and entertain the bully;
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6. Suggestions for parents/carers:

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 - Be aware of changes in mood and behaviour that may be indicative that your child is experiencing Bullying;
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order to resolve the issue;

- Communicate to your child that they need to work with the School to support them.