



Australian Education Union, Tasmanian Branch

19th August 2024

AEU Submission: Inquiry into Discrimination and Bullying in Tasmania Schools

Executive Summary

The Australian Education Union (AEU) Tasmanian Branch represents members employed in public schools, colleges and early childhood. AEU Tasmanian members include teachers, principals, educational leaders and support staff.

Safe working and learning environments for educators and students are of paramount importance to the AEU. Too often, members of the Australian Education Union experience and address discrimination, inequity, bullying and harassment in our workplaces and we welcome an inquiry focused on delivering the reform and resources required to reduce and eliminate unacceptable and harmful conduct in our education system.

We appreciate the opportunity to provide a submission to the inquiry.

An educator's working environment is a student's learning environment, and it is in everyone's interest that school culture is inclusive, harmonious and respectful. Employers are legally obligated to provide a safe and healthy environment for all workers and other people in our workplaces.

The AEU are strong supporters of Tasmania's Anti-Discrimination Act 1998, and we believe compliance can be improved when it comes to employment processes, eliminating illegal discrimination based on industrial activity, and stamping out offensive, humiliating, intimidatory, insulting and ridiculing behaviour relating to protected characteristics.

As Tasmanian State Service employees, AEU members in schools and colleges do not have access to a systemic bullying remedy. This is in stark contrast to employees covered by anti-bullying laws in the Fair Work Act. Other states have specific anti-bullying laws in place for workers not covered by the Fair Work Act. With proper education and training, the existence of an accessible system to address bullying in the workplace can have a behavioural change impact on people engaging in bullying or harassment.

Schools and Colleges can only support, educate and nurture students and staff with the complexities of the Tasmanian K-12 student population with adequate resources to do so. Currently, not one Tasmanian public school or college is funded to the minimum standard set by the independent Review of Funding for School led by David Gonski AC in 2011. This minimum Schooling Resource Standard is written into the Federal Education Act, and Tasmanian public schools and colleges are receiving just 91 percent of a

minimum standard deemed necessary to ensure just 80 percent of students could achieve to their potential in education.

Without the minimum funding required to support most of our students, schools and colleges are not resourced to manage the complexities of bullying and harassment.

Principals consistently report that they do not feel they have adequate resources to manage complex behaviours and support equitable learning for students with complex needs.

The effect of chronic underfunding on staff and students, particularly the resulting shortage of specialist support staff, was again highlighted during the 2021 Independent Inquiry into the Tasmanian Department of Education's Responses to Child Abuse, which found:

One consistent refrain across all the schools we visited was that the demand for school support staff greatly outweighed the allocated resources for these positions by DoE. Most of the schools purchased additional time for school support staff from their general school budgets, but still do not have anywhere near the availability of professional support staff to keep up with student demand. At least three of the principals we met with told us they would like their school support staff to move in to the development and delivery of proactive preventative programs - or even to undertake some therapy programs with the most needy groups of students - but the work of those professionals is almost entirely reactive, preoccupied with assessments and responding to the most pressing and serious problems.

If schools and colleges do not have adequate resources to develop and deliver proactive programs that safeguard children and meet student needs when it comes to child abuse, it is clear they are inadequately resourced to meet staff and student needs when it comes to addressing bullying and harassment.

Recommendations

1. **Anti-bullying system for Tasmanian state service workers** – the Inquiry should investigate the effectiveness of legislation in other jurisdictions covering workers not protected by anti-bullying laws in the Fair Work Act and recommend to the Parliament best practice laws to give Tasmanian state service workers a systemwide remedy to address bullying in their workplace.
2. **Discrimination** – additional release time (covered by fully funded replacement staff) be provided for all staff, particularly senior staff, to attend training and professional learning in identifying discrimination and complying with the Anti-Discrimination Act 1998. New staff induction must include this training.
3. **Employment in Non-Government Schools** – the Inquiry should ensure all non-Government schools are compliant with the Anti-Discrimination Act 1998, which ensures Tasmanians cannot be barred from employment based on protected characteristics such as sexual orientation, lawful sexual activity, gender, gender identity, intersex variations of sex characteristics, marital status, relationship status and parental status.
4. **Teacher Transfer policy** – the Teacher Transfer Agreement 2013 and its implementation by DECYP must ensure applications are fairly considered and workers experiencing bullying or harassment are able to escape it using this remedy if they so choose. DECYP must negotiate and implement a

Transfer Agreement covering non-teaching staff at schools and colleges to ensure all workers have access to this option.

5. **Grievance procedures** – in addition to a system-wide anti-bullying legal framework, grievance procedures around a complaint or concern raised about a manager or someone in a higher position than the complainant must initiate a procedure that outlines the support available to both parties, the process, workplace rights and timelines. If a complainant resigns or leaves DECYP, the support and process should continue regardless.
6. **Contact People** - a new Grievance Resolution Procedure should be negotiated with workers and their representatives to better address harassment, discrimination and bullying in the workplace, including the provision of Contact Officers or similar that meet the recommendations of EOT and AHRC, and are provided training and time release to fulfil the role.
7. **Workers' compensation** – better support must be provided to workers making a workers' compensation claim, as part of a system-wide bullying framework. The workers' compensation process must not apply further harm to a victim of bullying or harassment.
8. **Workplace Health and Safety** - the Inquiry should examine whether each school and facility has conducted a full safety risk assessment with their staff for their school. By addressing and reducing safety risks, in particular psychosocial risks, bullying particularly between staff will be significantly reduced. Unsafe working environments increase the likelihood of bullying.
9. **Fully fund every public school** – every Tasmanian public school and college must be funded to the minimum standard set by the independent Review of Funding for School led by David Gonski AC in 2011. This minimum Schooling Resource Standard (SRS) is deemed necessary to ensure just 80 percent of students could achieve to their potential in education, a minimum level of engagement needed to reduce bullying.
10. **Professional Support Staff** – increase numbers of social workers, speech and language pathologists and psychologists in schools to the recommended ratios of one to every 500 students, in each category.
11. **Increase funding for Tiered Programs** – schools and colleges must receive additional funding for Tiered Programs (Tier 3 & 4) to address the needs of students at risk of disengaging with education and engaging in bullying or other behaviour that impacts their own learning and wellbeing as well as that of other students.
12. **Extend Tiered Programs** – to areas such as the West Coast where they are currently not available, as well as Primary years and Colleges/Year 11-12.
13. **Reduce class sizes** – this is known to be effective in improving engagement in learning, lifting educational outcomes and preventing bullying or other disruptive behaviour. Class size limits should take into account the complexity of the student cohort and must be developed in negotiation with educators and their representatives.
14. **Improve reporting of hazards and incidents** - if we don't know the extent of the problem it won't be addressed, so barriers to reporting must be removed through induction, training, paid time 'off-class' and universal access to technology.
15. **Transparent data** - with improved reporting processes and workers given the time and tools needed to report, transparent reporting of indicators relating to bullying, discrimination and harassment can be published and compared over time to evaluate the effectiveness of different strategies.

Systemwide change

In Tasmania there is no system across the public service to deal with bullying and there is no way for state service workers to bring an application to the Tasmanian Industrial Commission for bullying. For workers covered by the Fair Work system, there anti-bullying laws as part of the Fair Work Act.

For DECYP employees there is only a very weak grievance process and Employment Direction 5. Members are often very hesitant to raise any issues internally, especially if the bully is the manager, because of the view that it will impact negatively on their work and their prospects. Employees must feel safe to raise concerns about bullying and not have real or perceived discrimination or penalty.

The culture in education is that to gain promotion or employment there is a heavy reliance on need for a reference from the staff member's manager – this is problematic if the manager is also a participant in harassment, bullying or discrimination.

There should be a clear and separate process outside of DECYP, perhaps connected to the SSMO that has arms-length distance from the worker and their line of management.

The Inquiry should investigate the effectiveness of legislation in other jurisdictions covering workers not protected by anti-bullying laws in the Fair Work Act and recommend to the Parliament best practice laws to give Tasmanian state service workers a systemwide remedy to address bullying in their workplace.

1. Anti-Discrimination Act 1998

AEU members are proud of Tasmania's Anti-Discrimination Act 1998 and support its full implementation across our education system.

Indirect discrimination is not always obvious, and even direct discrimination can be conducted or overlooked by people not trained or knowledgeable in the functions of the Anti-Discrimination Act 1998.

AEU members have experienced unlawful discrimination as DECYP employees in schools and colleges. One example was a teacher denied a contract based on their pregnancy. Without the support provided through union membership, this example of discrimination may not have been addressed and it highlights a need for improved training, induction and professional learning around the Anti-Discrimination Act 1998.

Additional professional learning, induction and training must be conducted in paid time, requiring additional release time and centrally funded replacement staff.

Union membership and participation are essential to safe and healthy workplaces and a protected characteristic under the Anti-Discrimination Act 1998. AEU members have reported a perception of discrimination against active, visible union members within schools, colleges and DECYP that stifles a protected attribute under the Act. The State Service must always maintain a practice and perception of meritorious employment and promotion, including taking active steps to address any perception of discrimination based on protected characteristics, including union membership and activity.

The importance of fully understanding the Anti-Discrimination Act 1998 was highlighted recently when the Anti-Discrimination Tribunal ruled that union members had been discriminated against in 2018 when the head of SSMO and department heads issued directives preventing them from accessing forms of

leave to attend a lawful union meeting. This is unacceptable conduct at the highest levels of the state service and highlights the importance of training and education in compliance with the Anti-Discrimination Act 1998.

In promoting compliance with the Anti-Discrimination Act 1998, SSMO and DECYP should promote union membership and industrial activity as protected and positive attributes with training provided especially to executive level staff on the positive role of union membership and participation in safe, healthy and harmonious workplaces.

Non-Government Schools

While the Australian Education Union does not cover workers in non-Government schools, we are very concerned that the Anti-Discrimination Act 1998 is respected and complied with in all schools and education workplaces. Employment discrimination based on protected characteristics such as sexual orientation, lawful sexual activity, gender, gender identity, intersex variations of sex characteristics, marital status, relationship status and parental status is unacceptable, and the inquiry should ensure all non-Government schools are compliant to protect Tasmanian workers and the integrity of the Act.

2. Existing Policies and Processes

Teacher Transfer policy

The current teacher transfer process does not enable a staff member to easily transfer to another school in the case of a bullying issue. An employee can apply for a compassionate transfer, but in our experience, they rarely granted for reasons of bullying and harassment. If a member being bullied doesn't meet the transfer eligibility, then their only options are to resign or remain in the workplace where they are being harassed.

It is important to note that the Teacher Transfer Agreement 2013 does not cover non-teaching staff in schools and colleges, and a similar industrial agreement is required to be negotiated to ensure that non-teaching staff also have access to this as one option when experiencing bullying or harassment at work.

Protecting the Victim

While some AEU members seek a transfer as a remedy to bullying or harassment at work, there should be no presumption that the person complaining of bullying or harassment should be moved on from their workplace. Protecting the victim must include listening to them and their needs, which may involve protecting them at the current workplace or position and ensuring they are freed from the unacceptable conduct.

Grievance policy

Rather than a clear process to raise bullying or harassment, teachers are encouraged to submit a 'grievance' which usually results in mediation and continuing work in the same or similar environment. Many members who have experienced bullying or harassment in their workplace do not see the internal grievance process as an effective solution and so often choose not to submit a grievance.

In addition, when a complaint or concern is made about a manager or someone in a higher position than the complainant, the process should outline the support available to both parties, the process,

workplace rights and timelines. If the complainant resigns or leaves the department, the support and process should continue regardless.

The evidence requirements of a grievance procedure must recognise the complexity of psychosocial safety issues at work. The experience of victims must be properly heard and considered.

Equal Opportunity Tasmania (EOT) and the Australian Human Rights Commission (AHRC) recommend grievance handling procedures include “a list of approachable staff that people can contact if they have a grievance in the workplace. These may include contact points such as Supervisors, Contact Officers, Diversity or EEO Officers.”

The AHRC advises:

A harassment officer – sometimes known as a contact officer, equal opportunity officer or equity contact officer – is a staff member who assists employees who experience discrimination and harassment in the workplace.

The contact person should:

- *listen to an employee’s concerns about discrimination or harassment*
- *not form a view of the merit of any allegations*
- *provide information about the internal complaint process*
- *advise the person that in some situations where serious allegations are raised – for example, that may expose the organisation to legal liability – the issue may need to be reported to management and dealt with as a formal complaint*
- *where appropriate, provide support for a person if he or she wants to try and resolve the issue personally*
- *provide information about available support services; for example, workplace counselling services*
- *outline other options available to the person, such as lodging a complaint of discrimination or harassment with an external agency.*

The contact person should not be the same person who is responsible for investigating or making decisions about a complaint.

The company contact officer can help to facilitate the process of making an internal complaint of discrimination or harassment. This may help to avoid complaints to external agencies and/or legal action.

The DECYP Grievance Resolution Procedure does not include a list of approachable staff, or reference any ‘contact person’ position. It does identify “3.4 Support Person” under “Roles and Responsibilities”, but this refers to the Employee Assistance Program (EAP) and a general person chosen by individuals involved. This does not compel the employer to ensure an appropriate, approachable, trained person or list of people is available to all employees as part of the procedure.

A new Grievance Resolution Procedure should be negotiated with workers and their representatives to better address harassment, discrimination and bullying in the workplace, including the provision of Contact Officers or similar that meet the recommendations of EOT and AHRC, and are provided training and time release to fulfil the role.

3. Workers' Compensation

A lack of effective options to resolve bullying or discrimination results in people having to remain in a workplace where issues are unresolved. Over time the situation often deteriorates and the impacted staff member, who tries to 'tough it out', ultimately suffers an injury for which they then need to make a workers compensation claim.

The workers compensation process is further traumatising for people who claim an injury due to bullying. In almost all instances, DECYP will ask for a statement from the person who is accused of bullying or harassment. In most cases the accused will deny the accusations and then the workers compensation claim is disputed based on a 'factual dispute'.

Better support must be provided to workers making a workers compensation claim, as part of a system-wide bullying framework.

4. Workplace Health and Safety

Under the [Work Health and Safety Act 2012](#) the DECYP, as the Person Conducting a Business or Undertaking (PCBU), has a primary duty under the Act to manage risks associated with exposure to hazards arising from work that could result in psychological harm. That is a duty to identify, assess and manage risks to workers' health and safety arising from employment, including risks of psychological harm caused by bullying.

Workers experiencing bullying, harassment and discrimination in Tasmanian schools and colleges understand that the PCBU has failed them in this duty. Psychological injury claims from DECYP workers continue to rise at an alarming rate – up from 54 in 2021 to a shocking 149 in the year to March 2024.

This table shows the shocking and continuing increase in psychological injury claims across 2020-2024:

Calendar Year	2021	2022	2023	2024
Period	March	March	March	March
Unit	Number	Number	Number	Number
Claims Lodged by Other Staff	15	31	62	87
Claims Lodged by Teaching Staff	39	53	47	62
Total	54	84	109	149

DECYP must enter a transparent process with workers and their union representatives to improve workplace health and safety across schools and colleges, including supporting the implementation of work groups, Health and Safety Representatives, Mental Health First Aiders and HSR training. Workers and their representatives must be given release time to contribute to improved policies, practices and responses to health and safety risks in our workplaces, especially psychosocial risks associated with bullying, discrimination and

The Inquiry should examine whether each school and facility has conducted a full safety risk assessment with their staff for their school. By addressing and reducing safety risks, in particular psychosocial risks,

bullying particularly between staff will be significantly reduced. Unsafe working environments increase the likelihood of bullying.

5. Supporting students to prevent bullying

Understaffing and under-resourcing of public schools and colleges can contribute to incidences of students 'acting out' with bullying behaviour. A student's home circumstances, or other trauma are brought to school and these children need prompt access to professional support staff - including social workers and psychologists - but there are currently excessively long waiting times for assessment and intervention. The Government must deliver on recommended ratios of a school psychologist and social worker for every 500 students.

Additional funding is needed for schools specifically to manage students who are perpetrators of bullying and deal with their complex psychosocial issues. Schools can access funding for purposes such as educational adjustments (disability) and through the Individual Student Trauma Funding Process, but there is no separate process to access funds for students who have high level behavioural issues, including bullying. If a student is not funded through these processes and they have high level behaviours, the responsibility falls to underfunded schools to find money for additional supports.

Schools and colleges report that funding available for Tiered Programs (Tier 3 & 4) is inadequate to address student need. This funding should be increased significantly, as well as capital funding provided to ensure fit-for-purpose facilities are available for programs that require off-campus engagement with students. For instance, where a student has been engaging in bullying and presents with challenging behaviours that mean they cannot remain on campus, there must be a fit-for-purpose facility available for a Tiered education program to continue with that student. This facility and the staffing allocated must ensure the learning environment is safe and healthy for all workers and students.

Tiered programs or alternative educational engagement options need to be provided for Primary School level students. There are currently no funded options to support students below Year 7 who have high level behavioural issues, including bullying, but do not meet criteria for funding related to disability or trauma for instance.

Additionally, Tier 4 programs for Year 7-10 students need to be extended statewide, and through to Year 12. Schools in areas such as the West Coast do not have access to these alternative settings for those students who may require them to remain engaged with school and at the same time ensure that their behaviours do not significantly impact on other students or school staff.

Similarly, there is no access to Tier 4 provision in the College and Year 11-12 system and this needs to be urgently addressed. Amazingly, a student engaged in an off-campus Tier 4 program at the end of Year 10 will return to campus-based learning in Year 11, potentially even in the same school, despite potential risks to the safety and wellbeing of other students and staff.

Currently, applications for part-time attendance need to be initiated by a parent or independent youth. In some circumstances this means that rather than being able to reduce a student's time at school so that they can engage successfully, and their behavioural needs can be properly supported, the school needs to resort to repeated suspensions. Where it can be shown to be in the interests of safety and

staff, there should be the capacity for schools to initiate part-time attendance arrangements for a defined period of time.

6. Reduce class sizes – focus on learning

Safety, physical and psychological, is critical for effective teaching and learning. Educators will not remain working in an unsafe or unhealthy environment where they do not feel valued and connected. Students will not learn or achieve if they do not feel valued and connected. A culture of learning cannot exist in a culture of bullying, harassment or discrimination. A feeling of safety is a precondition for an environment of learning.

Excessive class sizes, combined with a high level of social and economic disadvantage in Tasmanian classrooms, contributes to bullying and prevents effective observation and intervention. There are currently no caps on class sizes in Tasmanian public schools and colleges. Reducing class sizes is known to be effective in improving engagement in learning, lifting educational outcomes and preventing bullying or other disruptive behaviour. Class size limits should take into account the complexity of the student cohort and must be developed in negotiation with educators and their representatives.

7. Student-on-staff bullying, harassment and violence

Bullying and harassment of educators and other workers in our schools and colleges contributes to current workforce shortages by negatively affecting retention and recruitment. In turn, workforce shortages negatively affect student engagement, and result in long wait times for assessment and intervention. We must break the cycle.

Educators report growing instances of toxic masculinity and gendered harassment driven by external, often online, influences and influencers.

Teacher Assistants especially, but workers across the board in schools and colleges, experience violence from students far too often and are inadequately supported by their employer. Changing DECYP reporting systems for incidents and inadequate induction and training into reporting procedures and tools means there is a severe under-reporting of health and safety hazards and incidents. Simple things like a lack of paid 'off-class' time for Teacher Assistants, a lack of access to technology at work to complete electronic reports, and excessive workloads across the board all create barriers to all hazards and incidents being reported.

If we don't know the extent of the problem it won't be addressed, so barriers to reporting must be removed through induction, training, paid time 'off-class' and universal access to technology.

8. Transparent Data

With improved reporting processes and workers given the time and tools needed to report, transparent reporting of indicators relating to bullying, discrimination and harassment can be published and compared over time to evaluate the effectiveness of different strategies.