

Policy number	P60	Version	5
Approved by Board on	2 February 2024	Scheduled review date	February 2029

1. Purpose

This outlines the National Institute of Organisation Dynamics Australia (NIODA)'s position on bullying and documents the process to be followed should any instances of bullying be reported.

2. Scope / Application

This code of conduct applies to all board and committee members, staff, candidates, students and clients at NIODA. Bullying behaviours may occur onsite or via digital or online means.

3. Policy Statement

NIODA regards the dignity and autonomy of all people as a core value of the organisation. Bullying behaviour is based on the misuse of power in human relationships, and negates the dignity and autonomy of its victims.

NIODA regards the health and safety of its staff, volunteers, candidates and students as a primary responsibility. Bullying can affect health and wellbeing.

NIODA is fully committed to eliminating, as far as possible, all forms of bullying in the workplace and in its relationships with its stakeholders through a culture of openness, support, and accountability.

The following outlines NIODA's responsibilities and procedures with respect to this policy.

4. Definitions

"Unreasonable behaviour" is behaviour that is offensive, humiliating, intimidating, degrading or threatening. It includes, but is not limited to:

- verbal abuse
- initiation rituals
- excluding or isolating employees
- giving a person the majority of an unpleasant or meaningless task
- humiliation through sarcasm, or belittling someone's opinions
- constant criticism or insults
- spreading misinformation or malicious rumours
- deliberately setting work routines or procedures to inconvenience certain employees
- displaying written or pictorial material which may degrade or offend certain employees.

"Bullying" is repeated, unreasonable behaviour directed towards a person or group of persons.

“Repeated ... behaviour” refers to the nature of the behaviour, not the specific form of that behaviour. “Repeated unreasonable behaviour” may thus be a pattern of diverse incidents.

Bullying can occur at any level of the organisation, and may involve a co-worker, manager, Board member, service provider, student or client.

There are bound to be occasional differences of opinion, conflicts and problems in every workplace. Only when the treatment of another person is unreasonable, offensive or harmful does workplace bullying exist. Behaviour may be found to be bullying when it continues after a request from the recipient for the behaviour to stop, or at the point it becomes intimidating, offensive or humiliating.

Bullying does not include reasonable management action carried out in a reasonable manner. The exercise of a manager’s legitimate authority at work through the direction and control of work responsibilities, the monitoring of workflow, and giving feedback on performance, is not bullying insofar as the manager’s actions are intended to assist staff to improve their tasks, their work performance, or the standard of their behaviour. If a staff member or teacher has performance problems, however, these should be identified and dealt with in a constructive way that is neither humiliating nor threatening.

Bullying that directly inflicts physical pain, harm, or humiliation amounts to assault and should be dealt with as a police matter, see below.

5. Responsibilities

NIODA has a duty of care to provide a safe workplace. NIODA accepts and acts on its duty of care. Any allegations of workplace bullying that are reported must be acted on in accordance with the procedures in this policy.

All incidences of bullying will be dealt with promptly, thoroughly, and fairly.

Complaints will be treated in confidence, and where confidentiality cannot be guaranteed this will be clearly indicated to the complainant.

All parties will be treated with respect.

The person against whom the allegation is made has the right to natural justice, i.e. the right to know what is alleged against them, the right to put their case in reply, and the right for any decision to be made by an impartial decision-maker.

It is the obligation and responsibility of every person to ensure that the workplace is free from bullying. The responsibility lies with every staff member, board and committee member and student to ensure that discrimination or victimisation does not occur.

It is the responsibility of the CEO to ensure that:

- every staff member, board and committee member, candidate and student understands, and are committed to, the right of all students, candidates, staff, board and committee members to attend work and perform their duties without fear of being bullied in any form
- all reasonable steps to eliminate bullying are made
- all applicable occupational health and safety legislation is observed
- all staff, students, candidates and board and committee members are regularly made aware of their obligations and responsibilities in relation to providing a workplace free from bullying

- all staff, students, candidates and board and committee members provide an environment which discourages bullying, and set an example by their own behaviour
- all complaints are treated seriously and confidentially
- all staff, students, candidates and board and committee members are as far as practicable aware of whether bullying is occurring, whether complaints are received or not, relying on such indices as:
 - sudden increases in absenteeism
 - unexplained requests for transfers
 - unexpected behavioural changes
 - sudden deterioration in work performance
- all staff, students, candidates and board and committee members take immediate and appropriate corrective action if they become aware of any offensive behaviour
- guidance and education is provided, where requested and/or appropriate, to cases and subsequent decisions relating to bullying
- ongoing support and guidance is provided to staff, students, candidates, board and committee members in relation to the prevention of bullying
- this policy is displayed on the website and is provided to staff, students, candidates, board and committee members at the beginning of their involvement with NIODA.

It is the responsibility of all staff, students, candidates and board or committee members to ensure that:

- they understand and are committed to the rights and entitlements of all staff, students, candidates and board or committee members to attend work and perform their duties without fear of bullying in any form
- they contribute to an environment which discourages bullying
- they immediately report any offensive action directed at themselves or others.

6. Complaints Procedures

6.1. Initial response

Staff, students, candidates, board or committee members who believe they are the subject of bullying should take firm, positive and prompt action.

If deemed appropriate, the staff, student, candidate, board or committee member should make the perceived bully (or bullies) aware that they find their behaviour offensive, unwelcome and unacceptable, and that it needs to stop immediately.

If the person feels unable to speak to the alleged perpetrator(s) directly, they should contact a staff, board or committee member with whom they feel comfortable enough to talk with. This contact person would then advise the CEO of the situation. To address the allegation the CEO then follows complaint procedures as set out below. If the CEO is the alleged perpetrator, then the Chair of the Board of Governance should be advised.

The email addresses and telephone numbers of contact people are available in NIODA internal platform at

<https://sites.google.com/nioda.org.au/internalplatform/home>.

The CEO will provide support and ascertain the nature of the complaint and the wishes of the complainant. The complainant does not have to request a full formal investigation if they will be satisfied by less formal treatment of the issue.

At any stage of the response to bullying complaints procedures or when a concern cannot be addressed using these procedures, NIODA may consider and implement actions as necessary to address concerns regarding individuals' safety, wellbeing, or participation in work, study life.

6.2 Formal procedures

The CEO must convene a sub-committee to initiate appropriate actions in response to the complaint.

Stage 1

The CEO will explain the rights and responsibilities under NIODA's policy and procedures.

Informal intervention may be done through a process of facilitated conversation, mediation or conciliation. During this intervention, the respondent will be made aware of the allegations being made against them and given the right to respond. Interventions at this stage should adopt a confidential, non-confrontational approach with a view to resolving the issue.

This procedure will be complete when the alleged perpetrator respects the individual's request to cease unwanted and unwelcome behaviour, or when the complainant is satisfied that the issue has been explored and dealt with to their satisfaction.

The outcome of any mediation will not be recorded, and any subsequent proceedings will begin *de novo*. If a mediated outcome cannot be reached, the formal complaint procedure Stage 2 (set out below) should be followed.

Stage 2

If mediation/conciliation does not come to an agreed resolution or the complainant does not wish to explore mediation then a formal complaint may be initiated by the complainant, in which event a formal investigation must be undertaken.

.

Stage 3

If the issues continue to remain unresolved for the complainant, a request for final internal intervention can be made to the Board of Governance. The board then convenes a separate subcommittee to address the matter. This is the highest level internal process at NIODA and any outcomes supersede previous decisions.

Procedures for Stages 2 and 3

The process for complaints about bullying from beginning to end must be handled in a timely, efficient, fair and equitable way, without fear of reprisal for any parties involved.

Subcommittees investigating bullying claims should comprise the most appropriate personnel from across the organisation, and/or externally, depending on the type of issue presented to determine a response.

This will be a matter to be decided by the CEO or Chair of the Board of Governance in the context of the particular allegations.

Description of the allegations should be submitted by the complainant to the Chair of the subcommittee (CEO or Board of Governance Chair) include email addresses

The Chair is to respond with details of the response process within five working days.

The complainant is to have the financial cost in their undertaking a bullying claim explained. (No cost other than if they choose to hire an independent professional for advice, i.e. hiring an independent professional is at their own undertaking)

The complainant and the alleged perpetrator (s) are to be invited to access independent professional advice and to have an advocate or support person with them throughout the process.

An investigation will involve but is not limited to:

- interviews with the complainant and the alleged perpetrator(s) to ascertain their versions of events
- interviews with any witnesses
- examination of any relevant documents or other evidence including supporting evidence provided by the complainant's or alleged perpetrator's medical practitioner, counsellor, family member, friend or co-worker; personnel or student records; records kept by the complainant
- determination of previously reported behaviours or issues with the alleged bully(s)

A record of the investigation must be kept and filed in a confidential and secure place for a period of no less than five years. Under no circumstances will records be placed on the complainant's personnel or student file.

On completion of the investigation, the sub-committee will determine a course of action to be taken, in consultation with the complainant.

The complainant is to receive a written report of outcomes within five working days of a resolution being determined by the subcommittee. The report is to include avenues for external appeal when it may be beneficial.

The subcommittee is to record decisions and actions taken by the subcommittee and the reasoning behind them for record keeping, and to be used (in a non identifiable form) in institutional and/or course review processes

The subcommittee is to ensure that records of all complaints and the procedures undertaken are kept accessible to all interested parties for a period of no less than five years (subject to the *Privacy Policy*). The records remain confidential and are retained in a separate file.

The outcome will be monitored to ensure that any behaviour in breach of this policy has ceased and that neither party has been victimised as a response to a complaint being made under this policy. This may involve follow-up interviews.

Possible courses of action following a complaint will depend upon the outcome of the mediation/conciliation and investigation and whether the complainant and respondent are students, staff members, members of the boards or committees, or other members of the NIODA community. Courses of action may include, but are not limited to, any combination of the following:

- a formal apology and undertaking that the behaviour(s) will cease

- conciliation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution
- counselling
- disciplinary action (e.g. demotion, suspension, probation or dismissal)
- official warnings
- disciplinary action against the complainant if there is strong evidence that the complaint was vexatious or malicious
- staff who have been complainants may have leave that they have taken re-credited
- recommended report to the police if criminality is indicated (see below)

Outcomes will depend upon:

- the severity and frequency of the bullying
- the weight of the evidence
- the wishes of the complainant
- whether the alleged perpetrator could have been expected to know that such behaviour was a breach of policy
- the level of contrition
- whether there have been any prior incidents or warnings

If there is insufficient proof to decide whether or not bullying has occurred, the subcommittee will:

remind those involved of expected standards of conduct

conduct further training and awareness-raising sessions for members of the NIODA community

will be alert to the possible scape-goating of any of the parties involved

monitor the situation carefully

6.2. Procedures for Dealing with Criminal Conduct

Some forms of severe bullying (physical attack, for example, or obscene phone calls) may constitute criminal conduct. While NIODA is committed to treating most complaints about bullying at an organisational level as far as possible, this type of conduct is not suited to internal resolution. Such complaints should be treated by the criminal justice system. Staff, students, candidates, board and committee members should be advised of the option of reporting the matter to police. It is not the obligation or duty of the organisation to report such matters to the police on behalf of the complainant.

7. **Related Documents**

Access and Equity Policy

Academic Misconduct Policy

Sexual Misconduct Policy