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NTEU Submission

to the

House Standing Committee on Education and Employment's

Inquiry into workplace bullying

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The National Tertiary Education Union (NTEU) welcomes the opportunity to make a submission to the House Standing Committee on Education and Employment's *Inquiry into workplace bullying*.

NTEU represents over 25,000 staff employed in tertiary education in Australia. Tertiary education covers a wide range of institutions that deliver post-secondary education, including universities, TAFEs and other education providers. The Union's coverage also includes research centres and institutes as well as student organisations and associations.

As a trade union, NTEU is all too aware of the damaging effects of bullying in the workplace. While the effects that such treatment has on the individual is profound, bullying has an amplifying effect, and impacts upon the victim's family, friends, support networks and colleagues. As acknowledged in the terms of reference, the flow effects in terms of community and productivity are considerable.

NTEU notes that the Terms of Reference for this Inquiry are expansive, as the Committee is seeking a broad range of views on this important issue. NTEU's response is primarily framed around Point 2 of the Terms of Reference, which examines "*the role of workplace cultures in preventing and responding to bullying and the capacity for workplace-based policies and procedures to influence the incidence and seriousness of workplace bullying*". As such, this submission summarises what an effective anti-bullying policy or framework should include.

However, we also submit evidence in relation to Point 6 of the Terms of Reference, which seeks to determine whether the existing regulatory frameworks provide a sufficient deterrent against workplace bullying (see Attachment 1). NTEU has recently conducted research on racially based bullying and discrimination and its effect on Indigenous staff working in tertiary education. The findings of this research have been published in the report entitled "*I'm Not a Racist – But... Report on Cultural Respect, Racial Discrimination, Lateral Violence and related policy at Australia's Universities*".

Disturbingly, the research not only found that harassment and bullying based on racial prejudices is still prevalent within the workplaces surveyed, but that the institutions in which these incidents had occurred had largely failed to implement their own anti-discrimination and harassment policies. Indeed, the research found that a number of institutions had lacked the appropriate structures and policies, and of those that did have some mechanism in place, many were inappropriate, outdated and/or largely unknown. As a result staff affected by racially based bullying and discrimination often felt powerless, isolated and vulnerable to further bullying.

NTEU is highly concerned at the findings outlined in *I'm not a Racist, But!*, and highlights the report's findings for the attention of the Committee. While we note that this Inquiry is likely to receive a large number of submissions dealing with workplace bullying more broadly, NTEU's research into the effects of racially based workplace bullying, harassment and discrimination presents another dimension to this problem. We therefore ask that the content of NTEU's Report be taken into consideration as it raises a number of important concerns for Indigenous staff and employers that reaches beyond universities. It is highly unlikely that the experiences reported by Indigenous staff in this report is isolated to higher education and indeed, it could be argued that these findings are the proverbial tip of the iceberg in terms of the discrimination encountered by Indigenous workers. Unfortunately,

NTEU is not aware of any other comparable studies relating to employees who are identified as either Aboriginal or Torres Strait Islanders in relation to the issues covered in this report, and disappointingly there is a reluctance to deal with the issues raised by the report by employers and government.

Strategies to Address Workplace Bullying

NTEU is of the clear view that workplace bullying is a form of harassment in employment that is unacceptable. While NTEU recognises that it is a collective responsibility of all within a workplace to take steps to prevent and eliminate workplace bullying, it is also the responsibility of employers to maintain a safe work environment, which includes the prevention and elimination of workplace bullying.

Through industrial mechanisms, the Union has encouraged employers to develop and support policies and strategies to combat workplace bullying. In order to be successful, anti-bullying frameworks should (as a minimum) include the following:

- (a) a clear definition of workplace bullying;
- (b) a statement that the institution's management is strongly opposed to workplace bullying and is committed to ensuring it does not occur;
- (c) effective procedures for dealing with complaints of workplace bullying fairly, involving proactive arbitration and penalties where appropriate;
- (d) promotion of information on these procedures and other remedies and resources available both within and outside the institution; and
- (e) information and training on workplace bullying in staff development programmes for all staff, especially those in management roles.

Furthermore, employers should address the issue of workplace bullying in all environments that an employee may, as part of their duties, be exposed to bullying behaviour. This includes employee contact with clients, customers, students or members of the public.

Workplace bullying is often subtle, but ultimately aims to intimidate and denigrate. It is important that any form of anti-bullying policy or strategy recognises that bullying may come in a number of forms, but typically includes:

- a) behaviour aimed to demean, humiliate or intimidate employees either as individuals or as a group;
- b) the less favourable treatment of a person by another in the workplace, beyond that which may be considered reasonable and appropriate workplace practice;
- c) unwelcome and unreasonable behaviour that creates a hostile, uncomfortable, offensive or 'charged' work atmosphere leading to stress;
- d) misuse of relative and / or assumed power;
- e) occurrence of the following:

- continual unjustified and unnecessary comments about an employee, their work or capacity for work
- comments aimed to discredit or undermine an employee or devalue their work
- continual ignoring or exclusion of an employee or group of employees from normal conversation, work assignments, work-related social activities and networks
- the making of derogatory or intimidating remarks
- unreasonable demands and impossible targets
- phone calls, letters or emails which are threatening, abusive or offensive
- taking deliberate advantage of a lack of understanding or knowledge due to inexperience
- constant, intrusive surveillance or monitoring
- the unnecessary intrusion into the personal relationships of an employee
- restrictive and petty work rules
- being intentionally overworked and being forced to stay back or perform additional tasks
- open or implied threats of demotion, dismissal or disciplinary action
- emotional blackmail
- constant criticism or denigration of employee(s) in front of others

NTEU stresses that workplace bullying is not always a simple abuse of power from supervisors to subordinate employees: for example, in higher education, employees or students can bully their supervisors, and workplace bullying can occur between members of an ostensibly equal group.

In order to effectively address workplace bullying, procedures for dealing with complaints of workplace bullying should:

- a) be clearly defined and effective;
- b) identify and publicise names and locations of appropriate contact people in each work area;
- c) abide by the principles of natural justice;
- d) indicate serious and sympathetic treatment of all complaints;
- e) provide for immediate response and resolution of complaints of workplace bullying without delay;
- f) include an assurance of protection for all interested parties, such as the person complaining of bullying and the person accused of bullying;
- g) address appropriate action to be taken where there has been an improper use of procedures relating to workplace bullying; and
- h) provide for ongoing monitoring of the procedure's effectiveness.

While provisions dealing with workplace bullying are found in both industrial instruments and institutional policies, as noted in the introduction to this submission, anti bullying structures, policies and frameworks are meaningless if not respected and correctly implemented. It is therefore important that any strategy to deal with workplace bullying not only includes both

education and training, but also ongoing monitoring and research into the issues around workplace bullying that the level of incidents that are reported.

NTEU Research Project into Racially Based Workplace Discrimination and Bullying

It is within this context that the NTEU's research project into racially based discrimination and harassment was taken. The findings of this research are presented in the attached paper "*I'm Not a Racist – But... Report on Cultural Respect, Racial Discrimination, Lateral Violence and related policy at Australia's Universities*"

While most Australian universities have strong policy positions on racially based bullying, discrimination, harassment, equal opportunity and affirmative action, the translation of these policy positions through procedure to the staff cohort in order to achieve change varies significantly from institution to institution.

In 2011 NTEU conducted two related surveys of all Indigenous members regarding the levels of racial discrimination and cultural awareness and respect in the University workplace. The first survey sought information from NTEU Branches (located at the University) on the existence, procedural detail and effectiveness of current University policies including; anti-racism, anti-discrimination, workplace bullying/harassment and equal opportunity/affirmative action.

The second survey was distributed to all NTEU Aboriginal and Torres Strait Islander members electronically and sought their opinions and experiences of racial discrimination, cultural respect/awareness and lateral violence, both in the University sector and in Australian society more broadly.

These surveys formed the basis of the report "*I'm Not a Racist But...Report on Cultural Respect, Racial Discrimination, Lateral Violence and Related Policy at Australia's Universities*" (Attachment A). The report found that, while all universities have developed and implemented policies relating to anti-discrimination, anti-racism and equal employment opportunity, the policy review mechanisms were inconsistent. Of those institutions that had specific committees to oversee the review of identified policies, one quarter *did not* have an Aboriginal and/or Torres Strait Islander representative as part of the committee membership. Of particular concern was the finding that only 40% of universities had implemented stand alone anti-racism policies (compared to 73% having separate anti-discrimination policies and 80% having separate equal employment opportunity policies).

The report noted that of the 172 responses to the member survey, 71.5% reported that they had experienced direct racial discrimination and racist attitudes in the workplace. Of this group 55.3% reported that they had experienced racial discrimination and racist attitudes from colleagues. Furthermore, a large number of the respondents – over 60% - reported that they had experienced, at times, lateral violence in the workplace, and over half (58%) reported their colleagues as perpetrators of these instances of lateral violence.¹

¹ Lateral violence has been defined by Wingard (2010) as "*the harmful and undermining practices that members of oppressed groups can engage in against each other as a result of marginalisation*".

Such data is of concern, particularly with the report finding there is a low response rate by employers in addressing issues of racial discrimination and attitudes (less than 20%) or with instances of lateral violence (less than 10%). The reported success rates of any attempts to rectify the problems were also low, with less than 13% of respondents stating that the actions of their employers were somewhat successful in addressing racial discrimination in the workplace and just on 10% stating the same for instances of lateral violence.

It is therefore clear that initiatives aimed at addressing racially based discrimination, bullying and harassment in the workplace must go beyond the formulation of institutional policy and process; there must be broader change of attitude within the workplaces. A number of Recommendations were made as part of the findings of the study, but of considerable importance is the need for further research and study on the issues raised within the report, and the need to ensure that public awareness of the impact of racially based discrimination, bullying and harassment is raised through public campaigns and strategies designed to challenge community perceptions. Importantly, however, is the need for employers to adhere and enforce their own policies, strategies and frameworks, coupled with strengthened reporting and regulatory mechanisms.

Conclusion:

Workplace bullying, harassment and discrimination is both insidious and damaging, impacting upon the victim's emotional and physical health and productivity. It also has the tendency to spread and affect the culture of the workplace, making it an extraordinarily negative environment in which to work. NTEU has no tolerance for it, and as such, the Union has taken, and will continue to do so where appropriate, action against employers who breach anti-bullying and discrimination provisions within Enterprise Agreements. We are also committed to the furtherance of anti workplace bullying policy and provisions at all levels, both within the union movement and with government.

Should the Committee wish to discuss any aspect of NTEU's submission on workplace bullying, please phone NTEU on 03 9254 1910 or email one of the following contacts:

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