

# AFFIDAVIT

On the twenty-third day of August 2001, I, Pene Ann LOZA, Manager, of 11 Gleneagle Street TAREE, 2430, in the State of New South Wales make oath and say as follows :

1. I was appointed to the position of Transition Education Coordinator, Department of Technical and Further Education, with effect from 31 January, 1984. My appointment was approved by the then Director-General of that Department, with a copies of the letter of offer (dated 21 December, 1983) and appointment (dated 29 June, 1984) at **Annexure A.** (2 pages)
2. Although I was initially appointed on 12 months probation I did not receive verification of permanent appointment following my first 12 months of service. I followed this up and was finally advised, by letter dated 13 June, 1990 over the signature of Diane Puglisi, Permanent Appointments Clerk, that my appointment had been confirmed and that "verification of this will appear in the TAFE gazette number 22, dated 27 June 1990". A copy of this letter is attached as **Annexure B.** (1 page)
3. My position was a Regional position (North Coast of New South Wales), with my base College being Lismore. A copy of my initial Statement of Duties and Conditions of Employment are appended as **Annexure C.** (2 pages)
4. My previous service with the NSW Departments of Youth and Community Services and Family and Community Services were recognised for the purposes of extended leave. This gave me a commencement date with the NSW Public Service as being 28 July, 1978. The letter confirming this decision is over the signature of Michael F Brinsden, Director-General of the Department of Technical and Further Education and is dated 18 June 1990. It is attached as **Annexure D.** (1 page)
5. A Certificate of Service verifying my employment with TAFE from 31 January 1984 to 19 October, 1992, as the Regional Coordinator, Labour Market Programs at Lismore was Issued over the signature of Denny Flissingner, Human Resource Manager, North Coast Institute of TAFE, dated 15 March, 1993. A copy is appended as **Annexure E.** (1 page)
6. A personal statement (dated 27 July 1994) outlining my areas of responsibility, the various re-titling of my position name during my employment and comments on aspects of my employment is appended at **Annexure F.** (1 page). It is over the signature of Paul Baker who supervised me at a Head Office level from my appointment in 1984 until he left TAFE in 1991.

7. In 1989, a position was created for a second Regional Coordinator, who was to be my equivalent in terms of the Region and required duties. This position was filled, following the normal TAFE open advertisement and selection procedures, by Ms. Stephanie Manion.
8. Not long after Ms. Manion was appointed, Ms Ellen Davidson, who was the Women's Access Coordinator based at Lismore College was informed that her position was to be deleted. As a result, a position was created for a third Regional Coordinator in my area of work. Ms. Davidson was transferred to this position although at the time she did not possess the minimum educational qualifications that had been required in the advertisement of the position.
9. Following Ms Davidson's appointment, I perceived that the workplace had become quite stressful. There was escalating conflict around workplace issues and Ms. Davidson's work performance, as a member of this new three person "management team". The difficulties in the workplace were further reflected in the fact that my clerical assistant, who had been in the position for about five years, resigned and her resignation was followed in quick succession by two or three other newly appointed clerical assistants. All of these persons indicated that Ms. Davidson's behaviour and attitude towards them were major factors in their decisions to resign.
10. Although Ms. Manion shared my concerns and we jointly raised issues with both Head Office Staff and the Regional Director, it appeared that little was being done to resolve the workplace management and performance issues.
11. I recall on one occasion being asked to attend the office of Mr. Tom Dennis, the then Regional Director. At this meeting he told me that I had committed a serious breach of the TAFE Sexual Harassment policies and procedures because I had given Ms Davidson a memo which outlined concerns that had been raised with me in respect of Ms Davidson's behaviour towards other female staff which was perceived, by those staff, to have unwelcome sexual overtones. Mr. Dennis informed me that TAFE protocol demanded that I refer such matters to the Sexual Harassment Officer in the first instance and that I should not have given the memo directly to Ms Davidson. At this point, I reminded Mr Dennis that Ms Davidson **was** the TAFE-appointed Sexual Harassment Officer. Mr Dennis also said to me words to the effect that "if there was a re-structure and only one position remained for a Regional LMP Coordinator, Ms. Davidson would get the position because she had already had her previous position deleted."
12. Around this period (1989-1990), I began having migraines for the first time in my life. The migraines became increasingly frequent and severe, requiring hospitalisation on occasions.
13. After a prolonged period, I concluded that my migraines were a workplace illness caused by the stress of working in an environment characterised by poor management and little accountability. As a result, I sought medical advice and lodged a claim for Worker's Compensation.

14. As a part of the assessment process in respect of my claim, I was interviewed by Officers from the Department and was also assessed by at least two or three psychiatrists, one of whom was Dr Rod Milton, a forensic psychiatrist.
15. The then Human Resources Manager, Ms Kerry Walshaw, subsequently advised me that my Worker's Compensation claim had been approved, but she maintained that the psychiatric finding was that I "was suffering from grief" (owing to the recent deaths of members of my immediate family). Ms Walshaw demanded that I get grief counselling. I told Ms Walshaw that I had already had grief counselling and that I believed that since the mitigating factor in my stress was poor management in the workplace, the situation would not improve until this was addressed.
16. Ms. Walshaw refused me access to the psychiatrist's reports and advised me that I would be placed in a position where I would not have any contact with Ms Davidson.
17. I subsequently sought assistance from a Rehabilitation Provider to assist me in my negotiations with TAFE and to facilitate my return to the workplace, and more particularly, to my previous position, as soon as possible.
18. From about February, 1992, when I returned to the workplace, Ms Walshaw and the then College Principal assigned me to a Position of Special Duties, working at the Library at Lismore College. This involved me being supervised by the Librarian in Charge, who in fact, was junior to me in terms of substantive positions within the Department).
19. With encouragement from my Rehabilitation Provider, I wrote a submission to TAFE indicating that I believed they were contravening legislation in that my alternate duties were not at a level equivalent to my pre-injury position and I was therefore being required to carry out relatively menial tasks.
20. As a result of the submission I made, negotiations were carried out for me to undertake a Rehabilitation Program with the Department of School Education Regional Office located in Lismore. The initial outline for this Rehabilitation Program is attached as **Annexure G**. (1 page).
21. I commenced working on this Rehabilitation Program with the Department of School Education on 1 June, 1992. I was supervised by Mr. Greg Cloak, Assistant Director, Education Programs and Planning. It was agreed that my secondment would, initially, last for three months.
22. **Annexure H** (2 pages) is a report dated 27/8/92 over the signature of Mr Greg Cloak. This report was prepared as part of the 3 month review of my secondment and outlines the duties I

