

8.3 Discrimination & Harassment

PURPOSE:

The Society is committed to providing a workplace that is free of discrimination and harassment. Every individual has the right to freedom from discrimination and harassment in the workplace because of age (above age 18), race, creed/religion, colour, sex (including pregnancy, gender identity and gender expression), sexual orientation, marital status, family status, ethnic origin, citizenship, ancestry, place of origin, disability and record of offence, all as defined in the Ontario *Human Rights Code*.

In keeping with its legal responsibilities under the Ontario *Human Rights Code* and social responsibilities as an employer, the Society will treat any complaint of workplace harassment or discrimination as a serious matter. No one who brings a legitimate complaint of harassment or discrimination forward will receive any form of reprisal.

The purpose of this policy is prevention and remedy of discrimination or harassment as defined above.

APPLICATION:

This policy applies to all employees. It also applies to any individuals who are providing service on behalf of the Society, such as independent contractors and foster parents, individuals from temporary staffing agencies, placement students, and volunteers.

POLICY:

All allegations of workplace harassment or discrimination will be treated seriously. Where the Society determines that an investigation of a complaint is warranted, an investigation will proceed in a professional, unbiased, fair and timely manner, and will maintain confidentiality, when appropriate. The process will aim to preserve the dignity, self-respect and rights of all parties. Employees found to have violated this policy will receive discipline up to and including employment discharge. Other types of service providers found to have violated this policy are also subject to review, which if appropriate, may result in severing the relationship. Frivolous or malicious complaints may lead to discipline.

1. Definitions:

In order to determine if a particular concern or complaint is covered by this policy, please refer to the following definitions and examples:

Harassment is defined as a course of vexatious comment or conduct based on a prohibited ground that is known to be or should reasonably be known to be unwelcome.

Discrimination is defined as unequal treatment based upon one or more of the prohibited grounds, except where conduct is permitted under the Ontario *Human Rights Code*. Discrimination can be intentional or unintentional, direct or indirect but the result is adverse impact on prohibited grounds.

Sexual harassment is defined as:

- (1) Unwelcome sexual comments, conduct or environment and/or
- (2) Unwelcome sexual solicitation from someone in a position to grant or deny a benefit.

Poisoned environment is defined as comments, conduct or surroundings that tend to ridicule or demean a group covered by a prohibited ground, even if not directed at the specific individual.

Workplace is defined as:

- Any location where the business of the Society is being carried out;
- Other locations or situations such as during business travel, work-related social gatherings or training;
- Any other location where the prohibited behaviour may have a subsequent impact on the work relationship, environment or performance.

Reprisal is defined as a retaliatory or disciplinary act against a complainant, respondent, witness, decision-maker or investigator.

Examples:

Physical Harassment:

- Persistent leering (suggestive staring) or other obscene/offensive gestures;
- Unwanted and inappropriate physical contact such as touching, kissing, patting, pinching, brushing up against a person;
- Sexual assault.

Verbal Harassment:

- Racial or ethnic slurs including racially derogatory nicknames;
- Unwelcome remarks, jokes, innuendos or taunting about a person's physical attributes connected to age, marital status, gender, ethnic/racial origin, religion, accent or disability or any other prohibited ground;
- Unwelcome sexually oriented remarks, initiations, requests, whether indirect or explicit.

Documented Harassment:

- Posters or calendars that contain offensive or inappropriate literature based on a prohibited ground;
- Any material created, accessed, stored or distributed by way of the CAST Computer Systems which make vexatious comments or describes vexatious conduct based on a prohibited ground that is known to be or should

reasonably be known to be unwelcome or is discriminatory based upon one or more of the prohibited grounds;

- Any printed material including but not limited to letters, notes and memorandum which make vexatious comments or describes vexatious conduct based on a prohibited ground that is known to be or should reasonably be known to be unwelcome or is discriminatory based upon one or more of the prohibited grounds.

Workplace harassment does not include:

- Performance evaluations, direction or discipline by a member of management that are appropriately substantiated;
- Stressful events associated with the performance of legitimate job requirements.

2. Complaint Process:

The following process is to apply when a concern or complaint of discrimination or harassment occurs:

2.1 Reporting Harassment or Discrimination

Employees of the Agency:

An employee may proceed with any one or more of the following options. The options are not listed in any particular order.

OPTION A

Ask the offender to stop. He or she may not realize that the behaviour is unwelcome.

OPTION B

Report the harassment or discrimination to one of the following:

- His/her immediate supervisor;
- His/her manager or director;
- Any manager, supervisor or director;
- The Manager, Labour Relations;
- The Director, Human Resources;

OPTION C

Report the harassment or discrimination to a Union Representative who will discuss options, including the filing of a grievance.

OPTION D

Report any action that may be criminal in nature to the Police. This includes but is not limited to sexual assault.

OPTION E

Employees who feel their rights have been infringed have a number of options, including the possibilities of consulting with the Human Rights Legal Support Centre and/or filing an application with the Human Rights Tribunal of Ontario, in accordance with the provisions of the Ontario *Human Rights Code*.

Non-Employees:

A non-employee who is providing service on behalf of the Society may proceed with any one or more of the following options. The options are not listed in any particular order.

OPTION A

Ask the offender to stop. He or she may not realize that the behaviour is unwelcome.

OPTION B

Report the harassment or discrimination to one of the following:

- A worker to whom they are assigned as a point of contact. For example, a volunteer might make a report to their Volunteer Services Coordinator;
- The Supervisor of the worker who is their point of contact;
- The Branch Director of the branch where they have contact; or
- If none of the other options are considered appropriate by the complainant, to the Manager, Client Services;

OPTION C

A non-employee who is providing service on behalf of the Agency and considers that their rights have been infringed by the Agency has the option of consulting with a Human Rights Legal Support Centre and/or filing an application with the Human Rights Tribunal of Ontario, in accordance with the provisions of the Ontario *Human Rights Code*.

OPTION D

Report any action that may be criminal in nature to the Police. This includes but is not limited to sexual assault.

2.2 Record Keeping

No matter what option or options of reporting are chosen, all individuals are encouraged to keep a record of the harassment or discrimination. When did the harassment or discrimination start? (e.g. dates, times, location) What happened? Were there any witnesses? Were there any threats of reprisal? What was the response?

Failure to record the events will not invalidate the complaint but may make the investigation less effective.

3. Management/ Supervisory Responsibilities:

All management employees are responsible for creating and maintaining a workplace that is free from harassment and discrimination. Management staff must ensure that harassment and discrimination is not allowed, condoned or ignored, and they may be considered party to the harassment if they fail to take corrective actions. If a manager is aware of a possible situation involving harassment or discrimination, they must consult with Human Resources.

4. Employee Responsibilities:

All employees are responsible for refraining from discrimination and harassment, including offensive remarks or other actions that create intimidating, hostile or humiliating working conditions based on the prohibited grounds of this policy.

If the employee is able to, it is a Society expectation that:

Employees will report all allegations of workplace harassment or discrimination as soon as possible after having occurred (see Report/Complaint section);

Employees will report all workplace harassment or discrimination that they have witnessed as soon as possible after having occurred.

5. Investigation:

A member of management who is approached with an allegation of discrimination or harassment must consult with the Director, Human Resources or designate who will assist in determining if an investigation is warranted and if so, what investigator(s) will be assigned. The investigator(s) will inform the parties of their right to union representation, where appropriate. There may be one or more individuals involved in investigating the complaint, and it may be someone other than the person who initially received the complaint who is either internal or external to the organization.

Investigations will consist of separate interviews with the complainant/s, the alleged harasser/s, otherwise known as the respondent/s, and any appropriate witness (es). Each party will be required to sign a statement of events as they relate to the complaint.

In the context of any formal investigation pursuant under the policy, the investigation process and the complainant's and respondent's role in the investigation process will be reviewed with the complainant and respondent.

Following the investigation a report will be prepared by the investigator/s that will be forwarded to the Director, Human Resources for review and recommendation.

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Following the implementation of recommendations, Management will monitor the workplace after the incident in order to ensure that the measures are upheld, the actions do not recur and that the work environment continues to be positive and productive.

CROSS REFERENCE

Employees must ensure that they also familiar with and comply with the following policies:

6.10 Employee Attitude and Conduct, Customer Relations

8.1 Code of Ethics

8.2 Employment Equity,

8.4 Psychological Harassment and Bullying

CAST Technology Usage Policy & Guidelines

CAST Anti-Oppression and Anti-Racism Policy

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