



Anti-Harassment and Anti-Discrimination in the Workplace Policy

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Sub-Category: Human Resources	Amended: September 22, 2010 November 19, 2013 September 2016 November 2017
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Purpose:

Under the *Ontario Human Rights Code* and the *Occupational Health and Safety Act (OHSA)*, every person has the right to freedom from harassment and discrimination. Harassment and discrimination will not be tolerated, condoned, or ignored at the AOM workplace. The AOM, as the employer, will take appropriate steps to ensure that the workplace is a safe, respectful and constructive environment for staff.

The purpose of this policy is to:

- Ensure that Board members, employees and students on placement at the AOM are aware that harassment and discrimination are unacceptable practices and are incompatible with the values of the AOM, as well as being a violation of the law.
- Set out the types of behaviour that may be considered offensive and are prohibited by this policy.

Policy

Responsibilities

The AOM Board of Directors is ultimately responsible for providing an environment free of discrimination and harassment, in which all individuals are treated with respect and dignity, are able to contribute fully, and have equal opportunities. The Executive Director and other managers will be held accountable for ensuring this policy is followed by all staff under their supervision.

All AOM Board and staff members (including temporary staff), and students on placement at the AOM, are expected to uphold and abide by this policy, by refraining from any form of harassment or discrimination, and by cooperating fully in any investigation of a harassment or discrimination complaint. Harassment and discrimination from AOM members, members of the public, suppliers, vendors, or others with whom Board members, staff, students or volunteers may have professional dealings with, is also unacceptable.

Managers have the responsibility to act immediately on observations or allegations of harassment or discrimination involving AOM staff or students. Managers are responsible for creating and maintaining a harassment and discrimination-free organization, and should address potential problems before they become serious.

The Board of Directors also has the specific responsibility to ensure that they act immediately on observations or allegations of harassment or discrimination involving AOM Board members or the Executive Director. The Board is responsible for creating and maintaining a harassment and discrimination-free governance structure and processes, and should address potential problems before they become serious.

Definitions

This policy applies to all “workers” at the AOM workplace. A “worker” is defined by the OHSA as a paid staff, or any student on placement at the AOM. It does not include volunteers.

Workplace harassment, as defined by the Ontario Human Rights Code and the OHSA means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or workplace sexual harassment. This includes any improper behaviour by a Board Member or an employee or a student that is directed at and is offensive to another Board member or employee or student working at the AOM. It comprises objectionable conduct, comment or display made on either a one time or continuous basis that demeans, belittles, or causes personal humiliation or embarrassment. It includes also social media related harassment regardless of whose electronic device is used and if it is outside of the workplace. It includes harassment based on any of the prohibited grounds of discrimination listed in the Ontario Human Rights Act.

Sexual harassment is defined by the OHSA as

- a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- (b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker

and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

This includes any conduct, comment, gesture, unwanted messaging of sexual nature through electronic means or contact of a sexual nature, whether on a one time basis or in a continuous series of incidents, that might reasonably be expected to cause offence or humiliation; or might reasonably be perceived as placing a condition of a sexual nature on employment or on an opportunity for training or promotion. Generally, sexual harassment is deliberate, unsolicited, coercive and one sided and employees of any gender can be the victim or the perpetrator.

Abuse of authority is a form of harassment that occurs when an individual improperly uses the power and authority inherent in their position to endanger an employee's job, undermine the performance of that job, threaten the economic livelihood of the employee, or in any way interfere with or influence the career of the employee. It includes intimidation, threats, blackmail and coercion.

Ontario Human Rights Code prohibits harassment by employers, agents of employers, and other employees based on the following grounds, and any combination of these grounds:

- Age
- Creed (religion)
- Sex (including pregnancy and breast/chestfeeding)
- Gender Identity
- Family status (such as being in a parent-child relationship)
- Marital status (including the status of being married, single, widowed, divorced, separated, or living in a conjugal relationship outside of marriage, whether in a same sex or opposite sex relationship)
- Disability (including mental, physical, developmental or learning disabilities)
- Race
- Ancestry
- Place of origin
- Ethnic origin
- Citizenship
- Colour
- Record of offences (criminal conviction for a provincial offence, or for an offence for which a pardon has been received)
- Association or relationship with a person identified by one of the above grounds
- Perception that one of the above grounds applies.

The right to freedom from discrimination and harassment extends to all Board members and to all AOM workers, including full-time, part-time, temporary, probationary, casual and contract staff, as well as students on placement at the AOM.

It is also unacceptable for AOM Board members or staff or contractors of the AOM, or students on placement at the AOM to engage in harassment or discrimination when dealing with AOM members, or with others with whom they have professional dealings, such as suppliers or service providers. This also includes social media-related conduct that could be seen as harassment or discrimination.

This policy applies to every aspect of the workplace environment and employment relationship, including recruitment, selection, promotion, training, salaries, benefits and termination. It also covers rates of pay, overtime, hours of work, holidays, shift work, discipline and performance evaluations.

For the purposes of this policy, harassment can occur in the following places: a) at the office; b) at AOM sponsored events, conferences and in training sessions; c) at AOM social functions; d) during AOM related travel; e) through any form of communication device/system including but not limited to telephone, email, fax, postal service, social media; f) any formal or informal location where the harassment of a person is a result of their AOM related involvements.

Prohibited Behaviour

The following behaviour is prohibited by this policy:

Discrimination: any form of unequal treatment based on a *Code* ground, whether imposing extra burdens or denying benefits. It may be intentional or unintentional. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but have the effect of disadvantaging certain groups of people. Discrimination may take obvious forms, or it may occur in very subtle ways. In any case, even if there are many factors affecting a decision or action, if discrimination is one factor, that is a violation of this policy.

Harassment: a course of comments or actions that are known, or ought reasonably to be known, to be unwelcome. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning, or unwelcome, based on a ground of discrimination identified by this policy. Harassment can occur on any of the grounds of discrimination.

Examples of harassment include:

- Epithets, remarks, jokes or innuendos related to an individual's race, sex, disability, sexual orientation, creed, age, or any other ground;
- Display or circulation of offensive pictures, graffiti or materials, whether in print form or via e-mail or other electronic means;
- Singling out an individual for humiliating or demeaning "teasing" or jokes because they are a member of a protected group;

- Comments ridiculing an individual because of characteristics, dress etc. that are related to a ground of discrimination;
- Virtual harassment, such as (but not only) sending offensive messages through social media, text message, trolling on social media, or cyberstalking.

For clarity, the following actions do not constitute harassment¹:

- Reasonable management actions that would be part of a manager's or supervisor's normal work function, such as changes in work assignments, scheduling, job assessment and evaluation, workplace inspections, implementation of health and safety measures, reference checks, and the application of progressive discipline, up to and including termination. Note: If these actions are not exercised reasonably and fairly they may constitute workplace harassment.
- Normal process of obtaining and receiving feedback from members, the public or stakeholders on programs, operations or service (however, how such feedback is provided may constitute harassment.)
- Differences of opinion or minor disagreements between co-workers.
- Workplace conflict in itself, does not constitute harassment but could turn into harassment if no steps are taken to resolve the conflict.
- Work related stress in itself does not constitute harassment, but the accumulation of stress factors may increase the risk of harassment.
- Difficult conditions of employment, professional constraints, and organizational changes.
- A single or isolated incident such as an inappropriate remark or having an abrupt manner; however a single, significant event could constitute harassment.
- A social relationship welcomed by both individuals.
- Friendly gestures among co-workers such as a pat on the back.

Sexual Harassment: a form of harassment that can include:

- gender-related comments about an individual's physical characteristics or mannerisms;
- paternalism based on gender which a person feels undermines their self respect or position of responsibility;
- unwelcome physical contact;
- suggestive or offensive remarks or innuendoes about members of a specific gender;
- propositions of physical intimacy;
- gender-related verbal abuse, threats or taunting;
- leering or inappropriate staring;
- bragging about sexual prowess or questions or discussions about sexual activities;
- offensive jokes or comments of a sexual nature about an employee or client;

¹ From <https://www.canada.ca/en/treasury-board-secretariat/services/healthy-workplace/prevention-resolution-harassment/harassment-tool-employees.html> and <https://www.ontario.ca/page/understand-law-workplace-violence-and-harassment>

- rough and vulgar humour or language related to gender;
- display of sexually offensive pictures, graffiti or other materials, including through electronic means;
- demands for dates or sexual favours;
- unwanted messaging of a sexual nature through electronic means.

Sexual Solicitation: this policy prohibits sexual solicitations or advances by any person who is in a position to grant or deny a benefit to the recipient of the solicitation or advance. This includes managers, as well as co-workers where one person is in a position to grant or deny a benefit to the other. Reprisals for rejecting such advances or solicitations are also prohibited.

Poisoned environment: created by comments or conduct (including comments or conduct that are condoned or allowed to continue when brought to the attention of management) that create a discriminatory work environment. The comments or conduct need not be directed at a specific individual, and may be from any individual, regardless of position or status. A single comment or action, if sufficiently serious, may create a poisoned environment.

The fact that a person does not explicitly object to harassing behaviour, or appears to be going along with it does not mean that the behaviour is not harassing, and does not mean that it has been assented to.

Complaints

The provisions of this policy in no way affect the right of any person to exercise their rights under the *Ontario Human Rights Code*, within the time limits specified by that legislation. Please refer to the *AOM Anti-Harassment/Anti-Discrimination Complaints Procedure* for the filing of a complaint. If the complaint is about an incident of violence or potential violence please refer to the *AOM Workplace Violence Policy* and the *AOM Workplace Violence Procedures*.

Reprisal

Under the *Ontario Human Rights Code*, person(s) who make a complaint, as well as anyone else who is involved in the complaint resolution process, will not be penalized or disciplined for their participation in the complaint process.

Reprisal may be the subject of a complaint under this policy, and persons engaging in reprisal are subject to disciplinary measures, up to and including termination of employment.

Counsel

Complainants and respondents are entitled to seek representation of their choice, including legal counsel, during the complaints process, at their own expense.

Confidentiality

It can be extremely difficult to come forward with a complaint of harassment and it can be devastating to be wrongly accused of harassment. The AOM recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

The AOM and its representatives shall not disclose to outside parties the name of the complainant, the circumstances giving rise to a complaint, or the name of the respondent unless such disclosure is required by a disciplinary or other remedial process or where required to disclose by statute.

All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material will be kept confidential by the AOM except where disclosure is required by a disciplinary or other remedial process or where required to disclose by statute.

In all reported instances, a prompt, thorough, fair investigation will take place giving careful consideration to protect the rights and dignity of all people involved.

Advisors, investigators, mediators, and persons receiving complaints will, to the extent possible, protect the confidentiality and privacy of persons involved in a complaint, subject to the requirements of a fair investigation and resolution process.

Reporting

All incidents resulting in injuries must be reported immediately to the employee's Manager or in their absence the Executive Director, or the Director, Finance and Operations, and the Health and Safety Officer.

The Executive Director must be informed of all complaints by the AOM representative who receives the complaint within three working days of the complaint being brought forward; and if the Executive Director is involved in the complaint, then the role of the Executive Director in this policy will be assumed by the President.

This policy replaces: Harassment Policy

See also:

- Anti- Harassment/Anti-Discrimination Complaint Procedure*
- Health and Safety Policy*
- Health and Safety Procedures*
- Workplace Violence Policy*
- Workplace Violence Procedures*