



Workplace Harassment Policy

Policy Type: Board	Approval Date: September 22, 2010
Sub-Category: Human Resources	Amended: September 22, 2010 November 19, 2013 September 2016 November 2017 November 2018 June 2023
Last Review Date: November 2021	Next Review Date: *policy must be reviewed annually June 2024

Purpose:

Under the *Ontario Human Rights Code* (“Code”) and the *Occupational Health and Safety Act* (OHS), every person has the right to freedom from harassment. The *Code* defines harassment as “engaging in a course of vexatious [annoying or provoking] comment or conduct which is known or ought reasonably to be known to be unwelcome”.

The Association of Ontario Midwives (AOM) takes harassment seriously. Harassment, in all of its forms including sexual, gender and sexual orientation-based, racial, religious and disability harassment, will not be tolerated, condoned, or ignored. 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, volunteers and students on placement at the AOM are aware that harassment, in all of its forms is unacceptable and 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.
- Clearly outline expectations of all AOM Workers regarding reporting harassment, reprisal for reporting, and confidentiality during Workplace harassment investigations.

Definitions

In this policy and the accompanying procedure, the following words have these meanings:

“Complainant” the person(s) submitting a complaint of harassment.

“Disability harassment”: unwelcome conduct based on a person’s disability.

“Discrimination-based harassment” : harassment by employers, agents of employers, and other employees based on the *Code* grounds, and any combination of these grounds.

“Employer”: Aa person who employs one or more Workers or contracts for the services of one or more Workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services;¹**“Gender-based harassment”**: unwelcome conduct based on an individual’s actual or perceived sex. It includes but is not limited to taunts, stereotypes, or name-calling, as well as gender-motivated physical threats, attacks, or other hateful conduct.

“Parties”: the complainant, respondent, and witnesses (as determined by the investigator) related to the allegations.

“Racial harassment”: unwelcome behaviour related to race-based grounds under the Code. This includes but is not limited to bothering, threatening, humiliating or treating a person unfairly because of their perceived race, colour, ancestry, place of origin, ethnic origin, creed or citizenship. It may not necessarily involve words or actions directly related to race. Racial harassment may also be based on things related to the individual, such as cultural clothing they may wear, if they speak with an accent or practice a certain religion.^{2,3}

“Religious harassment”: unwelcome conduct based on a person’s religion, spirituality or creed.

“Respondent”: the person(s) complained against who has allegedly engaged in harassing behaviour.

“Sexual harassment”:

¹ Code of practice to address workplace harassment. Ministry of Labour, Government of Ontario, <https://www.ontario.ca/page/code-practice-address-workplace-harassment#section-1> , Accessed July 2018.

² Racial Harassment: know your rights (brochure). Ontario Human Rights Commission, <http://www.ohrc.on.ca/en/racial-harassment-know-your-rights-brochure>, Accessed November 2019.

³ Policy and guidelines on racism and racial discrimination [Internet]. Ohrc.on.ca. [cited 2023 Feb 10].

Available from:

https://www.ohrc.on.ca/sites/default/files/attachments/Policy_and_guidelines_on_racism_and_racial_discrimination.pdf

- a) a course of vexatious comments or conduct against a Worker in a Workplace because of sex, sexual orientation, gender identity or gender expression, or
- b) 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.⁴

Generally, sexual harassment is deliberate, unsolicited, coercive and one-sided and employees of any gender can be the victim or the perpetrator.

“Sexual orientation-based harassment”: unwelcome conduct based on an individual’s actual or perceived sexual orientation.⁵

“Supervisor”: a person who has charge of a Workplace or authority over a Worker;⁶

“Witness”: a person who may have information regarding the allegations made by the complainant.

“Worker(s)”: includes any of the following:

- A person who performs work or supplies services for monetary compensation e.g., staff (permanent, contract, full-time or part-time), Emergency Skills Workshop instructor;
- A secondary school student who performs work or supplies services for no monetary compensation under a work experience program authorized by the school board that operates the school in which the student is enrolled e.g., unpaid high school co-op student;
- A person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution e.g., Midwifery Education Program or Masters student;
- A person who receives training from an employer, but who, under the Employment Standards Act, 2000, is not an employee for the purposes of that Act because the conditions set out in subsection 1(2) of that Act have been met; or
- Such other persons as may be prescribed who perform work or supply services to an employer for no monetary compensation e.g., volunteers on an AOM committee.⁷

“Workplace”: means any land, premises, location or thing at, upon, in or near which a Worker works including but not limited to:

- at the AOM office, including virtual or remote Workspaces where a Worker is working

⁴ Preventing Workplace Violence and Workplace Harassment, Ministry of Labour, Ontario, May 2017, https://www.labour.gov.on.ca/english/hs/pubs/fs_wvh.php, Accessed July 2018

⁵ Policy on discrimination and harassment because of sexual orientation, OHRC, https://www3.ohrc.on.ca/sites/default/files/attachments/Policy_on_discrimination_and_harassment_because_of_sexual_orientation.pdf, Accessed January 30, 2023

⁶ Idem.

⁷ Idem.

Deleted: ¶
¶

- on behalf of the AOM;
- at AOM sponsored events, conferences and training sessions;
- at AOM social functions;
- during AOM related travel;
- through any form of communication device/system including but not limited to telephone, email, social media, postal service; or
- any other formal or informal location where the harassment of a person is a result of their AOM related involvements;⁸

“Workplace harassment: 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.⁹ It comprises objectionable conduct, comment or display that demeans, belittles, or causes personal humiliation or embarrassment. It includes harassment based on any of the prohibited grounds of discrimination listed in the Ontario Human Rights Act. It includes the creation of a poisoned work 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.

For clarity, the following actions do not constitute harassment¹⁰:

- 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, giving direction and feedback on work, management of absenteeism, and the application of progressive discipline, up to and including termination; and those actions that would be a normal part of being a preceptor to a student such as student evaluations and ongoing feedback to the student or the school. Note: If these actions are not exercised reasonably and fairly or are carried out in a manner that is offensive, humiliating, or embarrassing or when power and authority are used in a non-professional way such as using threats, fear and intimidation – both verbal and non-verbal¹¹, , 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 for instance, when provided in a condescending or mocking tone.)

⁹ Idem.

⁹ Idem.

¹⁰ Is it Harassment? A Tool to Guide Employees, Treasury Board, Government of Canada, <https://www.canada.ca/en/treasury-board-secretariat/services/healthy-workplace/prevention-resolution-harassment/harassment-tool-employees.html> , Accessed July 2018 and Understand the law on workplace violence and harassment, Ministry of Labour, Government of Ontario, <https://www.ontario.ca/page/understand-law-workplace-violence-and-harassment> . Accessed July 2018.

¹¹ Preventing and Resolving Harassment in the Workplace – A Guide for Managers, Government of Canada, <https://www.canada.ca/en/treasury-board-secretariat/services/healthy-workplace/prevention-resolution-harassment/preventing-resolving-harassment-workplace-guide-manageers.html>, Accessed July 2018, p. 4.

- Differences of opinion, conflict, or minor disagreements between co-Workers, unless such matters precluded or resulted in harassing behaviour.
- Workplace stress, 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 when it is severe and demonstrated to have significant and lasting impact on the complainant.¹²
- A social relationship welcomed by both individuals.
- Friendly gestures among co-Workers such as a pat on the back (unless the Worker has informed their co-Worker that such gesture is unwelcome);

Employer's duties and responsibilities concerning Workplace harassment

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 CEO and other managers are accountable for ensuring this policy is followed by all staff under their supervision, including full-time, part-time, temporary, probationary, casual and contract staff, as well as students on placement at the AOM.

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.

The CEO, managers and all AOM Board and staff members and students will participate at a minimum in an anti-racism training and Indigenous cultural sensitivity training for staff and leadership. Any staff or board member that could conduct investigations on harassment will take training to prepare them to do so with an anti-racist and trauma-informed approach. Where an external investigator is retained, the AOM will ensure the investigator applies an anti-racism, anti-oppression and trauma-informed approach to conducting investigations. The management team will receive training on this policy, accompanying procedures, and how to receive and process a harassment complaint.

Board and management are responsible for:

- investigating all allegations and incidents of harassment, regardless of the source or complexity.

¹² Is it Harassment? A Tool to Guide Employees, <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/harassment-violence/harassment-tool-employees.html>, Accessed February 1, 2023.

- creating and maintaining a harassment and discrimination-free organization.
collecting disaggregated data on Workplace harassment. Specifically, the Board of Directors also has the responsibility to ensure that they act immediately on observations or allegations of harassment or discrimination involving AOM Board members or the CEO.

The AOM, as an employer, has a duty under law to ensure that an investigation is conducted into incidents and complaints of Workplace harassment, whether a Worker has formally or informally made a complaint or the employer is otherwise aware of an incident(s) for example, if a supervisor witnessed it or learned about it from a third party.¹³

The law requires that the investigation must be objective, and that *“the person conducting the investigation, whether internal or external to the Workplace, must not be directly involved in the incident or complaint, and must not be under the direct control of the alleged harasser. This person should have knowledge of how to conduct an investigation appropriate in the circumstances”*.¹⁴

It is also the responsibility of the AOM Board and management to respond to allegations of harassing behaviour by AOM Workers regardless of whether the allegation is toward another AOM Worker, a Board member, a member, stakeholder or member of the public.

Application of the Policy

This policy applies to all Workers at the AOM Workplace.

This policy applies to all sources of harassment towards Workers and AOM members, stakeholders suppliers, and members of the public.

If the CEO is involved in the complaint, then the role of the CEO in this policy and the accompanying procedure will be assumed by the President.

Prohibited Behaviour

It is unacceptable for Board members and Workers to engage in harassment or discrimination when dealing with AOM board members, AOM Workers, AOM members, or others with whom they have professional dealings, such as stakeholders or suppliers. **Reporting**

All Workers are encouraged to report Workplace harassment to either their supervisor, the Manager of Human Resources and Operations, Director of Human Resources and Operations (“DHRO”) or the CEO, whether they are the target of harassment or a witness to harassment.

¹³ Code of practice to address workplace harassment, *op. cit.*

¹⁴ *Idem.*

The ED must be informed of all complaints by the AOM representative who receives the complaint **within three working days** of the complaint being brought forward.

Please refer to the *AOM Workplace Harassment Program and Procedure* for steps to filing 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

A Worker(s) who makes a complaint or reports an incident, as well as anyone else who participates in the complaint resolution process, will not be penalized or disciplined for their participation in this process unless those complaints are found to be malicious or vexatious i.e., the complainant knows the complaint is not true.

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.

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.

At any time, the individuals involved can seek support from an AOM Joint Health and Safety representative, the CEO or DHRO to gain knowledge and support on the reporting process.

At any time, and when possible, individuals involved can request access to a member of the AOM Joint Health and Safety Committee who they feel most comfortable speaking with.

The law and this policy require that information about a complaint or incident will not be disclosed except to the extent necessary to protect Workers, to investigate the complaint or incident, or to take corrective action or as otherwise required by law.¹⁵

Confidentiality must be maintained by all involved regarding the fact that an investigation is occurring, that nature of the allegations, and what parties reveals to the investigator.

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 required by statute.

¹⁵ Idem.

Advisors, investigators, mediators, and parties involved in the complaint process 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. Parties involved in the investigation will not talk to others about the investigation unless it is necessary, for instance, to obtain advice or counselling. Note that other communication with involved parties **regarding non-investigation matters is permitted.**

The AOM and its representatives will 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.

The CEO will maintain confidentiality to the extent that is reasonable and may inform the relevant managers and directors, the President and the Board, and with regards to receiving necessary administrative assistance from the Executive Assistant.

Once an investigation is completed and findings are delivered to the parties, the complainant and respondent may speak to others about the investigation but should maintain confidentiality with regards to the allegations and the investigation process unless disclosure is permitted by the AOM.

Maintenance of the AOM's Workplace Harassment Program

The AOM's Workplace Harassment Program consists of the policy, procedures, a guide to what to expect in a Workplace investigation, and staff and Board training. The CEO will maintain the written Workplace harassment program and associated policy and procedures in consultation with the Joint Health and Safety Committee (JHSC) and the Health-Care Equity, Quality and Human Rights (HEQHR) department. The consultation must provide an opportunity for the JHSC and HEQHR to provide feedback on the program and the feedback must be considered by the employer. The policy will be reviewed annually by the Board.

The DHRO is responsible to ensure that all new staff training will include Workplace harassment training, anti-racism training and Indigenous cultural sensitivity training including, at a minimum, definitions and concepts of harassment and all its forms including sexual, gender and sexual orientation-based and racial, religious and disability harassment, procedures for reporting incidents, assurances of confidentiality, and how reports will be investigated.

The DHRO will also ensure that annual refresher training is provided to all other staff.

A copy of this policy will be posted in a conspicuous place, and signed by the CEO.

*This policy replaces: Anti- Harassment/Anti-Discrimination Complaint Policy
Harassment Policy*

*See also: Workplace Harassment Program and Procedure
Dispute Resolution for Staff Conflict Policy
Health and Safety Policy
Health and Safety Procedures
Workplace Violence Policy
Workplace Violence Procedures*