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| Policy Type: | Human Resources | Policy Number: | HR-03 |
| Policy Title: | Workplace Harassment and Discrimination | Initial Policy Approval Date: | Feb 2022 |
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OV-CAOS recognizes the dignity and worth of every person and is committed to providing a workplace free from discrimination and harassment and ensuring that any complaint is resolved quickly and with fairness and confidentiality.

Board members, employees (including those hired on contract/letter of agreement), and volunteers are expected to uphold this policy. Workplace discrimination or workplace harassment will not be tolerated from any person in the organization including members of the board, supervisors, co-workers, volunteers, OV-CAOS members, clients and family members of any of the above.

Section 1: Discrimination

1. The **Ontario Human Rights Code** states that “*Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability*”. Human Rights Code, R.S.O. 1990, chapter H.19 s. 5 (1).
2. Discrimination may include abuse of authority or position of power as follows:
 - a) to endanger an employee’s job
 - b) to undermine the performance of that job
 - c) to threaten the economic livelihood of an employee
 - d) to interfere with or influence the career of an employee in any way

Section 2: Workplace Harassment

1. Within the *Ontario Human Rights Code*, every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee.
2. The **Occupational Health and Safety Act** (OHSA) defines “workplace harassment” as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. As of September 2016, workplace harassment includes “workplace sexual harassment”, that is, 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 or making a sexual solicitation or advance and the person knows or ought reasonably to know that the solicitation, advance, comment or conduct is unwelcome.

HR-03 Workplace Harassment and Discrimination (continued)

3. The Ontario *Employment Standards Act* (ESA) prohibits employers and anyone acting on their behalf from harassing or penalizing an employee in any way because the employee asks the employer to comply with the ESA or asks the employer about employee rights under the ESA.
4. Harassment may include:
 - a) making remarks, joke or innuendos that demean, ridicule, intimidate, or offend
 - b) displaying or circulating offensive pictures or materials in print or electronic form
 - c) bullying
 - d) repeated offensive or intimidating telephone calls or e-mails
 - e) inappropriate sexual advances, suggestions or requests
5. Uninvited sexual touching will be considered assault and reported to the police.
6. A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace, within the conditions of the *Occupational Health and Safety Act*, is not workplace harassment.

Section 3: Responsibilities and False Reports

1. The Artistic Director(s) will develop and maintain a workplace discrimination and harassment program in consultation with the joint health and safety committee or health and safety representative. See Appendix A of this policy for a copy of current program.
2. The workplace discrimination and harassment program will set out:
 - a) the process for dealing with and investigating complaints including how parties involved will be made aware of outcomes and corrective action and how confidentiality will be maintained
 - b) procedures for reporting incidents of workplace discrimination and workplace harassment including measures for reporting incidents to an outside source if necessary
 - c) A formalized training program, as required by Bill 132 and
 - d) the system for maintaining all associated records should an inspection by the Ministry of Labour or employee inquiries occur, and
3. This policy (HR-03) and the Workplace Discrimination and Harassment Program (HR-03-Appendix A) will be:
 - a) reviewed by the board as often as necessary but at least once a year
 - b) posted in the staff room

Related Documents:

Human Rights Code, R.S.O. 1990, chapter H.19, section 5 (1).

Occupational Health and Safety Act, R.S.O. 1990, chapter O.1

Bill 132: An Act to amend various statutes with respect to sexual violence, sexual harassment, domestic violence and related matters (Statutes of Ontario, 2016, Chapter 2)

Bill 168: An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters. (Statutes of Ontario, 2009, Chapter 23)

OV-CAOS Policy **HR-04: Prevention of Workplace Violence**

OV-CAOS Policy **OP- 02 Safety, Security and Emergency**

Program to Address Discrimination and Workplace Harassment

1. Awareness of Discrimination and Workplace Harassment Policy and Program

The *Workplace Harassment and Discrimination Policy* (HR-03) will be included in the organization's policy binder and will be posted in the staff area along with this *Workplace Harassment Program* information.

2. Training on Discrimination and Workplace Harassment Policy and Program

All employees and volunteers will receive information and instruction on the contents of policy HR-03 and the related program, as part of the initial orientation and renewed on an annual basis. Each person will sign off that they received this training and this information will be included in the training records for organization staff.

3. Reporting Incidents of Discrimination and Workplace Harassment.

Any employee or volunteer subjected to discrimination or harassment in the workplace should discuss the situation with the Artistic Director(s). In the event that there is a complaint against the Artistic Director(s) or a conflict of interest, a complaint shall be filed with the board chair. The organization board may conduct an investigation or designate an individual to investigate and issue a report.

At any time during a meeting or interview concerning a complaint, both the employee lodging the complaint and the person against whom the complaint has been lodged has the right to be represented and accompanied by a person of their choice.

Any related documents or materials having to do with the complaint are to be made available and the employee with a complaint must provide written notes about the events leading up to the complaint which include:

- a) What happened – a description of the events or situation
- b) When it happened – dates and times
- c) Where it happened
- d) Who saw the incident, if anyone

In the case of harassment, information about the incident or complaint, including identifying information about any individual involved will be kept confidential unless disclosure is necessary for the purpose of investigation or taking corrective action, or required by the law.

4. Complaint Investigation and Resolution Procedures

An investigation that is appropriate in the circumstances will be conducted into incidents and complaints of harassment. The Artistic Director(s) will advise the person against whom the complaint has been lodged of the investigation. The organization recognizes and acknowledges that, under Bill 132, an inspector from the Ontario Ministry of Labour has the power to order the organization board, as employer, to have an impartial third party conduct an investigation at the organization's expense, and report the outcome of their findings to the complainant.

The Artistic Director(s), or their designate, initiates a confidential investigation immediately and finishes within 30 days. Throughout the process, the investigator keeps all parties informed; interviews the employee concerned and witnesses; collects evidence; prepares a report; and informs the parties, in writing, of the decision and the underlying reasons for the decision.

The Artistic Director(s) is responsible for imposing any disciplinary or corrective measures.

Any employee may file a complaint with the Ontario Human Rights Commission when the harassment or discrimination is related to one or more of the Human Rights Code's prohibited grounds - *race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (religion), sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.*

Editor's Notes for reference only (and not to be included within your organization's actual policy or program)

The **Occupational Health and Safety Act** (OHSA) provides the legal framework and the tools to achieve the goal of making Ontario's workplaces safe and healthy. Since 1979, the OHSA has had requirements for all workplaces, with respect to policy on health & safety **in general**. Section 25 of the OHSA (within Part III) reads as follows: "...an employer **shall**..."

- i. **post, in the workplace, a copy** of the [Occupational Health and Safety] Act and any explanatory material prepared by the Ministry
- ii. prepare and review **at least annually** a **written occupational health and safety policy** and **develop and maintain a program** to implement that policy;
- iii. **post** at a conspicuous location in the workplace, a copy of the occupational health and safety **policy**"

In 2010, new policy and program requirements (Bill 168) relating to **Workplace Violence and Harassment** were added to the OHSA and the following legal requirements for employers were added:

- 1) Conduct an **assessment** for each location on risk of workplace violence
- 2) **Write policy**
 - (a) prepare a policy with respect to workplace violence;
 - (b) prepare a policy with respect to workplace harassment;
 - (c) review the policies as often as is necessary, but **at least annually**.
- 3) Write a **program** to implement the policy and address the risks – in each specific workplace location. (*NOTE: Any template used must be tailored to fit the workplace where it would be used and based on the results of the assessment for that workplace.*)
- 4) **Provide information** or instruction to staff on contents of policies and programs

For more information on the 2010 legislative changes, check **Workplace Violence and Harassment: Understanding the Law** (posted on the Ministry's website at <http://www.labour.gov.on.ca/english/hs/pubs/wpvh/index.php>) Two documents in the Occupational Health & Safety Council of Ontario Workplace Prevention Series are useful for those working through the requirements – including the Risk Assessment checklists. These can be found on the WSIB website (www.wsib.on.ca) under "Employers" - "Health and safety" – "Preventing workplace violence: Bill 168"

- [Developing Workplace Violence and Harassment Policies and Programs: What Employers Need to Know](#)
- [Developing Workplace Violence and Harassment Policies and Programs: A Toolbox](#)

In September 2016, the Government of Ontario implemented another workplace harassment prevention measure under **Bill 132: Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment)**. Bill 132 is part of the Government of Ontario's [It's Never Okay Action Plan](#) to stop sexual violence and harassment, and is an *enhancement to Bill 168* from 2010, on workplace violence and harassment. Under Bill 132, in addition to drafting policies and developing programs to assess and manage threats of violence and harassment, employers will need to go ensure that the workplace harassment program includes a reporting mechanism and training on the procedures. Bill 132 contains a requirement to investigate any complaint of harassment and report investigation outcomes to complainants. Bill 132 is posted at http://www.ontla.on.ca/bills/bills-files/41_Parliament/Session1/b132ra.pdf

The issue of workplace **violence**, as defined in the *Occupational Health and Safety Act*, is covered under sample policy HR-04.
