

Workplace Harassment and Discrimination

Policy Number: **HR-12**

(Formerly contained in HR-02: Health and Safety of Staff)

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The Port Colborne Public Library Board (the Board) 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.

This policy applies to all employees, board members, and volunteers and all are expected to uphold this policy. Workplace discrimination or workplace harassment will not be tolerated from any person in the library including members of the board, supervisors, co-workers, volunteers, family members, patrons, and members of the public.

Any instances of workplace violence or harassment will be addressed as detailed in this policy. In accordance with the Ontario Human Rights Code, all persons employed within the library have a right to a workplace that is free from harassment of any kind by the employer, or agent of the employer, or by another employee because of their membership within a protected class as outlined within the Code.

The library's Workplace Violence and Harassment Policy is not meant to stop free speech or to interfere with everyday interactions. However, what one person finds offensive, others may not. Usually, harassment can be distinguished from normal, mutually acceptable socializing behaviour. It is important to remember it is the perception of the receiver of the potentially offensive message - be it spoken, a gesture, a picture or some other form of communication which may be deemed objectionable or unwelcome that determines whether something is acceptable or condoned.

The CEO will develop and maintain a Workplace Discrimination and Harassment Program in cooperation with the Multi-Workplace Joint Health and Safety Committee. (See Appendix A of this policy for a copy of the current program.)

Section 1: Definitions

1. The Occupational Health and Safety Act (OHSA) defines “workplace harassment” and “workplace sexual harassment” as follows:
 - a) “Workplace harassment” means:
 - i. 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
 - ii. workplace sexual harassment;
 - b) “Workplace sexual harassment” means:
 - i. 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,
 - ii. 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.
2. The Ontario Human Rights Code, R.S.O. 1990, chapter H.19 s. 5 (1) 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.”
 - a) Within this context, discrimination may include abuse of authority or position of power as follows:
 - i. to endanger an employee’s job
 - ii. to undermine the performance of that job
 - iii. to threaten the economic livelihood of an employee
 - iv. to interfere with or influence the career of an employee in any way

Section 2: Workplace Harassment and Workplace Sexual 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 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.
3. **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
4. Under the Occupational Health and Safety Act (OHSA), **workplace harassment** can involve unwelcome words or actions that are known or should be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers, in a workplace. It can also include behaviour that intimidates, isolates or even discriminates against the targeted individual(s).

A reasonable action taken by an employer or supervisor relating to the management and direction of works or the workplace, within the conditions of the Occupational Health and Safety Act, is not workplace harassment.

5. **Personal Harassment**

Definition: Any unsolicited, unwelcome, disrespectful or offensive behaviour that has an underlying sexual, bigoted, stigmatized connotation and can be typified as:

- a) behaviour that is hostile in nature, and/or intends to degrade or isolate an individual based on personal attributes, including age, race, nationality, disability, family status, religion, gender, sexual orientation, and/or any other Human Rights protected grounds

- b) sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome
- c) reprisal or a threat of reprisal for the rejection of sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person
- d) unwelcome remarks, jokes, innuendos, propositions, or taunting about a person's body, attire, sex or sexual orientation and/or based on religion
- e) suggestive or offensive remarks
- f) bragging about sexual prowess
- g) unwelcome language related to gender
- h) **gossiping**
- i) **any actions that create a hostile, intimidating or offensive workplace. This may include physical, verbal, written, graphic or electronic means.**
- j) **any threats of violence that endangers the health and safety of the employee**

Racial/Ethnic Harassment: Any conduct or comment which causes humiliation to an employee because of their racial or ethnic background, their colour, place of birth, citizenship or ancestry. Examples of conduct which may be racial or ethnic harassment include:

- unwelcome remarks, jokes or innuendos about a person's racial or ethnic origin, colour, place of birth, citizenship or ancestry
- displaying racist or derogatory pictures or other offensive material
- insulting gestures or practical jokes based on racial or ethnic grounds which create awkwardness or embarrassment
- refusing to speak to or work with someone or treating someone differently because of their ethnic or racial background

Anti-Stigma Harassment: Any conduct or comment which is related to the stigmatization of an individual with mental illness, including Post-Traumatic Stress Disorder (PTSD). The City of Port Colborne is committed to fostering a workplace where our employees are protected from stigma associated with mental illness. The City will ensure that all employees are treated with respect and dignity. Harassment and acts of discrimination will not be tolerated. Anyone who is found to be stigmatizing another individual may be subject to disciplinary action. Types of behaviour and acts that contribute to stigma include:

- prejudicial attitudes and discriminating behaviour directed towards individuals
- trivializing or belittling people suffering from mental illness, or mental illness itself
- insulting people who are suffering from mental illness
- patronizing people who are suffering from mental illness by treating them as if they are not as good as other people
- ostracizing people who are suffering with mental illness, or their friends and supports

6. Workplace Sexual Harassment

The OHSA defines **workplace sexual harassment** 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
- b) making a sexual solicitation or advance where the person making it 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 the solicitation or advance is unwelcome

Workplace sexual harassment may include:

- a) asking questions, talking, or writing about sexual activities
- b) rough or vulgar humour or language related to sexuality, sexual orientation, or gender
- c) displaying or circulating pornography, sexual images, or offensive sexual jokes in print or electronic form
- d) leering or inappropriate staring
- e) invading personal space
- f) unnecessary physical contact, including inappropriate touching
- g) demanding hugs, dates, or sexual favours
- h) making gender-related comments about someone's physical characteristics, mannerisms, or conformity to sex-role stereotypes
- i) verbally abusing, threatening, or taunting someone based on gender or sexual orientation
- j) threatening to penalize or otherwise punish a worker if they refuse a sexual advance

7. Where the conduct or behaviour includes inappropriate or uninvited sexual touching, this may also constitute a criminal offence such as sexual assault. In such cases, the police will be notified.
8. 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.
9. A reasonable action taken by an employer or supervisor relating to the management and direction of works or the workplace, within the conditions of the Occupational Health and Safety Act, is not workplace harassment.

Section 4: Responsibilities

1. One of the primary purposes of the Occupational Health and Safety Act (the Act) is to facilitate a strong Internal Responsibility System in the workplace. This means that everyone in the workplace has a role to play in keeping workplaces safe and healthy. Workers in the workplace who see a health and safety problem such as a hazard or contravention of the Act in the workplace have a duty to report the situation to the employer or a supervisor. Employers and supervisors are, in turn, required to address those situations.
2. Management will investigate and deal with all complaints or incidents of workplace harassment in a fair, respectful and timely manner. Information provided about an incident or about a complaint will not be disclosed except as necessary to protect workers, to investigate the complaint or incident, to take corrective action or as otherwise required by law.
3. Managers, supervisors and workers are expected to adhere to this policy and will be held responsible by the employer for not following it.
4. Workers are not to be penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment.
5. The CEO will develop and maintain a Workplace Discrimination and Harassment Program in consultation with the joint health and safety committee which will set out:

- a) the process for dealing with and investigating complaints will include 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 the system for maintaining all associated records should an inspection by the Ministry of Labour or employee inquiries occur. See Appendix A of this policy for a copy of the current program
6. This policy (HR-12) and the Workplace Discrimination and Harassment Program (HR-12: Appendix A) will be:
- a) reviewed by the library board as often as necessary but at least once a year
 - b) posted on the staff health and safety bulletin board

If a worker needs further assistance, the worker may contact their Union (CUPE) representative, the Joint Health and Safety Committee, health and safety representative, or the employee assistance program.

Section 5: Adoption of Municipal Policies

1. The Port Colborne Public Library adopts the current Health and Safety Policies of the City of Port Colborne and the City of Port Colborne's current Health and Safety Policy Statement.
2. Health and Safety policies include but are not limited to:
 - a) working alone
 - b) workplace harassment and discrimination
 - c) prevention of workplace violence
 - d) safety, security, and emergencies
3. The board has based its policy on the City of Port Colborne Workplace Violence and Harassment Policy (CAP55). Where the library's policy does not address an issue, the library will refer to the City's policy.
4. The board may adopt policies of the municipality with the understanding that those policies must also apply to and satisfy the specific legal obligations of the board in

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terms of its governance structure, its duties and responsibilities to its employees, library operations, and the public library building.

5. The board reserves the right to establish additional Health and Safety policies and to modify the City's policies in order to satisfy the board's specific legal duties and responsibilities.
6. Additions, modifications, or exclusions to any policy adopted from the municipality will be stated in the board policy and communicated to the City's Human Resources Department.
7. The board must be notified of any amendments to the City's Health and Safety policies and the Health and Safety statement that may occur in the future.
8. The City will ensure that policies are reviewed and amended according to legislative requirements.
9. The library will be identified as a work site in the City of Port Colborne's Multi-Workplace Joint Health and Safety Committee and will be represented on the Committee.
10. This policy and appendices will be reviewed annually or more frequently as deemed necessary by the board to ensure compliance with legislation and to accurately reflect current practices.
11. All programs, including the board's and the City's Workplace Violence Programs, the Workplace Discrimination Programs, and Harassment Programs will be reviewed annually or more frequently as deemed necessary by the board. All programs will be posted on the library's Health and Safety Bulletin Board.
12. Reporting Structure: Applies to all Human Resources Policies
 - a) Library staff report to the CEO, or Library Services Manager as designated
 - b) The Library Services Manager reports to the CEO
 - c) The CEO reports to the Port Colborne Public Library Board

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)
- Port Colborne Public Library. HR-08: Prevention of Workplace Violence
- Port Colborne Public Library Policy. OP- 02 Safety, Security and Emergency
- City of Port Colborne. Health and Safety Policies.

Appendix A: Program to Address Discrimination and Workplace Harassment

1. Awareness of Discrimination and Workplace Harassment Policy and Program

The Workplace Harassment and Discrimination Policy (HR-12) will be included in the library's policy binder and posted on the staff Health and Safety bulletin board, 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-11 and the related program, as part of their initial orientation and renewed on an annual basis. Each person will sign off that they received this training. This information will be included in their training records.

3. Reporting Incidents of Discrimination and Workplace Harassment

Definitions:

Complainant: A person who has made a complaint about another individual who they believe committed an act of violence or harassment against them.

Respondent: A person whom another individual has accused of committing an act of violence or harassment.

Any employee or volunteer subjected to discrimination or harassment in the workplace should discuss the situation with the CEO. In the event that there is a complaint against the CEO or a conflict of interest, a complaint shall be filed with the board chair. The 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:

- What happened: description of the events or situation

- When it happened: dates and times
- Where it happened
- Who, if anyone, saw the incident

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 CEO will advise the person against whom the complaint has been lodged of the investigation. The library recognizes and acknowledges that, under Bill 132, an inspector from the Ontario Ministry of Labour has the power to order the library board, as employer, to have an impartial third party conduct an investigation at the library's expense, and report the outcome of their findings to the complainant.

The CEO 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 CEO 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.