

Program Name: Workplace Harassment
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This document is an adaptation of the January 2013 Carleton University Workplace Harassment Prevention Program.

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Introduction

The Carleton University Academic Staff Association is committed to providing a safe work environment and maintaining a workplace that is free of workplace harassment as required by the Occupational Health and Safety Act (the "Act"). This document supplements the Association policy entitled "Harassment" and outlines the responsibilities associated with this program.

Application

This program applies to all members and staff of the Association as well as visitors, contractors, students and volunteers.

Policies, Standards and Legislation

1. The Association's workplace violence policy states: "The Carleton University Academic Staff Association is committed to providing a workplace in which all individuals are treated with respect and dignity. As such, the Association will take whatever steps are reasonable to protect our members and workers from harassment from all sources. Harassment, including but not limited to workplace harassment, sexual harassment, personal harassment, bullying or abuse of supervisory authority, will not be tolerated from any person in the workplace."
2. The Act requires all employers to take every precaution reasonable in the circumstances to protect employees against workplace harassment.
3. The *Criminal Code of Canada* makes it an offence for a person to knowingly or recklessly engage in conduct that causes a person to fear for their safety or the safety of anyone known to them.

Definitions

Workplace Harassment

“Workplace Harassment” as defined by the Occupational Health and Safety Act, 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.

Harassment is an expression of perceived power and superiority by the harasser(s) over another person or group. Harassment may be based on one of the following (though it does not have to be): sex, race, creed, colour, religion, ethnic origin, place of origin, sexual orientation, political affiliation, gender identity, gender expression, marital status, family status, disability, language, age, social and economic class, or activism and participation in a union.

Harassment is unwelcome, unwanted and uninvited. It may be expressed verbally or physically, is usually coercive and it can occur as a single incident or on a repeated basis. It comprises actions, attitudes, language or gestures, which the harasser knows or reasonably ought to know are abusive, unwelcome or wrong. It may include but is not limited to:

- Unwelcome remarks, jokes, innuendos, taunts or other discriminatory communication in any media;

- Insulting or malicious gestures or practical jokes which cause someone embarrassment or discomfort;

- Ridiculing, degrading or expressing hatred or intolerance, whether verbally, in writing or physically;

 - Display of offensive material/pictures or graffiti;

- Placing unreasonable limitations on someone because of a perceived need (e.g. disability, pregnancy, etc.);

 - Leering (sexually suggestive staring);

 - Defamation of religious imagery;

 - Mockery of religious practices, customs or religious wear;

 - Demands for sexual favours;

 - Unnecessary physical contact such as touching, patting or pinching;

 - Making comments about one’s appearance or personal life; or,

 - Expressing or promoting racial hatred.

Harassment does not include the legitimate exercise of management functions and legitimate exercise of academic freedom.

Bullying and Personal Harassment

Bullying or personal harassment are defined as actions which degrade or demean an individual including but not limited to: mobbing, offensive, malicious and/or cruel behaviour with the aim to humiliate, intimidate, undermine or destroy the character or confidence of an individual or group of individuals. Bullying and personal harassment may include an abuse of power or perceived power by one person or group over another that degrades an individual. Bullying behaviour is often persistent and part of a pattern, but it can also occur as a single incident. This is normally carried out by an individual who ought reasonably to have known that his/her actions are unwelcome or unwanted. It can also be an aspect of group behaviour. The policy includes any member in any type of relationship, for example domestic, intimate or common law partnerships.

Some examples of bullying and personal harassment include but are not limited to:

Abusive and offensive language;
Insults;
Teasing;
Spreading rumour or innuendo;
Unfair blame for mistakes;
Exclusion;
Intimidation;
Humiliation;
Practical jokes;
Outbursts or displays of anger directed at others;
Targeting of an individual through persistent, unwarranted criticism;
Belittling or disregarding opinions or suggestions; or,
Public criticism.

Context is important in understanding bullying, particularly verbal communication. There is a difference between friendly insults between long-time work colleagues and comments that are meant to be, or are taken as demeaning.

Sexual Harassment

Sexual harassment violates personal integrity, the dignity of individuals and groups and fundamental rights. Sexual harassment occurs when an individual engages in sexually harassing behaviour or inappropriate conduct of a sexual nature that is known, or ought reasonably to be known, to be unwelcome and that:

Interferes with the employment or participation in an Association-related activity for the person harassed; and/or,

Is associated with an expressed or implied promise of employment-related or other consequences for the person being harassed (including reward, reprisal, or conditions of study or employment); and/or,

Provides a basis for employment or other decisions affecting the person harassed; and/or,

Creates an abusive, demeaning, or threatening environment for the person harassed; and/or,

Excludes the person harassed from rights and/or privileges to which they are entitled.

Some examples of sexual harassment include but are not limited to:

Unwelcome sexual solicitations, flirtations or advances;

Sexually suggestive comments, gestures, threats or verbal abuse;

Sexual assault which includes unwarranted touching or physical contact of a sexual nature or coerced consent to sexual contact;

Inappropriate display or transmission of sexually suggestive or explicit pictures, posters, objects or graffiti;

Leering, compromising invitations or demands for sexual favours;

Degrading, demeaning or insulting sexual comment or content, including unwelcome remarks, taunting, jokes or innuendos about a person's body, sexual orientation or sexual conduct;

Misuse of position or authority to secure sexual favours;
Persistent, unwanted attention or requests for sexual contact after a consensual relationship has ended; or,
A course of sexualized comment or conduct that interferes with the dignity or privacy of an individual or group.

This policy is not intended to interfere with ordinary social or personal relationships among members or staff of the Association or impinge on normal expectations of privacy. Consensual relationships are not examples of sexual harassment.

Abuse of Supervisory Authority

Abuse of supervisory authority includes all forms of making conditional or appearing to make conditional employment, or other services, benefits, opportunities or facilities upon performance unrelated or irrelevant to the employment status of the one supervised. Such abuse can occur even if it does not have the intention or effective of benefitting the supervisor in question.

This can include unjustified discipline such as a supervisor who undervalues work, withholds vital information, sets individuals up to fail, monitors movement or removes areas of responsibility without justification.

Other Definitions

“Act” refers to the *Occupational Health and Safety Act*, R.S.O. 1990, as amended.

“Complainant” refers to any person who is an employee, volunteer or member of the Association, all of whom are entitled to submit a complaint under this program.

The definition of “Employee” shall be the same as the definition of Worker under the Act.

“Presidential Officer” refers to the President, Past President and President-Elect.

“Respondent” refers to a person who is an employee, volunteer or member of the Association, all of whom are alleged to have engaged in workplace violence.

“Volunteer” is defined as an Officer of the Association (as outlined in the Association Constitution) or any non-Employee working on behalf of the Association in an official capacity.

“Workplace” is defined as the Association’s offices as well as any location where the business of the Association is being or is to be conducted.

Roles and Responsibilities

Shared Responsibilities

Everyone involved with the Association has the responsibility for creating and maintaining an

environment free of workplace harassment and to act respectfully towards one another;

Every effort must be made to work toward the resolution of complaints by all those affected in a timely manner (see Investigation);

Anyone who witnesses workplace harassment is responsible for bringing it to the attention of a Presidential Officer; and,

To ensure the preservation of a productive, safe and peaceful working environment.

An important principle of this policy and program is that no individual shall face reprisals for making a complaint in good faith. Persons who engage in reprisals or threats of reprisals may be disciplined.

Employer Responsibilities

As an employer, the Association has responsibilities to its staff. The Presidential Officers are responsible for understanding what constitutes harassment and communicating to all employees that workplace harassment will not be condoned or ignored. They will make every effort to prevent workplace violence by:

Communicating to individuals interacting with the Association that harassment is not permitted and will not be condoned or ignored;

Ensuring the policy and program are communicated to employees;

Implementing workplace procedures that minimize the risk of workplace harassment;

Monitoring the effectiveness of the program on an ongoing basis; and,

Taking all complaints of harassment seriously and promptly and diligently investigating any alleged incident.

Association Responsibilities

The Association has responsibilities to its members. The Presidential Officers are responsible for ensuring that reasonable actions are taken to protect members of the Association from violence while interacting with the Association. They will make every effort to protect members from violence by:

Ensuring the policy and program are communicated to members, particularly at the start of general meetings;

Implementing workplace procedures that minimize the risk of workplace harassment;

Take steps necessary to end harassing behaviour of which they become aware, regardless of whether a complaint has been filed;

Monitoring the effectiveness of the program on an ongoing basis; and,

Taking all complaints of harassment seriously and promptly and diligently investigating any alleged incident.

Individual Responsibilities

All employees, members and volunteers of the Association have the responsibility to work to create an environment that is free from workplace violence. Each individual must understand what constitutes violence and conduct him/herself in accordance with the policy and program. Specific responsibilities include:

Promoting a harassment free workplace;
Cooperating with the Presidential Officers in meeting the requirements of this program;
Abiding by the workplace harassment policy and program;
Reporting any incidents of workplace harassment to a Presidential Officer as soon as possible; and,
Participating in training as required.

Training and Prevention

Employees, members and volunteers shall be provided with information on this policy and program.

The Association shall ensure that appropriate training is provided to all individuals interacting with the Association. This can range from posting information to specialized training.

Complaint Process

The aim of the policy and procedure is to address situations of violence in the workplace. While this complaints process is designed especially for those who believe themselves injured by violation of the policy or by an act of harassment and seek redress, it is expected that those with supervisory authority who detect what they believe to be violations of the policy or who become aware of workplace harassment to act promptly to address the situation.

A report made under this policy and program is confidential. Information shall be shared only with those responsible for the investigation and resolution of the incident.

Employees have the right to union representation throughout the complaints process.

Situations where there is immediate risk

If there is a situation of immediate risk, the employee, member or volunteer or a Presidential Officer shall call University Safety at extension 4444.

If an employee, member or volunteer calls University Safety, they shall inform a Presidential Officer as soon as possible.

University Safety is responsible for investigating any complaints where there is an immediate risk to an individual.

Situations where there is no immediate risk

Complaints under this policy and program shall be handled by a committee consisting of the President-Elect (who shall chair the committee), the Past-President, the Treasurer, the Chair, Equity Committee and the Health and Safety Representative. If a committee member is involved in the complaint, the individual shall recuse him- or herself and the committee shall appoint a replacement.

If the concern does not fall within the scope of the *Human Rights Code* or University Safety, the complainant shall determine whether to engage in the informal dispute resolution process. If it does fall within the scope of the *Human Rights Code* or University Safety or at the request of the complainant, the formal process shall be used.

All reasonable steps shall be taken to ensure the safety of all employees, volunteers and members of the Association.

The Presidential Officers shall have the power to order the removal of any individual from the workplace if it is determined that there is a reasonable chance that their continued presence would pose a significant threat to an individual's health and safety (including psychological health) until such time as a formal complaint may be investigated.

Informal Dispute Resolution

The committee may, with the consent of the complainant(s) and respondent(s), authorize a process of mediated resolution to be undertaken. This process should not last longer than five (5) working days unless the complainant(s) and respondent(s), and the committee, agree to an extension. At mediation both the complainant and the respondent may be accompanied by a person of her/his choice. With the agreement of both parties, the process may include meetings with individuals or may proceed without face to face meetings of both parties.

Whenever possible, Committee members shall make every reasonable effort to resolve the matter informally. While individual Committee members shall attempt in good faith to mediate complaints brought to it on an informal basis, they reserve the right to end such attempts at mediation if it is clear that the complaint is frivolous, that informal resolution is, in the Committee member's view, inappropriate, or if one or more of the principals involved refuses such resolution.

If a resolution is achieved as a result of mediation, the parties will sign a Resolution Agreement. Copies of the resolution Agreement will be provided exclusively to the parties and the Committee unless additional copies are specified as part of the agreement. The Chair of the Committee will keep the Resolution Agreement on file.

A resolution may include a remedy to redress any hurt or harm caused by a specific instance of harassment. Where such remedy is not within the power of the parties to grant, the Committee may recommend such remedy to the appropriate authority within the Association.

If resolution is not achieved through mediation, the complainant or the Committee member may refer it to the formal complaints process. Where mediation fails, any documentation or discussions pertaining to the mediation effort shall be kept separate and confidential from the hearing process or otherwise.

Formal Complaints Process

Formal Complaints

The complainant shall have the right to lodge a formal complaint with the Committee. To initiate the formal procedures, complaints must be submitted in writing within six (6) months, outlining the concern and setting out the remedy sought and, where possible, naming the person or persons (if any) alleged to have caused the violation for which the remedy is sought. The complaint must be signed and dated.

It is understood that if a grievor undertakes legal action in a case while the case is before the hearing committee, the committee will suspend action pending the outcome of the

legal action. Should the grievor's claim be dismissed through that legal action, the Committee shall cease to retain jurisdiction to provide a remedy.

Notification

Any person or persons named as having caused the violation for which remedy is sought must be provided with a copy of the complaint within two (2) working days. Normally within five (5) working days, the Committee shall meet and then invite both parties to make oral and written submissions. The Committee shall make its best efforts to hear both parties and thereafter shall normally complete its deliberations within ten (10) working days from the time the Committee was convened. With due attention to confidentiality, such procedures shall follow principles of natural justice.

Hearing Committee

The Committee will meet to hear the formal complaint. The hearing committee, in consultation with the parties, shall determine whatever other procedures are necessary to ensure both fairness and good order.

The Committee shall have access to a trained legal advisor throughout the process as necessary. The Committee may request that Steering approve the appointment of an external expert to conduct the investigation. Investigations shall be completed within sixty (60) days.

If, at any time during the process, the Committee feels that the presence of any individual may be a threat to the health and safety (including psychological health) of an employee, member or volunteer, the Committee may order the removal of the individual from the workplace until the completion of the process.

All actions by the Committee with reference to an employee shall be in accordance with the Collective Agreement.

Remedies

1. If a complaint is upheld by the Committee, it may make such recommendations for orders as it deems appropriate to the circumstances of the breach and the parties. The ultimate goal of any remedy is to make the victim whole. Recommended orders may include but are not limited to the following:

- (a) removal of the respondent from contact with the victim in the workplace;
- (b) discipline of the respondent (up to and including dismissal from his/her position);
- (c) training or counseling;
- (d) reinstatement or reimbursement of lost wages or benefits.

2. If a complaint is dismissed, and if it is determined by the Hearing Committee that the complaint was vexatious in nature, depending on the circumstances of the parties in relation to the association, the Committee may recommend any or all of the following orders against the complainant:

- (a) discipline of the complainant;
- (b) separation of the complainant and respondent;
- (c) training or counseling for the complainant.

Reporting

A copy of the report shall be forwarded to each of the parties. The report will indicate the nature and relevant circumstances of the complaint, in what respects (if any) the principles set forth in this policy and program have been violated, and the remedy imposed.

Appeal

Members and volunteers may appeal the decision of the Hearing Committee to Steering within ten (10) working days. The Steering Committee shall meet, review the case and issue a response within ten (10) working days.

Employees may grieve the decision of the Hearing Committee under the Collective Agreement.

Incident Follow-Up

Worker Support

Individuals who experience an incident of workplace harassment may require emotional support from a professional. This support is available through the Employee and Family Assistance Program and other community support services.

Notice of an Injury as a Result of Workplace Violence

University Safety shall be informed of any incident of workplace harassment on university property that results in injury or death.

The Presidential Officers shall work with the Carleton Human Resources Department to ensure that any relevant WSIB forms are completed and submitted within 24 hours for all incidents involving an employee.