

## ADMINISTRATION MANUAL

**TITLE: FREEDOM FROM DISCRIMINATION AND HARASSMENT POLICY #: SJ-08-00-15**

**SECTION:** Human Resources

**ISSUING AUTHORITY:** Senior Leadership Team

**ORIGINAL DATE APPROVED:** July 16, 1998

**SUBSEQUENT APPROVAL**

**DATES:** Sept. 19/01, Oct. 19/01, Apr.14/09, June 01, 2010, November 30, 2010, November 13 2012, December 5, 2014, October 20, 2015, October 2016

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**POLICY** The organization is committed to providing equitable treatment and a working environment which is free from discrimination and harassment, and will take immediate and appropriate action in response to behaviour, which is inconsistent with this policy.

**APPLICATION** Health Service Providers which the Health Centre recognizes as employees, physicians, , volunteers, students and , contractors..

**LEGISLATION** Consistent with the Ontario Human Rights Code, the Health Centre provides freedom from discrimination and harassment with respect to race, colour, ancestry, creed, place of origin, ethnic origin, citizenship, sex, sexual orientation, gender identity, gender expression, record of offenses, marital status, family status, age, and disability.

The Health Centre provides freedom from harassment and discrimination with respect to Union Affiliation.

The Health Centre also provides freedom from Workplace Harassment as outlined in the Occupational Health & Safety Act.

### DEFINITIONS

Discrimination is defined as differentiating adversely in relation to an individual based on the prohibited grounds in the Ontario Human Rights Code as outlined above.

Harassment is defined as being 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 may include bullying, intimidating or offensive

jokes and innuendoes. Harassment can also be based on the prohibited grounds listed above. Harassment can cover many types of behaviours including some that could be termed Assault, which could have consequences under the Criminal Code.

Bullying is viewed as acts or verbal comments that could “mentally” hurt or isolate a person in the workplace. Bullying can involve repeated incidents or pattern of behaviour that is intended to intimidate, offend, degrade or humiliate a particular person or group of people. It can also be described as the assertion of power through aggression.

Sexual Harassment is prohibited by the Human Rights Code, Section 7(3). Sexual Harassment is defined as 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. It is also defined as 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.

## **EXAMPLES OF HARASSMENT AND DISCRIMINATION**

The range of conduct covered under these definitions is very broad and includes, but is not limited to, written or spoken comments as well as overt or subtle actions which undermine self-respect: unwelcome remarks, (including remarks regarding a person’s body, attire, personal life), jokes, innuendoes, threats, abuse, leering or other similar gestures or remarks, unnecessary physical conduct, including touching, petting, pinching or physical assault, or taunting. It can also include displaying racist, sexist, derogatory or offensive pictures or materials.

## **PERFORMANCE MANAGEMENT**

Management responsibility, including performance review, counseling, learning plans, coaching, evaluation or discipline when warranted, are not considered to be discrimination or harassment.

## **COMPLAINT PROCEDURE**

### **Step #1**

Any person who feels subjected to discrimination and/or harassment is encouraged to tell the person that the behaviour is offensive and unacceptable.

### **Step #2**

If the behaviour continues, the person subject to continued discrimination and/or harassment will formally report the incident(s) to their immediate Manager. If the complaint is against their immediate Manager, then the person subject to the discrimination and/or harassment will follow the Chain of Command and formally report the incident to the person to whom your manager reports.

### **Step #3**

If the behaviour is not resolved in Step #1 or Step #2, then a formal reporting of the incident(s) is made by completing the attached Complaint Form and sending it directly to the Manager of Human Resources or designate.

### **Step #4**

The Manager of Human Resources or designate will review the content of the complaint to ensure that the complaint falls under the Health Centre policy of prohibited behaviour and/or that the legal definition of discrimination and/or harassment has been met. If the complaint does not fall under the policy, the complainant will be notified and provided with another means to resolve the complaint.

### **Step #5**

The complainant (the person making the complaint) and the respondent (the accused) will be notified in writing that a formal investigation will be taking place within fourteen (14) days. At the same time the respondent will be given a copy of the alleged complaint against them at least five (5) days prior to the fact finding interview.

### **Step #6**

Human Resources in consultation with the applicable leadership team member will set up an investigative interview with the involved parties, (e.g. complainant, respondent and witnesses) to establish the facts, timelines, dates, and details of the behavior(s) and incident(s). Each fact finding interview will be recorded and documented.

### **Step #7**

Human Resources in consultation with the applicable leadership team member will review and evaluate all the documentation obtained from the complainant, respondent and witnesses during the fact finding interviews and determine the finding of the complaint.

### **Step #8**

Where the respondent is a Health Service Provider, he/she and the complainant, will be notified within ten (10) business days of the investigation being concluded of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation in writing and where practical in person.

## **REPRESENTATION**

At any point during the complaint procedure, a complainant or respondent has the right to have a peer employee or union representative present.

## **MANAGEMENT RESPONSIBILITY**

It is the responsibility of the Leadership Team to ensure the workplace is free from discrimination and harassment and to undertake the following:

- take **immediate** action to address the complaint
- investigate and resolve any complaints brought to his or her attention in accordance with this policy;
- ensure appropriate documentation of the investigation is made.

- take appropriate action when an individual is found to have committed an act of discrimination and harassment;
- take appropriate action when the complaint is frivolous, or made in bad faith, or determined to be without merit;
- advise the individual(s) of the outcome of the investigation.

## **RESPONSIBILITY OF OTHERS**

All individuals have a personal responsibility to ensure that the Health Centre values and standards of ethical conduct are upheld. Unwelcome or unacceptable behaviours or comments directed to others should be communicated to the offender. Any individual who feels that another person is being subjected to discrimination or harassment, should take the following actions:

- make his or her disapproval known to the person whose behaviour is in question;
- keep a written record of date(s), time(s), unacceptable behaviour and witnesses to the incident(s), if any;
- report the incident(s) by following steps 1-3 above.

## **REPRISAL**

All parties to the complaint investigation process will not be subject to any reprisals or repercussions.

## **PRESUMPTION OF INNOCENCE**

During the complaint investigation the respondent will be entitled to the presumption of innocence.

## **CONFIDENTIALITY OF INFORMATION**

The identity of the parties, including all witnesses, and the information obtained during the course of the investigation will remain strictly confidential, except where disclosure is necessary to aid the investigation or take disciplinary action, or is required by law.

## **ADVICE**

The Manager of Occupational Health & Safety, Manager of Labour Relations, Manager of Human Resources, Manager of Patient Relations and/or a local Union Representative are available to counsel the person confidentially at any stage in the process. Confidential counseling is also available for employees and their families through our Employee Assistance Program (EAP). Our EAP provider, Shepell fgi Consulting Services, can be reached 24/7 at 1-800-387-4765.

## **DISCIPLINE**

If the complaint of discrimination and/or harassment is upheld, appropriate action is taken against the offender. If the complaint is found to have been made in bad faith, appropriate action is taken against the complainant. Appropriate action may include an apology, education, counselling, suspension or privileges, job transfer, change in reporting relationship or termination.

**ACTION**

The Complainant or the Respondent may, at any time during the complaint process, request participation in a dispute resolution process such as mediation by an outside mediator. The final decision regarding mediation will be at the discretion of the Health Centre. The Health Centre, at any time during the complaint process shall have the option of having an outside investigator conduct the investigation and/or mediation of the complaint.

**HUMAN RIGHTS COMMISSION**

This policy does not prevent an individual from filing a complaint with the Ontario Human Rights Commission.

**DEVELOPED BY:** Human Resources

**DISTRIBUTION:** Everyone

**CROSS REFERENCE:** Medical and Professional Staff Conduct Complaints Policy (SJ-08-00-14) and the Violence in the Workplace Policy (SJ-09-02-27)

**REGULATORY REFERENCE:**

Ontario Human Rights Code  
Occupational Health & Safety Act  
Canadian Centre for Occupational Health & Safety  
Ministry of Labour, Code of Practice to Address Workplace Harassment

**REVIEWED BY:** Interim Vice President, Human Resources & Occupational Health & Safety.

**PERSONAL & CONFIDENTIAL**  
**COMPLAINT FORM – Discrimination & Harassment**

Date Complaint Submitted: \_\_\_\_\_

Name of Complainant: \_\_\_\_\_

Complainant's Department: \_\_\_\_\_

Position: \_\_\_\_\_

Name of Respondent: \_\_\_\_\_

Respondent's Department: \_\_\_\_\_

Position: \_\_\_\_\_

**WITNESSES TO THE INCIDENT(S):**

(1) Witness Name: \_\_\_\_\_

Department: \_\_\_\_\_

Position: \_\_\_\_\_

(2) Witness Name: \_\_\_\_\_

Department: \_\_\_\_\_

Position: \_\_\_\_\_

Please list the names of anyone you may have discussed these incidents with at the time they occurred that were **not** witnesses:

\_\_\_\_\_  
\_\_\_\_\_

