

Policy 011: Workplace Anti-Harassment

011. Workplace Anti-Harassment

Policy Objective: To set guidelines to ensure 221A is a workplace free of harassment and discrimination.

1. Overview

221A upholds the right of every person to be free from harassment and discrimination of any kind including sexual harassment, bullying and discriminatory harassment in the workplace, and every worker is assured of the protection of this right.

Workers are entitled to be treated with dignity and respect and to have a work environment free from harassment and discrimination, as prescribed by the **Occupational Health and Safety Regulation**. This policy applies to all workers and representatives of 221A while in the workplace, on 221A premises, or during any work related and/or social functions.

Workers are expected to assist 221A in its attempts to prevent and eliminate harassment in the workplace. 221A will treat any form of harassment that occurs in the workplace seriously irrespective of the alleged harasser's position within 221A. Nothing in this policy prevents an individual's right to file a complaint with **WorksafeBC** or any other adjudicative body should they feel the situation warrants such action.

2. Definitions

Occupational Health and Safety Regulation defines "workplace harassment" as "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."

The definition of workplace harassment includes "workplace sexual harassment". "Workplace 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 comment or conduct is known or ought reasonably to be known to be unwelcome, or 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 Workplace bullying can be considered a type of workplace harassment. Discrimination is not captured within the definition of workplace harassment. However, if harassing behaviour is occurring based on discrimination, this constitutes discriminatory harassment. Workplace violence is not captured within the definition of workplace harassment.

Workplace Harassment including sexual harassment, bullying and discriminatory harassment is typically defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Under occupational health and safety legislation, the definition often includes the limitation that the comments or conduct have to be against a worker in a workplace.

This definition can be broken down as follows:

- **Course:** Harassment is generally considered to be a course of comment or conduct, meaning that the behaviour has to be repeated and/or ongoing. However, a single incident can be severe enough to constitute harassment in certain instances.
- **Vexatious:** The misconduct in question is unwanted or unwelcome and therefore causes the target a sense of violation, frustration, annoyance or fear.
- **Comment or conduct:** Harassment can be verbal (e.g., derogatory comments) or physical (e.g., unwanted touching), or a combination of the two.
- **Known or ought reasonably to be known to be unwelcome:** The assessment of whether harassing behaviour occurred is focused on the impact on the target of the behaviour, and not on the intention of the person commenting/acting in a potentially harassing way. If the recipient of the behaviour specifically states that the conduct is unwelcome, then this portion of the definition is met. However, the recipient does not necessarily have to specifically state that the conduct is unwelcome; it is enough for the recipient to make it clear that the behaviour was unwelcome through their own conduct or body language. Alternatively, this part of the definition is met if the behaviour in question is objectively harassing (i.e. whether a reasonable person would have recognized that their behaviour would be unwelcome to the recipient of the behaviour).
- **Worker:** Permanent, temporary, casual, contract, and student workers, under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise.
- **Workplace:** Any land, premises, location or thing at, upon, in or near which a worker works. The legal definition of “workplace” is broader than the popular conception of workplace as the office/library/gallery where the worker “goes to work”. It can include a location that the worker has traveled to for work, a work-organized event (such as training, a retreat, a gala, a fundraiser, etc.), and in some circumstances may include an after-work social event (e.g., drinks with coworkers after a work event) depending on when the event takes place and who is involved.

3. Behaviors Constituting Harassment

A variety of behaviours can constitute harassment, including but not limited to:

- verbal abuse or threats;
- unwelcome remarks, jokes, innuendos or taunting for any reason, including about a person's body, attire, age, marital or family status, ethnic or place of origin, religion, race, health or medical status, sexual orientation, gender identity or gender expression, disability, ancestry, colour, citizenship, creed, sex, record of offences, etc.;
- practical or "dirty" jokes which cause humiliation or embarrassment;
- stalking, leering, staring or gestures;
- display of pornographic, racist or other offensive or derogatory pictures or other material;

- condescension, intimidation or paternalism which undermines self-respect;
- unwelcome or unwanted sexual advances, including but not limited to patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any other similar physical contact or written solicitation normally considered unacceptable by another individual;
- abuse of human rights;
- requests or demands for sexual favours; and/or
- physical and/or sexual assault.

While the following is not an exhaustive list, sexual harassment may include:

- differential treatment of workers or co-workers etc.;
- verbal or written comments, jokes, teasing, and/or other communication of a sexual nature;
- demeaning language based on gender or sexual preference;
- graphic comments about an individual's body;
- use of sexually degrading words to describe an individual;
- display of sexually suggestive objects and/or pictures in the workplace;
- foul or obscene language and/or gestures;
- unwanted physical conduct such as patting, pinching, and/or brushing up against another person's body;
- a promise of better treatment in return for sexual favours; and/or
- indirect or expressed threats for refusal of a sexual request.

Courteous, mutually respectful, non-coercive interactions which are acceptable to both parties are not considered to be harassment or sexual harassment. 221A will not tolerate or condone sexual harassment of its workers by anyone. This policy is not intended to limit or constrain the reasonable exercise of management functions in the workplace.

Reasonable action or conduct by a member of management that is part of their/her/his normal work function would not normally be considered workplace harassment or sexual harassment. Examples could include changes in work assignments, scheduling, job assessment and evaluation, implementation of dress codes and progressive discipline.

4. Poisoned Work Environment

A poisoned work environment is created by persistent and serious wrongful comments or conduct that creates a hostile or intolerable workplace. The comments or conduct need not be directed at a specific individual, and may be from any individual, regardless of position or status. A single comment or action, if sufficiently serious, may create a poisoned environment.

Conduct that creates or contributes to the creation of a poisoned work environment will not be tolerated at 221A and workers found to have engaged in such acts will be subject to discipline up to and including termination.

5. Responsibilities of Management

221A will:

- Promote a workplace that is free of harassment and sexual harassment;
- Provide workers with information and instruction regarding the workplace policy and program with respect to workplace harassment and sexual harassment including appropriate steps to be taken and investigation procedures;
- Take every reasonable precaution for the protection of the workers;
- Ensure workers understand who to contact regarding concerns about the policy or when to report an incident;
- Ensure the workplace is free from discrimination and harassment including, sexual harassment, bullying and discriminatory harassment;
- Respond within **a period of seven days** to complaints brought to their attention or take action if witnessing harassment or sexual harassment or elements of a poisoned work environment.;
- Respect the confidentiality and sensitivity of such issues to the extent possible;
- Document all information and investigation results;
- Conduct an investigation into allegations of harassment or sexual harassment;
- Ensure that all workers sign (on a minimum annual basis) the [Workers Policy & Contact Attestation](#), a document that serves to ensure the reading of this policy, and provides up to date information for the names and contact information of the Executive Director, President and Chair of the People Committee; and,
- Integrate the appropriate and timely handling and reporting of workplace harassment as a part of satisfactory job performance by managers/supervisors.

6. Responsibilities of Workers

Workers must:

- comply with this policy by avoiding any behaviour or conduct that could reasonably be interpreted as a violation of this policy;
- report any instances of discrimination, harassment or sexual harassment; and
- maintain a work environment free from discrimination and harassment including sexual harassment, bullying and discriminatory harassment.

7. Procedure for Making a Harassment-Related or Sexual Harassment-Related Complaint

221A will investigate and act expeditiously and firmly in dealing with persons harassing others. Complaints regarding harassment may be directed to the **Executive Director**, in writing if possible.

If a worker believes that they are being harassed, the worker should take one or both of the following steps:

1. If comfortable doing so, the worker should tell the harasser to stop. The worker should firmly state that the behaviour is objectionable, unwelcome, and must stop immediately. The worker should also keep a written record of the incident, along with the steps taken to stop it. If the activity or

behaviour does not stop after the person has been confronted, or if the worker does not feel comfortable confronting the person, then the worker should follow the procedure as outlined in step 2.

2. The worker should discuss the incident with the **Executive Director** or, where the alleged harasser or sexual harasser is the **Executive Director**, the worker should discuss the incident with the **President and/or Chair of the People Committee**. During this initial meeting, the worker should complete a written complaint with or without the assistance of the person receiving the complaint.

8. Investigation Process

221A will ensure a full, fair, and appropriate investigation is conducted into each incident or allegation of discrimination or harassment that it becomes aware of. Investigations will be carried out according to the following guidelines:

- all investigations will be conducted promptly;
- all those directly involved, and witnesses will be spoken with;
- notes/statements will be prepared during each interview, reviewed by the person(s) being interviewed and signed for accuracy;
- records or other documents relevant to the incident being investigated (this may include work schedules, complaints and observation notes, and may involve taking pictures of the scene) will be reviewed;
- relevant employment agreement language and/or Organization policies/procedures will be reviewed;
- a final summary/report of the investigation will be prepared; and,
- the allegedly and/or actually harassed worker and the alleged and/or actual harasser will be informed separately in writing of the results of the investigation and any corrective action taken as a result of the findings of the investigation.

221A will investigate the complaint diligently and confidentially to the maximum extent possible. In addition, any negative employment consequences which are found to have resulted from the harassment or sexual harassment **will aim to be rectified within a period of 1 month**.

9. Discipline & Termination

Any worker found to have engaged in conduct that violates this policy will be subject to progressive discipline, which may take the form of a verbal warning, written warning, suspension and up to and including termination of employment or contract. Because allegations of harassment are very serious, frivolous complaints found to have been made for improper purposes will result in progressive discipline of the complainant, up to and including termination of employment or contract. If any worker receives a complaint of harassment or is otherwise aware of, or informed of a harassing situation, they must inform the Executive Director immediately.

10. Confidentiality

Workers should feel secure in knowing that their concerns will be handled as discreetly and sensitively as possible. Identifying information about any individuals involved in the harassment allegation will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or as otherwise required by law.

11. Reprisals

This policy strictly prohibits reprisals against a worker because they have brought forward a concern or has provided information regarding a concern under this policy. **Any worker who commits or threatens reprisal against another worker for following this policy in good faith may be subject to progressive discipline, such as verbal warning, written warning, suspension and up to and including termination of employment or contract.**

Workers are encouraged to assist 221A in its efforts to prevent and eliminate harassment and sexual harassment in the workplace by treating their co-workers with courtesy and respect at all times during their employment. 221A, in turn, will do its best to deal with complaints that may arise in a fair and objective manner. Any breach of this policy will result in progressive discipline up to and including termination of employment.

POLICY HISTORY:

May 8, 2019 - ADOPTED

April 6, 2019 - Revised DRAFT

February 7, 2019 - DRAFT