

# Non-Discrimination & Harassment Policy

## 1 - Purpose

This Policy is intended to communicate United Way Greater Toronto's (UWGT) position on discrimination and harassment in the workplace under the Ontario *Human Rights Code* and the *Occupational Health and Safety Act*. Under the Ontario Human Rights Code, every person has a right to equal treatment in the provision of services and facilities, occupation of accommodation, contracts and in employment. Under the Occupational Health and Safety Act, all employers are required to have a workplace harassment policy and, program to provide information, instruction and to protect workers from workplace harassment, to provide appropriate information and instruction for workers policy and program.

## 2 - Scope

This Policy applies to all Board Trustees, other volunteers, sponsored employees, employees, consultants, independent contractors, and vendors.

For the purpose of this Policy, workplace means:

- all offices or other premises or sites where UWGT's business and activities are conducted; and
- any social, business, or other functions or other incidents where the conduct or comments originate from someone that the worker has come into contact within the workplace.

## 3 - Policy

UWGT is committed to providing and maintaining a workplace which ensures that the rights of all individuals are recognized, that everyone is treated with dignity and mutual respect, is able to work in an environment that promotes equitable outcomes for all and is free from discrimination and harassment. All employees, sponsored employees, volunteers, independent contractors, and vendors are expected to uphold this Policy and will be held accountable to do so. UWGT will investigate and respond to any complaint of discrimination or harassment and will take a range of actions as necessary and appropriate, to ensure that all individuals are free from discrimination and harassment in the workplace.

## 4 - Definitions

Discrimination means any action, behaviour or attitude which negatively affects or could negatively affect the employment or volunteer activities of an individual, where such action, behaviour or attitude is based on a prohibited ground for discrimination under the Ontario *Human Rights Code* (e.g., age, disability, race, sexual orientation, etc.). Discrimination may arise as a result of direct differential treatment, or it may result from the unequal effect of treating individuals and groups in the same way. Either way, discrimination may arise if the effect on the individual is to withhold or limit full, equal, and

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meaningful access to employment or volunteer activities available to other members of society and their membership in a prohibited ground was a factor, it is discrimination.

Harassment is defined under the *Occupational Health and Safety Act* 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. However, there is no legal obligation for an individual to tell a harasser to stop. The fact that a person does not explicitly object to harassing behaviour or appears to be giving tacit consent going along with it does not mean that the behaviour is not harassing or that it has been consented to.

Some examples of harassment under prohibited grounds include but are not limited to:

- slurs or derogatory remarks or threats;
- inappropriate jokes, innuendos, name-calling, teasing, embarrassing practical jokes;
- use of electronic communications such as the internet and e-mail to harass;
- actions that invade privacy.

Harassment may occur as a result of one incident or a series of incidents. The unwelcome comment or conduct does not have to be directed at a specific person for harassment to occur. Comments or conduct that may tend to ridicule or disparage a group may give rise to an offensive or 'poisoned' work environment and thus to harassment.

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. It can also include behaviour that intimidates or isolates the targeted individual(s).

Workplace harassment is not limited to incidents that occur in UWGT offices. They can occur at off-site business-related functions (meetings, conferences), social events related to work, even in an individual's home or at a location away from work where the comments or conduct originate from someone that the worker has come into contact within the workplace (e.g., an employee receives a threatening phone call at their home from a co-worker). This includes communication by email or text message and postings on social media websites such as Facebook, regardless of whether such communications are made using UWGT's information technology system.

Some examples of workplace harassment could involve an incident or pattern of comment or conduct against a worker, including a pattern of:

- frequent angry shouting/yelling or blow-ups;
- intentional demeaning of a contribution by non-acknowledgement;
- spreading gossip, rumours, negative blogging, cyber-bullying;
- verbal or e-mail threats (not including threats to exercise physical force which are covered by the Anti-Violence Policy);
- communication that is otherwise demeaning, insulting, humiliating, mocking.

This Policy is not intended to interfere with constructive feedback regarding performance or operational directives legitimately provided to employees by their supervisors, managers, or directors, provided the feedback or operational directive is not given in a way that would violate this Policy.

Sexual harassment 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, where the course of 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.

- Examples of harassment related to the ground of sex, sexual orientation, gender expression and/or gender identity include but are not limited to: sexually suggestive or obscene remarks or gestures;
- insults, comments that ridicule, humiliate or demean people because of their sex, sexual orientation, gender identity or expression;
- intrusive comments, questions or insults about a person's body, physical characteristics, mannerisms and/or behaviours that reinforce traditional heterosexual gender norms;
- posting or sharing pornography, sexual pictures or cartoons, sexually explicit graffiti, or other sexual images (including online).

Racial harassment is harassment related to the ground of race. It may also be associated with other grounds of colour, ancestry, where a person was born, a person's religious belief, ethnic background, citizenship or even a person's language.

Some examples include:

- racial slurs or jokes;
- ridicule, insults, or treatment because of a person's racial identity;
- posting or distributing/emailing cartoons that degrade people of a particular racial group;
- name-calling because of a person's race, colour, citizenship, place of origin, ancestry, ethnicity or creed.

## 5 - Procedures

### **What to do if discrimination or harassment occurs**

Anyone who believes that they have been subject to discrimination or harassment can pursue these options to report and address the incident:

#### **Informal Complaints**

The complainant may choose to resolve breaches of this Policy informally without filing a formal complaint. Options for informal resolution include:

##### *1. Speaking to the person*

In many situations, simply informing the person that their comment or conduct is unwelcome or discriminatory could resolve the issue. Telling the person to 'stop' may be difficult to do, but it is frequently the most effective means of eliminating the problem. However, there is no legal obligation for an individual to tell a harasser to stop. The fact that a person does not explicitly object to harassing behaviour or appears to be giving tacit consent going along with it does not mean that the behaviour is not harassing or that it has been consented to.

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## *2. Consulting a Supervisor or People and Culture*

A complainant who is uncomfortable speaking to the individual directly or would like assistance may consult their supervisor or a member of the People and Culture (P&C) team.

### **Formal Complaints**

#### Union Employees

Employees represented by COPE Local 343 who wish to proceed with a formal process may choose to file a grievance in accordance with the rights and procedures set out in the collective agreement.

#### Non-Union Employees

Any complainant who does not want to follow the informal resolution option may make a formal, written complaint under this Policy to the Vice President, People and Culture. If the complaint is made against the Vice President, People and Culture, the complaint should be sent to the President and Chief Executive Officer (CEO). Any complaint about the CEO should be made directly to the Chair of the Board.

Upon receipt of a formal written complaint, the P&C team shall determine whether the conduct complained of falls within the scope of this Policy. If it is determined that the conduct does not fall within its scope, a member of the P&C team will advise the complainant accordingly and will take no further steps under this Policy or will direct individuals to the appropriate policy for action, if warranted. Where a formal written complaint does fall within the scope of this Policy, PP&C will begin an investigation.

### **Investigation**

An investigation will be initiated by PP&C within thirty (30) days after a formal complaint is received.

If the complaint is against the Vice President, People and Culture, the CEO will appoint an investigator. Allegations against the CEO will be reported to the Board of Trustees. The Chair of the Board will designate an investigator external to UWGT to investigate, receive the investigative findings and determine appropriate action.

At its sole discretion, UWGT may choose to place an employee who is under investigation on paid leave pending the completion of an investigation under this Policy.

Any employee represented by COPE Local 343 has a right to be represented by their Union in any part of the formal complaint process.

PP&C will interview all concerned parties and review any supporting documents. They will provide the complainant and respondent with factual findings and request any further comments. On receipt of the comments, a report will then be made to the CEO within sixty (60) days of the completion of the investigation.

Upon receipt of the report, the CEO will be responsible for determining the outcome and deciding what disciplinary or corrective action is appropriate.

Where a complaint has been substantiated by the investigation, the CEO or their delegate will:

- ▶ Give a written summary of the findings, discipline or corrective action to both the complainant and the respondent;
- ▶ Initiate appropriate disciplinary or corrective action.

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Where the complaint is not substantiated, the CEO or their delegate will give a written summary of the findings to both the complainant and the respondent. There will be no negative consequences for a complainant who has come forward in good faith, witnesses or an alleged harasser and no record of the complaint will appear in any employee file.

In the event that the investigation indicates that a complaint is frivolous, vexatious, or made in bad faith, the CEO may decide to impose disciplinary action up to and including termination. The CEO shall report annually to the Board of Trustees on the number of complaints received, whether the complaints were substantiated, and the actions taken.

### **Corrective Action**

If after an investigation, it is determined that an allegation of discrimination or harassment has been substantiated, appropriate corrective actions will be taken which may include any of the following:

- formal apology;
- counseling;
- written warning placed in the volunteer's/employee's file;
- change of work assignment;
- suspension or discharge of an employee/volunteer.

The corrective action taken on an employee will be documented and placed in the employee's file.

### **No Reprisal**

UWGT will not take reprisal in any way against anyone who files a complaint in good faith or who acts as a witness or otherwise participates in the investigation of in relation to a complaint. UWGT also prohibits reprisal by anyone against another employee who makes a complaint in good faith or acts as a witness or otherwise participates in an investigation. Any employee. Anyone who is found to have engaged in reprisal against a person for seeking assistance through this Policy and Program, or for filing a complaint in good faith, may be subject to discipline, up to and including termination. UWGT will also take appropriate action in relation to any Board Trustee, other volunteer or sponsored employee who is found to have engaged in reprisal in violation of this Policy.

Reprisal includes:

- a. Any adverse action or consequences of retaliation that occurs because an employee has complained of or provided information about an incident of discrimination or harassment;
- b. Intentionally pressuring anyone who is covered by this Policy to ignore or not report an incident of discrimination or harassment;
- c. Intentionally pressuring anyone who is covered by this Policy to lie or provide less than full cooperation with an investigation of a complaint of an incident of discrimination or harassment.

An employee who makes a false complaint or otherwise abuse this process may be subject to discipline up to, and including, termination of employment. Such discipline is not a reprisal or breach of this Policy. UWGT will also take appropriate action in relation to any Board Trustee, other volunteer or sponsored employee who makes a false complaint or otherwise abuses this policy.

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## **Confidentiality**

UWGT understands that it is difficult to come forward with a complaint of discrimination or harassment and recognizes the complainant's interest in keeping the matter confidential.

To protect the interests of the complainant, the person complained against and any others who may report incidents of discrimination or harassment, confidentiality will be maintained throughout any investigatory process to the extent practicable and appropriate under the circumstances.

All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material will be kept confidential by UWGT except where disclosure is required for disciplinary or other remedial processes.

It is a serious breach of this Policy to break confidentiality, unless the law requires disclosure of information relating to the complaint or it is necessary for the proper investigation and resolution of the matter. Any such breach will be treated in the same manner as harassment or discrimination.

## **External Forums**

If the complainant is not satisfied with the action taken, they may submit a complaint to the Human Rights Tribunal of Ontario. The complainant should be aware that this option to bring a complaint to the Tribunal is available at any point during the procedures set out in this document.

A complainant who is a member of COPE Local 343 may also speak to their union representative about accessing the grievance procedure under the collective agreement.

However, UWGT encourages that there be serious attempts made to pursue resolution amongst the parties directly involved. The above Policy is intended to facilitate such resolution.

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