

**DOCUMENT IN RELATION TO SECTION 13  
OF THE RESPONSE – INTERNAL HUMAN  
RIGHTS POLICY**

- **Ontario Public Service Workplace Discrimination and Harassment Prevention (WDHP) Policy**

**MANAGEMENT BOARD OF CABINET DIRECTIVES**

**Workplace Discrimination and  
Harassment Prevention (WDHP) Policy**

HR Policy and Planning Branch  
HR Management and Corporate Policy Division  
HR Ontario, Ministry of Government Services  
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**Section 1 of the Public Service of Ontario Act, 2006, states that:**

*The following are the purposes of this Act:*

- 1. To ensure that the public service of Ontario is effective in serving the public, the government and the Legislature.*
- 2. To ensure that the public service of Ontario is non-partisan, professional, ethical and competent.*
- 3. To set out roles and responsibilities in the administration of the public service of Ontario.*
- 4. To provide a framework in law for the leadership and management of the public service of Ontario.*
- 5. To set out rights and duties of public servants concerning ethical conduct.*
- 6. To set out rights and duties of public servants concerning political activity.*
- 7. To establish procedures for the disclosure and investigation of wrongdoing in the public service of Ontario and to protect public servants who disclose wrongdoing from reprisals.*

*This Policy has been established in support of these purposes.*

**POLICY STATEMENT**

The Ontario Public Service (OPS) is committed to fostering and sustaining an inclusive, diverse, equitable and accessible workplace that is respectful and free from discrimination and harassment. The policy of the OPS is to take every reasonable step to:

- cultivate and sustain a supportive work culture
- prevent workplace discrimination and harassment and promote awareness of rights and responsibilities
- identify and eliminate workplace discrimination and harassment in a timely manner
- improve and/or restore work environments and work relationships affected by incidents or allegations of discrimination or harassment.

**PURPOSE**

The purpose of this policy is to:

- establish a framework for the prevention of workplace discrimination and harassment and effective response to issues of workplace discrimination and harassment
- provide direction to ministries and Commission public bodies on compliance with statutory requirements for human rights and health and safety regarding workplace discrimination and harassment.

## APPLICATION AND SCOPE

This policy applies to all:

- ministries and Commission public bodies (CPBs)
- deputy ministers and chairs of CPBs
- public servants appointed under Part III of the *Public Service of Ontario Act, 2006 (PSOA)*.

Workplace harassment provisions outlined under this policy also apply to workers as defined in the *Occupational Health and Safety Act (OHSA)*.

This policy supports the *Human Resources Management Directive* and complements other human resource policies, including the *Equal Opportunity Operating Policy*, that promote and sustain an inclusive workplace. Refer to the *Equal Opportunity Operating Policy* for direction on the removal and prevention of employment barriers from policies and practices.

This policy upholds the *Human Rights Code (Code)* and is a requirement under section 32.0.1 of the *OHSA*. In addition, this policy must be applied in accordance with other applicable legislation (including the *Accessibility for Ontarians with Disabilities Act, 2005*, *Ontarians with Disabilities Act, 2001* and the *Criminal Code of Canada*), directives, policies and collective agreements.

Refer to the *Workplace Violence Prevention Policy* for direction on preventing and effectively responding to workplace violence.

Complaints arising under Part VI of the *PSOA*, disclosing and investigating wrongdoing, are not covered under this policy (see *Disclosure of Wrongdoing Directive*).

This policy does not override other statutory or collectively bargained rights. Employees and former employees may file complaints under this policy within six months of the alleged discrimination or harassment incident. Other workers may file complaints under this policy within six months of the alleged harassment incident. Subject to stipulated time limits, employees, former employees and other workers where applicable may also:

- file a grievance under the *PSOA* if they have grievance rights in relation to working conditions
- file a grievance in accordance with the applicable collective agreement
- apply to the Human Rights Tribunal of Ontario.

### **Service Delivery Model**

The WDHP Section, Centre for Employee Health, Safety and Wellness, HROntario, provides discrimination and harassment complaint resolution and workplace restoration advisory services for all ministries except the Ministry of Community Safety and Correctional Services (MCSCS).

MCSCS (including the Ontario Provincial Police) and Commission public bodies maintain internal complaint resolution and workplace restoration advisory services and are required to comply with the mandatory requirements set out under this policy.

### **Members of the Public**

Members of the public, including visitors to OPS facilities or individuals conducting business with the government, are expected to refrain from discrimination or harassment of employees, other workers and other members of the public.

### **Definition of Discrimination**

This policy covers workplace discrimination as prohibited under the *Code*.

For purposes of this policy, *discrimination* is defined as any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group based on one or more of the prohibited grounds under the *Code*, except where the conduct is permitted under the *Code*. Discrimination may arise due to unequal treatment or from the same treatment which has an unequal effect on an individual or group protected from discrimination under the *Code*.

The prohibited grounds of workplace discrimination include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy and gender identity), sexual orientation, age, record of offences, marital status, family status and disability. The policy prohibits discrimination on the basis of these grounds, and any combination of these grounds.

### **Definition of Harassment**

This policy covers workplace harassment as defined and prohibited under the *Code* and the *OHS*A.

For purposes of this policy, *harassment* is defined as engaging in a course of vexatious comment or conduct against an employee or other worker in the workplace that is known or ought reasonably to be known to be unwelcome and includes personal harassment and harassment based on the prohibited grounds of race, ancestry, place of origin, colour,

ethnic origin, citizenship, creed, sex (including pregnancy and gender identity), sexual orientation, age, record of offences, marital status, family status, or disability.

## PRINCIPLES

- The OPS is committed to an inclusive, diverse, equitable and accessible work environment and will not tolerate workplace discrimination or harassment.
- Every employee has the right to work in an inclusive, respectful workplace free of discrimination and harassment.
- All employees are responsible for respecting the dignity and rights of co-workers and the public they serve.
- The prevention of discrimination and harassment is an integral part of all workplace activities, and a shared responsibility requiring cooperation between the employer, employees and bargaining agents.
- Effective education and training about rights and responsibilities under this policy are required to fulfill obligations under statute and policy.
- Strategies designed to prevent discrimination and harassment are proactive, cost-effective, reflect the OPS organizational values of trust, fairness, diversity, excellence, creativity, collaboration, efficiency and responsiveness, and support ethical behaviour.
- Effective prevention strategies are based on a critical analysis of workforce data, the various dimensions of diversity (for example race, age, disability, sexual orientation etc.) and policy and program measures.
- All allegations of discrimination and harassment are treated seriously and handled on a confidential basis in accordance with this policy and applicable law with an aim to preserve the dignity, self-respect and rights of all parties.
- Responses to discrimination and harassment:
  - are provided in a timely manner
  - correct identified problems
  - restore positive and productive work environments
  - prevent future violations of this policy
  - hold accountable those who fail to abide by this policy.
- The needs of persons with disabilities are accommodated to enable full participation in prevention and resolution processes, in accordance with applicable statutes and policies.

- Policy enforcement adheres to the principles of procedural fairness and progressive discipline. Disciplinary decisions are consistent, fair and consider mitigating circumstances.

## POLICY VIOLATIONS

Engaging in workplace discrimination or harassment, as defined above, is a violation of this policy. Policy violations also include, but are not limited to, engagement in the following discriminatory and harassing behaviours and practices:

- discrimination or harassment in any aspect of employment, which may include, but is not limited to, recruitment, selection, promotion, learning and development, performance management, redeployment, layoff, pay and benefits, termination, job assignment, and granting leaves of absence
- workplace discrimination or harassment of an individual or group that occurs within the workplace or during work-related activities or events outside of the workplace
- workplace discrimination or harassment of an individual or group based on relationship, association, or dealings with a person or group identified by a prohibited ground under the *Code*, or because the individual or group is believed to be a member of a group covered by a prohibited ground under the *Code*
- sexual harassment as outlined under the *Code*
- sexual solicitation and related reprisal as outlined under the *Code*
- hate activity
- failure to offer effective or appropriate accommodation short of undue hardship in keeping with the *Employment Accommodation and Return to Work Operating Policy*, the *Code*, and other applicable legislation
- creating, contributing to, or condoning a poisoned work environment (includes engaging in discrimination or harassment through the use of government property such as information technology resources, and the public display of materials that create a negative, hostile or unpleasant workplace)
- failure of management, in keeping with its authority, to respond appropriately to information about discrimination, harassment or a poisoned work environment
- interference with an investigation, including intimidating a complainant, respondent or witness, or influencing a person to give false or misleading information



- threatening or retaliating against an employee or other worker for exercising a right under this policy, or against any other person who is performing a legitimate role under this policy (appropriate management response to an employee or other worker acting abusively or unacceptably is not considered to be retaliation contrary to this policy)
- frivolous or bad faith allegations, complaints, or accusations.

## **MANDATORY REQUIREMENTS**

### **Prevention**

- The Ministry of Government Services (HROntario) shall develop and maintain a corporate workplace discrimination and harassment prevention program that includes measures and procedures to implement this policy.
- Managers, employees and other workers must demonstrate standards of behaviour consistent with the principles outlined in this policy.
- Managers must complete education and/or training on the content of this policy and associated programs (including manager rights and responsibilities). Existing managers must participate in education and/or training at least every three years. Newly appointed managers must complete this education and/or training within six months of being assigned to a management position.
- Employees and other workers must complete education and/or training on the content of this policy and associated programs (including their rights and responsibilities). Employees and other workers who are new to the OPS must complete this education and/or training as part of orientation.
- Managers must integrate discrimination and harassment prevention responsibilities into employee performance commitments.
- Employees and other workers must immediately bring information about alleged criminal behaviour related to discrimination and harassment to the attention of senior management.
- Managers must ensure this policy is posted in a conspicuous place in the workplace.
- When appropriate, managers must advise members of the public, including visitors to OPS facilities or individuals conducting business with the government that they are expected to refrain from discrimination or harassment of employees, other workers, and other members of the public.

## Confidentiality and Privacy

During investigation and resolution of alleged policy violations, all information must remain strictly confidential, subject to the rules below, except when sharing information required by collective agreement provisions or by law (e.g. possible violation of the *Criminal Code*).

- Complainants, respondents, and witnesses must cooperate fully in the process and must have access to statements they have made and personal information that they have provided.
- Respondents and complainants must have access to sufficient information about the allegations and responses of other parties and witnesses to allow effective participation in the process.
- Personal information must only be collected, used or disclosed when the collection, use or disclosure is necessary to administer this policy. Personal information must be collected, used or disclosed in accordance with applicable policies or guidelines.
- There must be no reference to a complaint under this policy in an employee's human resource file unless disciplinary action was taken against the employee. When disciplinary action has been taken, retention of information in the employee's human resource file is subject to the applicable collective agreement or Archives of Ontario retention schedules.
- Before a final report resulting from an external investigation is submitted to the deputy minister, the deputy minister's delegate, or the CPB designated official for review, a copy of a draft investigation report must be provided to the parties (complainant and respondent) so they can comment on the accuracy and completeness of facts.
- Final reports resulting from an external investigation must be provided to the complainant and respondent upon completion.
- Parties must not share the draft or final report related to external investigations with anyone except, on the condition of confidentiality, the person who accompanied them to the complaint-related meetings and/or their representative.

## Consequences for Policy Violation

Employees, including managers, found to have violated this policy may be subject to discipline up to and including dismissal. Managers who fail to take appropriate action to resolve complaints, or who fail to act appropriately on findings of discrimination or harassment, may be subject to discipline up to and including dismissal.

- Managers must:
  - consider providing appropriate remedial education or training to employees who are found to have violated this policy
  - monitor future behaviour within the scope of the performance management program.

## Timeframes

Each timeframe outlined under this policy is considered to be the maximum time allowed for each activity. All parties involved in the resolution of discrimination or harassment issues or complaints, including managers, employees, and advisors, are expected to make every effort to act as quickly as possible and to demonstrate full and complete cooperation in the resolution of issues or complaints.

- All complaints under this policy must be filed within six months of the alleged incident.
- Every effort must be made to comply with the timeframes outlined in this policy. Timeframes, including those related to raising complaints under this policy, may be exceeded in extenuating circumstances (e.g. if warranted by the complexity of the case) without voiding the process. See **Addressing Discrimination or Harassment Concerns** for specific timeframes associated with each step of the resolution process.
- On a quarterly basis, the appropriate WDHP office must inform deputy ministers/Commission public body chairs of all complaints that remain open for more than nine months after the filing date.

### Measurement and Review

- Workplace discrimination and harassment prevention policy and program measures must be established and collected by HR Ontario, Ministry of Government Services. Policy and program performance results must be evaluated by HR Ontario annually, and reported to Management Board of Cabinet every two years.
- MCSCS and Commission public body offices that provide internal complaint resolution and workplace restoration advisory services under this policy must collect and maintain statistics and program measures on workplace discrimination and harassment prevention activity, and report this information to the WDHP Section, Centre for Employee Health, Safety and Wellness (CEHSW) on a quarterly basis.
- This policy must be reviewed annually by HR Ontario, Ministry of Government Services, on behalf of Management Board of Cabinet.

### Addressing Discrimination or Harassment Concerns

Employees are encouraged, when possible, to tell alleged offenders about unwelcome conduct or actions perceived to be discriminatory or harassing and asking the alleged offender to stop. Other workers are encouraged, when possible, to tell alleged offenders about unwelcome conduct or actions perceived to be harassing and asking the alleged offender to stop.

Employees and other workers are encouraged to quickly notify the first level of management not involved in the complaint, or the appropriate WDHP office, about alleged violations of this policy. The first level of management not involved in the complaint, or the appropriate WDHP office, may contact the employers of other workers regarding alleged violations of this policy.

Complainants and respondents have the right to be accompanied by another person, or bargaining agent representative where applicable, during complaint resolution processes related to this policy.

- Confidential counseling concerning discrimination or harassment issues must be made available to employees.
- Managers and human resource advisors must consult with the WDHP Section, CEHSW or the applicable MCSCS/Commission public body office upon receipt of a complaint or becoming aware of a potential violation of this policy.

### Management Response

- Managers must act immediately upon becoming aware of potential policy violations, whether or not a complaint has been filed, including:
  - intervening to stop unacceptable behaviour
  - contacting the appropriate WDHP office for advice and assistance, and to initiate the completion of a preliminary assessment
  - taking action to protect complainants who raise allegations or file complaints of discrimination or harassment
  - facilitating the resolution of issues that arise by implementing appropriate and timely resolution mechanisms as described below
  - taking appropriate and timely remedial or disciplinary action to resolve the issue, when applicable.
- Managers must make staff available at the earliest opportunity to participate in investigations and other complaint resolution mechanisms.
- Senior management must notify police and consult legal services, as required, when information is brought forward about discrimination or harassment that may constitute criminal behaviour.
- Managers must declare any potential conflict of interest in relation to an alleged violation of this policy when they are, or may be perceived to be, either condoning or directly involved with an alleged violation. In such a case, the next level of management not involved in the complaint must assume responsibilities associated with a resolution. When appropriate, management of another area, including another ministry or Commission public body, may be asked to assume responsibilities associated with a resolution.
- During the resolution of discrimination or harassment issues, management must determine, in consultation with the WDHP Section (CEHSW), or the applicable MCSCS/Commission public body office, and other human resource representatives where appropriate, whether a complainant or respondent should be placed on a paid or unpaid leave, relocated within the ministry/Commission public body, provided with an alternate reporting relationship, or whether other similar and appropriate action should be taken.

### Filing a Discrimination or Harassment Complaint

- Complaints under this policy must be filed in writing, within six months of the alleged discrimination or harassment incident, and submitted to the next level manager not involved in the alleged incident or conduct, or the appropriate WDHP office.
- The following details must be included in the written complaint:
  - name(s) of the complainant, respondent and witness (if any)
  - date and location of the alleged incident or conduct
  - alleged policy violation including the identification of prohibited ground(s) under the *Code*, if applicable
  - description of the event or situation giving rise to the complaint
  - description of other proceedings underway
  - resolution sought.
- Managers who are responsible for the work area referred to in the complaint must exercise authority to appropriately enforce the policy and manage the work environment when a complaint has been filed.

### Preliminary Assessment

- A preliminary assessment must be completed by the WDHP advisor (or where applicable, the next level manager not involved in the complaint) within 15 working days of a complaint being filed or being advised of issues or allegations related to this policy. Every effort must be made to complete the preliminary assessment as quickly as possible.
- WDHP advisors must recommend a resolution mechanism or other appropriate actions to the manager based on the results of the preliminary assessment. Resolution mechanisms include:
  - direct management action
  - alternate dispute resolution (ADR)
  - investigation.
- Managers must determine which resolution mechanism to pursue or another appropriate course of action, taking into consideration the recommendation of the WDHP advisor.

## Resolution Mechanisms

### *Direct Management Action*

- When direct management action is determined by the responsible manager to be the appropriate resolution mechanism, taking into account the recommendation of the WDHP advisor, he or she must attempt to resolve the complaint or issue through appropriate action within 30 working days of the completion of the preliminary assessment. Direct management action may include remedial or disciplinary action in accordance with applicable collective agreement requirements or discipline policy requirements.
- Respondents must be given the opportunity to respond to allegations before remedial or disciplinary action is taken.

### *Alternate Dispute Resolution (ADR)*

- When ADR is determined by the responsible manager to be the appropriate resolution mechanism as a result of the preliminary assessment, he or she must seek the agreement of the complainant and the respondent within five working days of the completion of the preliminary assessment.
- ADR must only proceed with the expressed agreement of the complainant, respondent and manager responsible for addressing the complaint.
- A case must be assigned to an ADR resource within 15 working days of the parties agreeing to pursue ADR.
- ADR must be completed within 30 working days of the assignment of a complaint to an ADR resource.
- When ADR is not effective or appropriate, the manager must initiate an investigation or take direct management action to resolve the complaint.

### *Investigation*

Full and complete cooperation in the investigation of workplace discrimination or harassment is required when an internal or external investigation is determined by management to be the appropriate resolution mechanism as a result of the preliminary assessment.

- An investigation must be assigned to an internal resource or external investigator within 15 working days of management's decision that a complaint will be investigated.

#### Internal Investigation

- An internal investigation must be completed within 60 working days of assigning a complaint to an internal resource, unless there are extenuating circumstances.
- The manager responsible for deciding discipline resulting from internal investigations must decide on appropriate remedies, and notify the parties of the outcome of the internal investigation within 15 working days of the completion of the investigation.

#### External Investigation

- An external investigation must be completed, and a final report submitted, within 90 working days of assigning a complaint to an external investigator, unless there are extenuating circumstances. The responsible manager and/or applicable WDHP office must submit the final report to the deputy minister or the deputy minister's delegate.
- The deputy minister or the deputy minister's delegate must decide on appropriate remedies and notify the parties of the outcome of the external investigation within 30 working days of receiving the final report.
- In Commission public bodies, the final report is submitted to the CPB designated official. The CPB designated official, or the delegate of the CPB designated official, must decide on appropriate remedies and notify parties of the outcome, where authorized, within 30 working days of receiving the final report. Where the CPB designated official is not authorized to decide on a particular remedy, an authorized individual for that CPB must decide on the appropriate remedy and notify parties of the outcome within 30 working days of receiving the final report.

#### Workplace Restoration

- Managers must take appropriate steps to improve and/or restore work environments and work relationships affected by incidents or allegations of discrimination or harassment by employing workplace restoration strategies.
- Managers must review workplaces in which there were findings of discrimination or harassment at least six months after the conclusion of the complaint resolution process to determine whether additional workplace restoration strategies should be engaged.



## RESPONSIBILITIES

**Employees and other workers (where applicable)** are responsible for:

- complying with obligations under the *Code*, the *OHSA* and regulations, other relevant legislation, this policy and other policies, programs and procedures that support an inclusive, respectful workplace free from discrimination and harassment
- participating in education and awareness programs related to this policy
- telling alleged offenders, when possible, about unwelcome conduct or actions perceived to be harassing or discriminatory, and asking the respondent to stop
- reporting alleged policy violations they have witnessed or experienced to a management representative or WDHP advisor
- raising complaints under this policy within six months of the alleged incident unless there are compelling and extenuating circumstances
- following the complaint filing protocols outlined under this policy, and advising the responsible manager of related proceedings
- cooperating fully and completely in the investigation of workplace discrimination or harassment
- not threatening or retaliating against another employee or worker for exercising a right under this policy
- exercising rights under this policy in good faith
- meeting performance commitments associated with workplace discrimination and harassment prevention.

**Managers** are responsible for:

- complying with obligations under the *Code*, the *OHSA* and regulations, other relevant legislation, this policy and other policies, programs and procedures that support an inclusive, respectful workplace free from discrimination and harassment
- demonstrating and, as appropriate, clarifying the type of workplace behavior expected under this policy
- participating in mandatory education and/or training as outlined in this policy
- ensuring this policy is posted in a conspicuous place in the workplace

- informing employees and other workers that discrimination and harassment will not be tolerated
- informing employees and other workers of their rights and responsibilities under this policy, including ways in which incidents or allegations of discrimination and harassment can be resolved
- advising members of the public, including visitors to OPS facilities or individuals conducting business with the government that they are expected to refrain from discrimination or harassment of employees, other workers, and other members of the public when appropriate.
- monitoring and maintaining awareness of potential discrimination or harassment issues in the workplace and taking proactive steps to prevent or address these issues
- managing the process for resolving allegations of discrimination, harassment or other policy violations as soon as becoming aware of them, whether or not a complaint has been written; consulting with the WDHP Section, CEHSW, or the applicable MCSCS or CPB office, as appropriate
- taking appropriate action to resolve complaints within the timeframes outlined under this policy
- advising employees and other workers not to threaten or retaliate against a complainant, respondent or witness to a complaint if they become aware of an issue or complaint
- not threatening or retaliating against an employee or other worker for exercising a right under this policy
- declaring any potential conflict of interest in relation to an alleged violation of this policy when he or she may be perceived to be either condoning or directly involved with an alleged violation
- cooperating fully and completely with the WDHP Section, CEHSW or applicable MCSCS or CPB office, investigators, and alternate dispute resolution service providers including making witnesses available, upon request, and maintaining the strict confidentiality of information related to the complaint or allegation in accordance with this policy
- facilitating the restoration or improvement of workplaces disrupted by alleged policy violations, actual policy violations, or complaint resolutions
- meeting performance commitments associated with workplace discrimination and harassment prevention.

**Deputy Ministers and Chairs of Commission public bodies** are responsible for:

- providing leadership in fostering and sustaining inclusive, diverse, equitable, accessible and respectful workplaces free from discrimination and harassment through compliance with the *Code*, the *OHSA* and its regulations, other relevant legislation, this policy and other policies, programs and procedures
- applying and monitoring this policy and related policies and programs
- integrating discrimination and harassment prevention strategies into their ministry or CPB business plans by:
  - allocating funds and human resources to address local discrimination and harassment issues
  - developing strategies and priorities for ministry or CPB discrimination and harassment prevention programs if appropriate
  - evaluating and reporting on the effectiveness of the ministry's or CPB's discrimination and harassment prevention programs to HROntario, where applicable
- integrating discrimination and harassment prevention responsibilities in performance criteria for managers and employees, and holding accountable managers and others responsible for implementing this policy
- ensuring managers and employees and other workers receive information and instruction on this policy, including specific rights and responsibilities as outlined under this policy
- involving HROntario in ministry or CPB-based activities that may have public service-wide implications for managing discrimination and harassment issues
- receiving, reviewing and acting on reports arising from external investigations
- delegating appropriate authorities and responsibilities under this policy.

**Deputy Ministers' Delegates, CPB Designated Officials or delegates of CPB Designated Officials** are responsible for:

- acting on delegated authority to discipline an employee and carry out other functions under this policy
- receiving and reviewing reports arising from external investigations
- deciding on cases and appropriate remedies including discipline, when assigned
- ensuring effective implementation of settlements, remedies and corrective actions
- informing the deputy minister or chair of the policy breach and remedy applied.

**HROntario, Ministry of Government Services (MGS)** is responsible for:

- conducting the annual review of this policy
- ongoing monitoring of compliance with this policy and establishing reporting requirements
- developing and communicating corporate discrimination and harassment prevention policies, programs, guidelines, training and performance measurement tools to assist ministries in addressing discrimination and harassment issues
- interpreting this policy and providing expertise, advice, guidance, instructional materials and information to ministries and Commission public bodies on discrimination and harassment prevention programs, and the interpretation and application of relevant legislation, corporate policies and programs
- recommending policy improvements to Management Board of Cabinet, as appropriate
- coordinating the management of discrimination and harassment prevention issues that have enterprise-wide significance
- liaising with bargaining agents, as appropriate, on discrimination and harassment issues with enterprise-wide significance.

Within HROntario, MGS the **Centre for Employee Health, Safety and Wellness** is responsible for:

- providing discrimination and harassment complaint resolution and workplace restoration advisory services for all ministries except the Ministry of Community Safety and Correctional Services (MCSCS)
- leading the development of training and education programs for preventing and responding effectively to workplace discrimination and harassment issues
- supporting managers, employees and other workers where applicable through centralized case management
- providing advice and assistance to managers and human resource advisors in handling discrimination or harassment complaints
- leading the preliminary assessment of complaints in collaboration with managers and recommending appropriate resolution strategies and remedies
- providing advice and support to all parties (complainant, respondent witness, decision-maker, etc.) throughout the complaint resolution and workplace restoration process by answering questions, providing information on process and where to find appropriate resources
- managing applicable vendor of record agreements and providing orientation to vendors on the application of this policy
- overseeing investigations and reviewing draft WDHP investigation reports to ensure findings and conclusions are based on collected evidence and can withstand third-party scrutiny
- monitoring policy compliance by producing metrics and reports for senior management and providing quarterly reports to deputy ministers on complaints that are not resolved within nine months of the filing date.

**OPS Diversity Office** is responsible for:

- leading the development and implementation of education, awareness and culture change strategies and programs aimed at promoting and sustaining an inclusive, diverse, equitable and accessible work environment, free of discrimination and harassment, in collaboration with HROntario
- undertaking critical analyses of policy and program measures and workforce data on various dimensions of diversity (for example race, age, disability, sexual orientation etc.)
- assisting HROntario with the development, analysis and reporting of workplace discrimination and harassment prevention policy and program measures.

**Ministry of Community Safety and Correctional Services (including the Ontario Provincial Police) and Commission Public Body offices that provide internal complaint resolution and workplace restoration advisory services** are responsible for:

- supporting MCSCS or CPB managers and employees and other workers where applicable by developing proactive and responsive internal programs/strategies to prevent and respond effectively to workplace discrimination and harassment issues
- providing advice and assistance to managers and human resource advisors in handling discrimination or harassment complaints
- providing advice and support to all parties (complainant, respondent witness, decision-maker, etc.) throughout the complaint resolution and workplace restoration process by answering questions, providing information on process and where to find appropriate resources
- providing information and instruction on the content of this policy and associated programs
- overseeing investigations and reviewing draft WDHP investigation reports to ensure findings and conclusions are based on collected evidence and can withstand third-party scrutiny
- maintaining statistical information on WDHP complaint activity and reporting this information to the CEHSW, HROntario on a quarterly basis
- monitoring compliance of this policy and establishing internal reporting requirements
- providing quarterly reports to deputy ministers or chairs on complaints that are not resolved within nine months of the filing date
- liaising with the CEHSW and sharing best practices.

**Human Resource Advisors** are responsible for:

- providing general information to managers and employees about this policy and associated legislation
- referring managers, employees and other workers to the appropriate WDHP office (for example, WDHP Section, CEHSW)
- providing managers or discrimination and harassment advisors with human resource information that may be required to assist with complaint resolution.

**Strategic Business Units** are responsible for:

- supporting culture change and prevention management activities
- assisting managers in acting on ministry-specific data (for example, number and type of discrimination or harassment complaints)
- creating and implementing ministry-specific prevention or education strategies in collaboration with the Diversity Office and HR Ontario
- supporting deputy ministers and their delegates in the administration of this policy.

**Management Board of Cabinet** is responsible for:

- ensuring that this policy is reviewed annually by the Ministry of Government Services, and approving updates to this policy.

## DEFINITIONS

For purposes of this policy, and in accordance with the *Human Rights Code*, the *Occupational Health and Safety Act* and other legislation, these terms have the following meaning:

**Accessibility for Ontarians with Disabilities Act, 2005:** Ontario law intended to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises on or before January 1, 2025, by developing, implementing and enforcing accessibility standards.

**Annual Review:** review by the employer of its workplace harassment policy in compliance with section 32.0.1 of the *OHSA*.

**Alternate Dispute Resolution:** interest-based resolution process where, through mutual agreement, parties attempt to resolve disputes using a variety of approaches facilitated by a neutral individual.

**Commission public body designated official:** person prescribed under section 55 of *PSOA* to whom the Public Service Commission may delegate its *PSOA* powers and duties, or where no one is prescribed, the chair.

**Complainant:** person who alleges that he or she is a victim of discrimination or harassment.

**Diversity:** presence of a wide range of human qualities and attributes within a group or an organization including, but not limited to, age, gender, race, ethnicity, physical and intellectual ability, religion, sexual orientation, educational background, expertise, and experiences.

**Employee:** public servant appointed under Part III of the *PSOA*, 2006 (including Ministers' staff). For purposes of this policy, also refers to the Secretary of the Cabinet, deputy ministers and chairs of Commission public bodies.

**Hate activity:** comment or actions against a person or group motivated by bias, prejudice or hate based on race, ancestry, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, marital status, family status, sexual orientation or any other similar factor. Includes, but is not limited to, hate crime, hate propaganda, advocating genocide, telephone/electronic communications promoting hate, and the public display of hate through any notice, sign, symbol, emblem.

**Human Rights Code, R.S.O. 1990, c.H.19:** Ontario law that protects persons from employment-related discrimination and harassment based on prohibited grounds and recognizes the dignity and worth of every person.



**Investigation:** thorough, systematic attempt to learn the facts about a complaint under this policy to determine whether the policy has been violated.

**Manager:** individual to whom human resource management powers, duties or functions have been delegated, including hiring and terminating. In the case of Commission public bodies, includes the person to whom any of the PSC's powers, duties and functions has been delegated under subsection 44(4) of *Public Service of Ontario Act*, other than the deputy or a chair.

**Occupational Health and Safety Act R.S.O. 1990, c.0.1 and its regulations:** Ontario law that outlines legislative obligations to protect workers, roles and responsibilities for all parties, and penalties for unsafe working conditions and practices.

**Ontarians with Disabilities Act, 2001:** Ontario law that requires Ontario government ministries and public bodies to develop and make public annual accessibility plans that identify, remove and prevent barriers to accessibility in all aspects of the organization's operations including legislation, policies, programs, practices and services.

**Poisoned work environment:** negative, hostile or unpleasant workplace due to comments or conduct that tend to demean a group identified by one or more prohibited grounds under the *Human Rights Code*, even if not directed at a specific individual. A poisoned work environment may result from a serious and single event, remark or action.

**Preliminary assessment:** initial review of issues, allegations, or complaints under this policy to clarify details, consider whether there has been a potential policy violation, and determine appropriate resolution mechanisms or other actions.

**Prohibited (or protected) grounds:** personal attributes that are recognized as the targets of harassing and discriminatory actions under the *Code*.

**Respondent:** person alleged to have harassed or discriminated against the complainant.

**Sexual harassment:** course of comment or conduct based on sex or gender that is unwelcome or should be reasonably known to be unwelcome.

**Sexual solicitation and related reprisal:** solicitation or advance made by an employee in a position to confer, grant, or deny a benefit or advancement to another employee, where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by an employee in a position to confer, grant or deny a benefit or advancement.

**Worker:** has the same meaning as defined in s.1 of *Occupational Health and Safety Act* and means "a person who performs work or supplies services for monetary compensation but does not include an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program."

**Workplace:** has the same meaning as defined in s. 1 of *Occupational Health and Safety Act* and means "any land, premises, location or thing at, upon, in or near which a worker works."

**Workplace restoration:** promoting and/or restoring positive and respectful workplace relationships following a complaint of discrimination or harassment.

**Enquiries:**

All questions or requests for further information regarding this policy should be referred to:

HR Policy and Planning Branch  
HR Management and Corporate Policy Division  
HR Ontario, Ministry of Government Services  
Phone: 416-325-1188.

### Workplace Discrimination and Harassment Prevention Policy Revisions

Date	Revision	Page Reference
June 14, 2010	<b>Changes reflect compliance with Bill 168, <i>Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace)</i>, the proclamation of the <i>Public Service of Ontario Act, 2006</i> and results of 2009/10 WDHP policy review.</b>	
	• Policy statement added.	3
	• Purpose section revised.	3
	• Application and Scope section revised.	4
	• Service Delivery Model section added.	5
	• Members of the Public section added.	5
	• Definition of discrimination updated.	5
	• Definition of harassment updated to reflect <i>OHS</i> A amendment on workplace harassment.	5
	• Principles section revised.	6
	• Policy Violations section added (comparable information previously found under Application and Scope).	7
	• Prevention section revised.	8
	• Multiple Redress section deleted (relevant content moved to Application and Scope section).	4
	• Qualifications of Service Providers section removed.	n/a
	• Rules of Confidentiality and Privacy section renamed Confidentiality and Privacy and content updated.	9
	• Penalties section renamed Consequences for Policy Violation and content updated.	10
	• Timeframes section revised; some content transferred to Addressing Discrimination or Harassment Concerns section.	10
	• Measurement and Review section added.	11
	• Addressing Discrimination or Harassment Concerns section added including subsections for: management response, filing complaints, preliminary assessment, resolution mechanisms and workplace restoration.	11 - 15
	• Employee responsibilities revised and also includes responsibilities of 'other workers' where applicable.	16
	• Manager responsibilities revised.	16 - 17
	• Deputy Heads responsibilities section renamed Deputy Ministers and Chairs of Commission public bodies. Content of section revised and	18

Date	Revision	Page Reference
	includes responsibilities for chairs of Commission public bodies. Responsibilities include delegation of appropriate authorities and responsibilities.	
	<ul style="list-style-type: none"> <li>Deputy Ministers' Delegates and CPB Designated Officials section added.</li> </ul>	19
	<ul style="list-style-type: none"> <li>Ministry of Government Services responsibilities revised. HROntario identified.</li> </ul>	19
	<ul style="list-style-type: none"> <li>New responsibilities for the Centre for Employee Health, Safety and Wellness identified.</li> </ul>	20
	<ul style="list-style-type: none"> <li>New responsibilities for the OPS Diversity Office identified.</li> </ul>	21
	<ul style="list-style-type: none"> <li>New responsibilities for Ministry of Community Safety and Correctional Services and Commission public body offices identified.</li> </ul>	21
	<ul style="list-style-type: none"> <li>Human resource advisor responsibilities identified.</li> </ul>	22
	<ul style="list-style-type: none"> <li>New responsibilities for Strategic Business Units identified.</li> </ul>	22
	<ul style="list-style-type: none"> <li>Management Board of Cabinet responsibilities identified.</li> </ul>	22
	<ul style="list-style-type: none"> <li>New definitions added for <i>Accessibility for Ontarians with Disabilities Act</i>, annual review, Commission public body designated official, complainant, diversity, employee, hate activity, <i>Human Rights Code</i>, manager, <i>Occupational Health and Safety Act</i>, <i>Ontarians with Disabilities Act</i>, preliminary assessment, prohibited grounds, respondent, sexual solicitation and reprisal, worker, workplace, and workplace restoration.</li> </ul>	23 - 25
	<ul style="list-style-type: none"> <li>Revised definitions included for alternate dispute resolution, investigation, sexual harassment, discrimination (as noted above), and harassment (as noted above).</li> </ul>	23 - 24
	<ul style="list-style-type: none"> <li>Definitions for zero tolerance and employment accommodation omitted.</li> </ul>	n/a



# Human Rights Tribunal of Ontario

## Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

(Disponible en français)

[www.hrto.ca](http://www.hrto.ca)

### How to Respond to an Application Where You Are Named as a Respondent

Use this form if you have been named as a respondent in a human rights application under section 34 of the *Human Rights Code*.

If you fail to respond to the Application, you may be deemed to have accepted all of the allegations in the Application, and the Tribunal may proceed without further notice to you.

#### Before you start:

1. Read the questions and answers below.
2. Download and read the **Respondent's Guide** from the Tribunal's website [www.hrto.ca](http://www.hrto.ca). If you need a paper copy or accessible format contact us at:

Human Rights Tribunal of Ontario  
655 Bay Street, 14th floor  
Toronto, Ontario  
M7A 2A3

Phone: 416-326-1312 Toll-free: 1-866-598-0322  
Fax: 416-326-2199 Toll-free: 1-866-355-6099  
TTY: 416-326-2027 Toll-free: 1-866-607-1240  
Email: [hrto.registrar@ontario.ca](mailto:hrto.registrar@ontario.ca)  
Website: [www.hrto.ca](http://www.hrto.ca)

The Tribunal has other guides and practice directions to help all parties to an application understand the process. Download copies from the Tribunal's website or contact us.

3. Complete each section of the Response form that applies to you. As you fill out each section, refer to the instructions in the **Respondent's Guide**.

### Questions about Responding to an Application

The following questions and answers are provided for general information. They should not be taken as legal advice or a determination of how the Tribunal will decide any particular application.

#### What happens if I fail to complete a Response form?

You may be deemed to have accepted all the allegations. The Tribunal may deal with the Application without any further notice to you.

#### What is the time limit for responding?

Respondents must file a completed Response form no later than **thirty-five (35) days** after the Tribunal sends them a copy of the Application. The cover letter from the Tribunal gives you the exact date.

#### Are there defences to discrimination under the *Human Rights Code*?

Yes, there are some defences and exemptions in the *Code*. Please see the **Respondent's Guide**. If you believe one of these applies, please explain how when you fill out the Response form.



# Human Rights Tribunal of Ontario

## Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

### Can the Tribunal deal with an application where the facts and issues have been dealt with or are being dealt with in another proceeding?

The *Code* has special rules depending on what the other proceeding is and at what stage the other proceeding is at. Read the **Respondent's Guide** and get legal advice if:

1. You are currently involved in, or were previously involved in a civil action based on the same facts and the applicant asked for a human rights remedy; **or**
2. A complaint was ever filed with the Ontario Human Rights Commission based on the same subject matter; **or**
3. You are currently involved in, or were previously involved in another proceeding (for example, a union grievance) based on the same facts.

You must file a Response even if you believe that the Tribunal should defer the Application or that the Application is outside the jurisdiction of the Tribunal, except where you allege the issues in dispute fall within exclusive federal jurisdiction.

### Learn more

To find out more about human rights in Ontario, visit [www.ohrc.on.ca](http://www.ohrc.on.ca) or phone 1-800-387-9080.