

Cycle Toronto
Policy 2015-1: Violence, Harassment and Discrimination Policy

Effective date: Aug 18, 2015

Last revised: Aug 16, 2015

Preamble

Members of the Cycle Toronto community have a right to enjoy an environment that is free from violence, harassment, and discrimination.

The *Occupational Health and Safety Act* (“OHS”) sets out roles and responsibilities for workplace parties with respect to workplace violence and workplace harassment, including developing and implementing policies and programs.

The Ontario *Human Rights Code* (“Code”) protects the rights of persons to “equal treatment with respect to employment,” including, for example, freedom from discrimination on prohibited grounds in the context of recruitment, promotions, dismissals, rate of pay, benefits, performance evaluations and discipline. The Code also guarantees the right to equal treatment with respect to goods and services.

Application

This policy applies to all Cycle Toronto locations, permanent and temporary. Temporary locations include, but are not limited to, areas where the following activities occur: Cycle Toronto-sponsored outreach, fundraising, education, training, events, and social activities.

This policy applies to members of the Board of Directors (the “Board”), employees, students/interns, volunteers, visitors, and third parties involved in Cycle Toronto business, activities, and social events.

Should a non-employee act in breach of this policy, Cycle Toronto will - to the extent it is possible - take reasonable steps to remedy the breach or prevent further misconduct.

For the purposes of this policy “Manager” refers to the Executive Director, or any employee who acts as manager or supervisor of other employees or volunteers.

Reporting

Cycle Toronto is committed to investigating and dealing with all incidents and complaints of violence, harassment, solicitation, and discrimination in a timely and fair manner, respecting the privacy of all concerned to the extent possible.

Complaints by employees may be directed to any of the following personnel: a manager, the Executive Director or the President or Chair of the Board. Upon receipt of a complaint, a

manager must advise the Executive Director, or if he or she is the subject, the President or Chair of the Board.

Complaints by Directors may be directed to the President or Chair of the Board.

Complaints by or in respect of volunteers or third parties dealing with Cycle Toronto may be directed to the Executive Director or the President or Chair of the Board.

The following is a useful guide for preparing a written complaint:

- when did it happen?
- where did it happen?
- who is/are the alleged perpetrator(s)?
- what are the details of the discrimination, harassment and/or solicitation?
- who was present at the time of the incident?
- who, if anyone, witnessed the incident?

A complainant need not be the direct subject of violence, harassment or discrimination, and all members of the Cycle Toronto community are encouraged to report incidents immediately.

Cycle Toronto may be unable to investigate a complaint received more than one (1) year after the conduct in issue. Complainants are encouraged to act promptly to report any suspected breach of this policy. However, a report submitted in bad faith or frivolously may be subject to discipline or appropriate recourse, including termination of the relationship with Cycle Toronto. Note that an unfounded complainant is not necessarily a complaint made frivolously or in bad faith.

Investigation

Depending on the nature of the complaint and the persons implicated, the Executive Director or Board of Directors may conduct the investigation or delegate the responsibility to an individual, including, if appropriate, an outside investigator.

The investigation shall be conducted independently, promptly and on a need-to-know basis. The respondent in any complaint shall be given an opportunity to respond to the allegations against him or her during the investigations' fact-finding stage. The investigator shall consider the input of the complaint as to an appropriate remedy, but is not bound by such. The investigator shall take written notes of interviews with witnesses.

Witnesses are expected to fully and honestly cooperate and to maintain confidentiality.

Decision

At the end of the investigation, the investigator shall make a recommendation to a panel of two members of the Board of Directors, or the designates of the Board, and the Executive Director, unless he or she is implicated by or a key witness in the complaint, in which case the third

member shall be another Board member or his or her designate. The panel shall make a final determination regarding the complaint and take steps to ensure an appropriate resolution in all the circumstances.

The Executive Director shall be responsible for retaining all documents relating to a complaint and its investigation in a secure and confidential location for at least three (3) years.

Policy

OCCUPATIONAL HEALTH AND SAFETY

Cycle Toronto is committed to protecting employees from injury and occupational illness. All employees must be dedicated to reducing risks, and must consider health and safety in every activity.

The **Board of Directors**, as employer, and the Executive Director, as its designate, are ultimately responsible for worker health and safety. Every reasonable effort will be made to ensure the protection of workers and to provide a safe, healthy work environment.

Managers will be held accountable for the health and safety of workers under their supervision. Managers are responsible to ensure that machinery and equipment are safe and that workers work in compliance with established safe work practices and procedures. Workers must be advised of work hazards and must receive adequate training in their specific work tasks to protect their health and safety.

Employees must take responsibility for personal health & safety insofar as they are able. Employees must work in compliance with the *OHS*A and regulations and with safe work practices and procedures established by Cycle Toronto. Employees must also report to their supervisor any workplace hazards and violations of the *OHS*A.

WORKPLACE VIOLENCE

Cycle Toronto is committed to the prevention of workplace violence. Cycle Toronto shall take whatever steps are reasonable to protect its employees from workplace violence from all sources. Cycle Toronto does not tolerate violence or unacceptable behaviour in the workplace perpetrated by or against Board members, employees, students/interns, volunteers, visitors, or third parties. For the purposes of this policy, violence includes but is not limited to:

- a) physical acts (e.g., hitting, shoving, pushing, kicking, sexual assault);
- b) any threat, behaviour or action which is interpreted to carry the potential to harm or endanger the safety of others, result in an act of aggression, or destroy or damage property;
- c) disruptive behaviour that is not appropriate to the work environment (e.g., yelling, swearing).

Acts of violence may occur as a single event or may involve a continuing series of incidents. Abuse in any form erodes the mutual trust and confidence that are essential to Cycle Toronto's operational effectiveness.

Under the *OHSA*, **domestic violence** refers to situations in which a person who has a personal relationship with a worker – such as a spouse or former spouse, current or former intimate partner or a family member – physically harms, or attempt or threaten to physically harm that worker at work. ***In these situations, domestic violence is considered workplace violence.***

WORKPLACE HARASSMENT AND DISCRIMINATION

Cycle Toronto is committed to providing a work environment in which all individuals are treated with respect and dignity. This policy is not intended to limit or constrain the reasonable exercise of management functions in the workplace.

Cycle Toronto will not tolerate harassment or discrimination in the workplace perpetrated by or against Board members, employees, students/interns, volunteers, visitors, or third parties. Everyone in the workplace must be dedicated to preventing workplace harassment and discrimination.

Harassment

"Harassment" means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. It may or may not be discriminatory. Management is not harassment.

Harassment in the workplace includes any verbal, written or physical behaviour or conduct that is offensive, threatening, intimidating, abusive or belittling in nature and that is unwelcome, unreciprocated and uninvited. Without limiting the generality of the foregoing, the following are examples of workplace harassment:

- Making gestures that imitate any person's physical disability;
- Making derogatory remarks about a person's physical appearance, manner of dress/cultural expression, shape, size, etc.;
- Making fun by words or conduct about another person's colour, race, origin, culture, costume, food, accent, etc.;
- Making disparaging remarks about a religion;
- Making negative remarks about a person's sexuality, sexual orientation, or gender identity;
- Sexist, racist, homophobic or otherwise inappropriate jokes, innuendos and teasing;
- Insulting gestures and practical jokes which result in embarrassment;
- Spreading rumours that damage one's reputation;
- Persistent unfounded criticism of a person;
- Belittling a person's opinions;
- Outbursts or displays of anger directed at others;
- Public ridicule;
- Misuse of power or authority; and
- Tampering with a person's personal belongings or work equipment.

Generally, a pattern of behaviour is required for a finding of harassment to be made. However, depending upon the severity and impact of the behaviour, a single significant incident may constitute harassment, if it is found to be sufficiently offensive, threatening or intimidating.

Harassment may also (but does not necessarily) relate to a form of discrimination as set out in the Ontario Human Rights Code. Notably, harassment includes sexual and gender-based harassment, including for example only and without limitation:

- demanding hugs;
- invading personal space;
- unnecessary physical contact, including unwanted touching, etc.;
- derogatory language and/or comments toward women (or men, depending on the circumstances), sex-specific derogatory names;
- leering or inappropriate staring;
- gender-related comment about a person's physical characteristics or mannerisms;
- comments or conduct relating to a person's perceived non-conformity with a sex-role stereotype;
- displaying or circulating pornography, sexual pictures or cartoons, sexually explicit graffiti, or other sexual images (including online);
- sexual jokes, including circulating written sexual jokes (e.g., by email);
- rough and vulgar humour or language related to gender;
- sexual or gender-related comment or conduct used to bully a person;
- spreading sexual rumours (including online);
- suggestive or offensive remarks or innuendo about members of a specific gender;
- propositions of physical intimacy;
- gender-related verbal abuse, threats, or taunting;
- bragging about sexual prowess;
- demanding dates or sexual favours;
- questions or discussions about sexual activities;
- requiring an employee to dress in a sexualized or gender-specific way;
- paternalistic behaviour based on gender which a person feels undermines their status or position of responsibility; and
- threats to penalize or otherwise punish a person who refuses to comply with sexual advances (known as reprisal).

Sexual Solicitation

The *Code* establishes a person's right to be free from unwelcome sexual advances or solicitation from a person who is in a position to grant or deny a benefit. The phrase "sexual solicitation" includes sexual solicitation, sexual advances and/or reprisals for rejection of unwanted sexual attention. Reprisal may include denial of a benefit or advancement that was sought or could go further to include, for example, termination of employment or withdrawal of volunteer opportunities.

Solicitation in the *Code* is limited to situations where the alleged perpetrator is "a person in a position to confer, grant or deny a benefit or advancement to..." another person. Under the

Code, a perpetrator may be a Board member, Executive Director, management-level employee or a supervisory employee where the solicitation is made to a subordinate employee, a volunteer or a member seeking a service.

Under certain circumstances, unwelcome co-worker / peer solicitation may also be interpreted to amount to personal harassment even though a “peer” might not appear to be in a position to explicitly grant or deny a benefit.

Examples of “tit for tat” (*quid pro quo*) solicitation include, but are not limited to offering a subordinate employee a promotion, professional advancement opportunity, paid leave, reduction in workload, positive job evaluation, salary increase, or recommendation. “Tit for tat” solicitation also includes volunteer-staff relations, such as offering a volunteer a positive written testimonial or a recommendation for a volunteer award.

Discrimination

Discrimination means treating a person or group differently, to their disadvantage and without valid reason, on the basis of grounds called “protected characteristics.”

Protected characteristics as outlined under the Ontario Human Rights Code include: citizenship, race, place of origin, ethnic origin, colour, ancestry, disability, age, creed, sex, pregnancy, family status, marital status, sexual orientation, gender identity, gender expression, receipt of public assistance and record of offence.¹ This is not an exhaustive list of all equity-seeking groups; this policy therefore implicitly prohibits discrimination that is based on other group stereotypes rather than on individual merit or that otherwise disadvantages members of equity-seeking groups.

Discrimination can result from action or inaction. Discrimination may be intentional, unintentional and/or systemic. Intentional discriminatory treatment is deliberately designed to produce a disadvantageous result to a group or person based on protected grounds as outlined in this Policy. Unintentional discrimination describes an action (or inaction) which has a discriminatory impact that was unintended by the person who committed the act. A person’s intention is irrelevant in deciding whether or not an act amounts to discrimination. It is sufficient to objectively demonstrate a discriminatory impact.

Systemic discriminatory treatment results from the application of a seemingly neutral rule that disadvantages persons or groups identified by prohibited grounds. The test for discriminatory

¹ At Cycle Toronto we reserve the right to deny employment or volunteer positions to applicants who have a criminal record. The Canadian Human Rights Commission, in conjunction with the Ontario Human Rights Commission, permits discrimination in the provision of employment or volunteer positions on the basis of a criminal record, where the type of employment or volunteer position is sensitive and the position has a bona fide necessity for security purposes, provided that a pardon has not been granted under the Criminal Records Act.

treatment is whether a group or person in that group has had a disadvantageous result arising from intentional actions or the apparently neutral application of a rule.

Discrimination also includes:

- Intersecting grounds; that is, treating people differently on more than one protected characteristic;
- Discrimination on the basis of association; that is, treating people differently because a friend or family member identifies with a protected characteristic;
- Perceived grounds; that is, treating people differently because of a belief that they identify with a protected characteristic, when in fact, they do not.

Examples of discrimination include, but are not limited to:

- intentional, unintentional or systemic exclusion of employees from promotion based on a protected characteristic;
- volunteer/employee selection practices that intentionally or systemically exclude persons belonging to the above groups;
- assumptions made about members' needs based on stereotypical group characteristics that have a disadvantageous result; and
- negative, discourteous treatment of a member/volunteer/student/employee on protected characteristics outlined in this Policy.

Individuals are encouraged to report any incidents of workplace harassment, solicitation or discrimination using the procedure established by this policy. **All complaints concerning workplace harassment, or discrimination, as well as the names of the parties involved, shall be treated as confidential.** While the investigation into a complaint may require limited disclosure, no record of the complaint will be maintained on the personnel file of the complainant, where one exists.

Reprisal against individuals making complaints

Reprisal is defined as any act of retaliation, either direct or indirect. This policy prohibits reprisals against individuals, acting in good faith, who report incidents of workplace violence or participate in the investigation process. Cycle Toronto will take all reasonable and practical measures to prevent reprisals, threats of reprisal or further harassment, discrimination, or violence.

REMEDIES

All disputes reported in accordance with this policy will be promptly investigated and addressed in accordance with the procedures outlined in this document, other relevant Cycle Toronto policies and procedures, and any relevant legislation.

The resolution of a complaint made under this policy may involve remedies including:

- involvement of police if there has been an alleged incident of violence or criminal harassment;
- involvement of civil authorities in the case where there has been an alleged violation of the *Human Rights Code*, *Occupational Health and Safety Act*, or related regulations;
- invocation of provisions in Cycle Toronto employment policies, in the case of staff;
- request for resignation on the part of a Board member;
- termination of Cycle Toronto membership; and/or
- termination of volunteer duties on the part of a volunteer

Filing a claim with the Human Rights Tribunal of Ontario or any similar agency shall not preclude the use of this policy and its procedures and vice versa.

This policy shall be made available and updated from time to time on Cycle Toronto's website, including current contact information for the Cycle Toronto office and the Board President.

ROLES AND RESPONSIBILITIES

Board of Directors

The **Board of Directors**, as employer, and the Executive Director, as its designate, are ultimately responsible for worker health and safety. To this end, they will ensure that this policy and the supporting procedures are implemented and maintained and that all employees and managers have the appropriate information and instruction to protect them from violence, harassment, and discrimination in the workplace. Every reasonable effort will be made to ensure the protection of workers and volunteers and to provide a safe, healthy work environment.

Managers

Generally, the Managerial staff of Cycle Toronto will ensure that measures and procedures are followed by employees and that employees have the information that they need to protect themselves. Specifically, the Managerial staff of **Cycle Toronto** is responsible for:

Ensuring that workers work in a manner and with the protective devices, measures and procedures required by the *Ontario Occupational Health and Safety Act* and associated regulations.

Ensuring that workers wear and use protective equipment, devices and/or clothing and have access to fit-testing for this equipment (e.g., respirators) that is required to be worn/used.

Advising workers of the existence or any potential or actual danger to the health and safety of the worker of which the manager is aware.

Where required, providing a worker with written instructions as to the measures and procedures to be taken for the protection of the worker.

Taking every precaution reasonable in the circumstances for the protection of the worker.

Putting in place 1) measures to protect employees and volunteers from workplace violence, 2) a mechanism for summoning immediate assistance and 3) a process for employees, volunteers, and third parties to report incidents or raise concerns.

Ensuring that the health and safety policies and procedures are communicated to employees and volunteers during their orientation.

Ensuring that employees work in a safe and healthy manner using the prescribed measures and procedures, and protective devices and that the necessary equipment, materials and protective devices required will be provided and maintained in good condition.

Ensuring that this policy is posted and maintained on the Cycle Toronto website.

Ensuring that the continuous improvement in health and safety is the highest priority.

Employees/Contractors

Employees/contractors of **Cycle Toronto** are responsible for:

Working in compliance with the Ontario *Occupational Health and Safety Act* (R.S.O. 1990 c.0.1.) and associated regulations.

Using and wearing the protective equipment devices or clothing that is required to be worn.

Reporting to the manager the absence or defect in any equipment or protective device of which the worker is aware and which may endanger himself/herself or any other worker.

Reporting to the manager any contravention of the Ontario *Occupational Health and Safety Act* and associated regulations or the existence of any hazard of which he/she is aware.

Reporting to the manager any concerns about workplace violence, including any violent incidents or threats.

Actively participating in the identification of workplace hazards with the aim of continuously improving the work environment.

Ensuring their familiarity with the health and safety program.

In addition, no worker shall:

Remove or make ineffective any protective device required by the regulations or by the employer, without providing an adequate temporary protective device and when the need for removing the protective device has ceased, the protective device shall be replaced immediately.

Use or operate any equipment machine device or thing or work in a manner that may endanger himself/herself or any other worker.

Engage in any prank, contest, feat of strength, etc., unnecessary running or rough and boisterous conduct.

Policy Review

This policy shall be reviewed annually by the Board of Directors.

ACKNOWLEDGEMENT

I (name) _____ have read, understood and accept the terms of this policy (2015-1) as set out above, and have had the opportunity to seek clarification of any of its terms.

I agree to abide by its terms and seek clarification in the future if any is needed. I understand that this document may be provided to me upon request at any time from management or the Board of Directors.

NAME (Print Here, Sign Above):

DATE