



Canada's LGBTQ2+ Archives

## Workplace Harassment Policy A003 V.02

### Purpose

The purpose of the Workplace Harassment Policy is to present a high level policy statement for The ArQuives regarding workplace harassment at The ArQuives based on Bill 168 amendments to Occupational Health and Safety Amendment Act. This policy will assist The ArQuives in fulfilling all aspects of its mandate to provide a safe workplace for all volunteers and staff. This policy outlines the commitment, principles, and procedures that The ArQuives will follow with respect to preventing and stopping harassment in the workplace.

### Scope

This policy and related procedure applies to all volunteers and staff members of The ArQuives who act on behalf of The ArQuives in carrying out their roles and responsibilities. Locations and situations covered by this policy include, but are not limited to:

- The ArQuives offices and worksites under the jurisdiction of The ArQuives
- Social functions sanctioned by or under the jurisdiction of The ArQuives whether held at organizations offices, facilities, or at other locations approved by The ArQuives
- Work-related travel outside of organization facilities
- Incidents which occur outside the workplace but have negative repercussions at work or adversely affect working relationships
- Harassment that occurs by electronic means (email, telephone, social media, voice mail, internet, or fax) or written communication
- Any other locations or events where the organization business, operations, or social functions are carried out.

This policy also protects staff from workplace harassment by those individuals whom staff may contact in the course of their job duties. These include, but are not limited to, staff, volunteers, the public, and those who supply goods and services to The ArQuives.

### Definitions

**Allegation:** An allegation is an unproven assertion or statement based on a person's perception.

**Complainant:** The person alleging that discrimination or harassment occurred. There can be more than one complainant in a human rights complaint.

**Criminal Actions:** Criminal actions include, but are not limited to, the following behaviour:

1. The displaying of hate-based graffiti or pornography (outside of an archival, historical context).
2. The transmission or storing of electronic telecommunications that incite hatred and violence or that constitute pornography (outside of an archival, historical context).
3. The displaying of symbols or emblems (including clothing) that suggest racial supremacy and/or incite hatred and violence.
4. Stalking (persistently pursuing a particular individual although the advances are clearly unwelcome).
5. Sexual assault or threat of sexual assault.
6. Threats against an individual or their loved ones or family.
7. Extortion.
8. Physical assault or threats of physical assault.

**Public:** For the purpose of this policy, clients, users, researchers, and the general public will be referred to as “the public.”

**Volunteer:** A volunteer is anyone who without compensation or expectation of compensation beyond reimbursement performs a task at the direction of and on behalf of The ArQuives. For the purpose of this policy, interns will be referred to as “volunteers.”

**Staff:** A staff member is anyone who is a paid full-time, part-time, probationary, temporary, or casual worker.

**Reprisal:** Reprisal refers to a negative action or omission against staff/volunteer/intern who:

- Invokes this Policy, whether on behalf of oneself or another individual;
- Participates or co-operates in any inquiry under this policy;
- Associates with a person who has invoked this Policy or participated in its procedures; and/or
- Performs a legitimate role under this Policy.

**Workplace:** Workplace refers to any land, premises, location or thing at, upon, in or near which a worker works. A workplace could be a building, construction site, vehicle, open field, or road.

**Workplace Harassment:** For the purpose of this policy, workplace harassment means engaging in a course of vexatious comment or conduct against an individual in the workplace, that is known, or ought reasonably to be known, to be unwelcome. This includes comments or actions in the workplace which negatively affect working relationships or productivity or create a poisoned work environment.

Workplace harassment includes psychological or personal harassment and bullying, as well as comments and conduct prohibited under the grounds stipulated in the *Ontario Human Rights Code*. Harassment may occur as one incident, or a series of incidents, involving unwelcome comments or conduct.

Examples of harassing behaviour include but are not limited to:

- Verbal abuse or inappropriate displays of anger;
- Bullying behaviour;
- Comments or actions which constitute harassment or discrimination under the *Ontario Human Rights Code* including, but not limited to, sexual harassment and harassment based on race, religion, ethnic background, nationality, gender expression and/or identity, or disability;
- The display, circulation, or electronic transmission of pornographic, racist or other offensive or derogatory text or pictures outside of an archival, historical context;
- Intentional or repeated misgendering;
- Conduct which interferes with a person's work performance or creates an intimidating, hostile or offensive work environment;
- Unfounded complaints which are made in bad faith, in reprisal, frivolously or with malicious intent;
- Interfering with a workplace violence or harassment investigation; intimidating a complainant, respondent or witness; or influencing a person to give false or misleading information;
- Reprisal as defined in this policy;
- Any other inappropriate, negative, disrespectful, or unprofessional treatment of others; and/or
- Failure of supervisors, in keeping with their authority, to respond in accordance with this policy to interpersonal misconduct or allegations of discrimination or harassment. Such failure may be considered as condoning such behaviour and therefore a violation of this policy.

**Workplace Sexual harassment:** The Occupational Health and Safety Act defines workplace sexual harassment as: engaging in a course of vexatious comment or conduct against a worker, in a workplace because of sex, sexual orientation, gender identity or gender expression where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or making a sexual solicitation or advance where the person making it 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 the solicitation or advance is unwelcome.

The comments or conduct typically happen more than once, although a single unwelcome solicitation or advance from a manager, supervisor, or another person who has the power to reward or punish the worker may constitute workplace sexual harassment. Multiple events can occur over a relatively short period of time or over a longer period.

Workplace sexual harassment may include:

- asking questions, talking, or writing about sexual activities;
- rough or vulgar humour or language related to sexuality, sexual orientation or gender;

- displaying or circulating pornography, sexual images, or offensive sexual jokes in print or electronic form;
- leering or inappropriate staring;
- invading personal space;
- unnecessary physical contact, including inappropriate touching;
- demanding hugs, dates, or sexual favours;
- making gender-related comments about someone's physical characteristics, mannerisms, or conformity to sex-role stereotypes;
- verbally abusing, threatening or taunting someone based on gender or sexual orientation; or
- threatening to penalize or otherwise punish a worker if they refuse a sexual advance.

**Zero Tolerance Policy:** Complete lack of tolerance for, or non-acceptance of, abusive, anti-social, or criminal behaviour. Including a stated policy of non-acceptance with regard to a specified situation, activity, substance, etc.

### **Institutional Responsibility**

The Executive Director will:

1. Establish procedures to effectively address alleged instances of workplace harassment.
2. Provide all staff and volunteers with training and/or information regarding this policy.
3. Monitor the organization's compliance with this policy and related procedures.
4. Review this policy to ensure that it is current and effective.
5. Foster a harassment-free workplace.
6. Maintain confidentiality in the investigation process.

The Board of Directors will:

1. Model respectful behaviour in the workplace.
2. Ensure that staff under their supervision receive adequate information and training on this policy.
3. Report any incidents or potential for harassment to the Executive Director.
4. Investigate all aspects of any reported instances of harassment in conjunction with the Executive Director in a timely manner.

All staff and volunteers will:

1. Familiarize themselves with this policy.
2. Attend any training related to this policy.
3. Ask the Executive Director for clarification on this policy if they have questions.
4. Help promote a harassment-free workplace.
5. Refrain from workplace harassment as defined in this policy.
6. Immediately report instances of actual or potential workplace harassment, whether directly experienced or witnessed, to the Executive Director.

## Policy

1. The ArQuives recognizes that every person possesses basic human rights including the right to respect, dignity, and protection from all forms of harassment. The ArQuives will adhere to the spirit and intent of all applicable legislation governing workplace harassment including, but not limited to, the Ontario Human Rights Code and the Occupational Health and Safety Act.
2. The ArQuives is committed to maintaining a workplace where all staff and volunteers are treated with dignity and respect. The ArQuives will have zero tolerance of any form of harassment towards its staff and volunteers.
3. This policy does not prohibit management staff from carrying out functions which fall within their rights and responsibilities, provided this is done in an appropriate, professional manner which does not constitute an abuse of power. Such functions include, but are not limited to, conducting performance appraisals, addressing performance and conduct issues, delegating work assignments, and determining work locations and schedules for staff.
4. Any violation of this policy will be subject to disciplinary action up to, and including termination.
5. The ArQuives recognizes that preventative measures are key to stopping workplace harassment before it happens. This is done by having a clear policy statement. Additionally, it is The ArQuives' policy that all staff and volunteers sign a Code of Conduct. New staff members review all policies and procedures before starting their position. All employees are required to indicate acceptance with this and other policies. This acknowledgement will be recorded in the employee files held by the Executive Director.
6. A copy of this policy and accompanying procedures will be kept in The ArQuives front office where it is easily accessible to all staff and volunteers. A digital PDF copy of the policy and procedures will be stored on the main server for The ArQuives which is also accessible to staff and volunteers.
7. Where there is a conflict between individuals, please refer to The ArQuives' A022 Conflict Resolution Policy for guidance to help resolve the matter before it escalates.
8. The ArQuives may use alternative dispute resolution measures such as mediation, conflict resolution, or training for resolving complaints of workplace harassment.
9. Reports and complaints of workplace harassment will be received and investigated in a confidential manner. The names will not be disclosed to any person except where disclosure is necessary to protect individuals, to investigate the complaint or incident, to take corrective action, or as required by law.
10. Staff or volunteers who make legitimate complaints of harassment in good faith will not have their employment affected in any adverse manner.
11. Nothing in this Policy will be deemed to limit the right of an employee or volunteer to make a complaint or seek assistance or advice from a provincial and territorial Human Rights Commission, Tribunal, or other external parties.
12. When the conduct involves, or may involve criminal activity, The ArQuives reserves the right to report the incident to the police.
13. The ArQuives staff and volunteers have the right to refuse work if they feel that that workplace violence will endanger them.

14. Confidentiality will be maintained at all times except where the disclosure of names is necessary for the purpose of investigating the complaint, when taking any action in relation to the complaint, or where disclosure is required by law.
15. Reprisal against an individual who has filed a complaint in good faith or who has been named as a witness or respondent in a complaint, whether or not the complaint was substantiated and whether or not the complaint was resolved through any of the procedures set out in this policy, may itself become an incident of workplace harassment and could result in disciplinary action being taken by The ArQuives.

## **Procedures**

Any person who feels that they have experienced workplace harassment may take the necessary steps to file a complaint under this policy, or initiate proceedings, without prejudice or fear of reprisal. If you believe that you have been subjected to workplace harassment:

### **Step 1:**

1. Ask the person to stop. This should be done as soon as the person experiences any form of unwelcome comments or conduct. If the person is a staff or volunteer, please follow the Policy laid out in A022 Conflict Resolution Policy.
2. If you are not comfortable with approaching the person, then the concern should be brought to the attention of the Executive Director. If the conflict involves the Executive Director, then the concern should be brought to the attention of the President of the Board of Directors. If the conflict involves a member of the public, please contact the Executive Director.
3. If you are in immediate danger and you are concerned about your safety, remove yourself from the situation as quickly as possible and call 911. Alert a supervisor as soon as it is possible to do so safely.
4. Keep a record of the incident(s) including dates, location, witnesses, your response to the individual and any other pertinent information.

### **Step 2:**

If the violent or harassing behaviour does not stop, bring the complaint immediately to the Executive Director or designate attention. Any formal written complaint filed by an staff or volunteer must contain:

1. Name(s) of the respondent(s) to the complaint
2. The date or dates of the incident(s)
3. Location(s) of the incident(s)
4. Details of the incident(s)
5. Names of any witnesses

The Executive Directors' or designates' will then address the issue with the alleged offender as the next step in the process.

**Step 3:**

1. The Executive Director will review the written complaint and may determine that an investigation is warranted if there is sufficient evidence to indicate that harassment has occurred. Effective temporary measures will be implemented to protect the victim, if necessary.
2. The complainant will be advised that the respondent has a right to know who is making allegations against them and will be provided with a copy of the written complaint for their response.
3. If criminal actions are alleged, witnessed, or found to have occurred, the Executive Director or designate will contact the Police immediately.
4. Whether or not a formal complaint is filed, the Executive Director may choose to proceed with an investigation if it appears that applicable legislation and/or the policy has been violated.

**Formal Investigation Procedure**

1. The Executive Director or designate will undertake an investigation immediately and all necessary steps will be taken to resolve the problem.
2. Individual interviews with the complainant, the respondent, and any witnesses will be held. Those involved can bring one support person with them into the meetings.
3. If the investigation reveals evidence to support the complaint of workplace violence or harassment, appropriate measures will be taken. These may include disciplinary action up to and including termination.
4. If the respondent is disciplined, the incident will be documented and filed in their personnel file in accordance with documentation procedures.
5. If the investigation fails to find evidence to support the complaint, no documentation will be placed in the parties' personal files.
6. If resolution is not achieved, you may still exercise your rights under the *Ontario Human Rights Code* or the *Occupational Health and Safety Act* as appropriate.
7. Where the complaint is determined to be abusive, frivolous, vindictive, or made in bad faith, the organization will take appropriate action towards the complainant, which may include discipline.

**Suspension and Dismissal**

1. When a claim of workplace harassment is found the Executive Director or designate will inform the Board immediately. The Executive Director or designate is authorized to suspend staff or volunteers by letter immediately. A written report must be submitted to the President of the Board within 24 hours of the suspension.
2. If a decision to dismiss a staff or volunteer is made after a suspension, it shall be fully documented by the Executive Director or designate and be communicated to the employee both verbally and in writing. The decision will be filed in the employee or volunteer personnel file.

**References:**

1. Occupational Health & Safety Act, PartIII.0.1 Violence and Harassment
2. Ontario Human Rights Code
3. Questions and answers about gender identity and pronouns  
<http://www.ohrc.on.ca/en/questions-and-answers-about-gender-identity-and-pronouns>

**Amendment, Modification or Variation**

This Policy may be amended, varied, or modified in writing after consultation and agreement by The ArQuives Executive Director and Board of Directors. The Executive Director shall be responsible for making revisions to the policy every 3 years, or with greater or lesser frequency as warranted. This review process seeks to correct any oversights in previous terms of reference, and to account for new circumstances that have arisen since the last review.

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