

# AMAPCEO Submission to the OPS Inclusive Workplace Policy and Program Review

## 1. Introduction

AMAPCEO appreciates the opportunity to provide feedback on the OPS Inclusive Workplace Policy and Program Review. This submission responds to the third-party vendor's consultation documents and has been informed by feedback gathered from the AMAPCEO Equity Committee.

The OPS Inclusive Workplace Policy and Program Review is primarily focused on the Respectful Workplace Policy, the Workplace Discrimination and Harassment Prevention (WDHP) program, and the Policy on Preventing Barriers in Employment (PPBE). The Review's secondary focus is on the OPS Anti-Racism Policy and the Disability Accommodation Policy.

As such, AMAPCEO's submissions are focused on providing recommendations for updates to those policies that would enable the OPS to effectively address systemic discrimination and harassment and create and sustain respectful workplaces.

## 2. General Comments

### *What is working*

The AMAPCEO Equity Committee identified some examples of positive actions that the OPS has taken to address discrimination and harassment:

- Acknowledgement from OPS senior executives that systemic discrimination and harassment exist within the OPS and explicit commitments to take action to make the OPS more inclusive.
- Human resources policies that aspire to promote and sustain positive, inclusive and supportive workplaces, such as the Anti-Racism Policy and the Disability Accommodation Policy.

- OPS employee networks for members of equity-seeking groups, such as the OPS Pride Network, Nation to Nation, and the Black Ontario Public Service Employees Network (BOPsers), which provide a space and forum for discussing equity-related issues, increasing visibility and building relationships.
- Training initiatives to raise awareness and increase knowledge of equity-related issues, such as mandatory training for managers on disability accommodation and workplace harassment and discrimination prevention. In particular, members of the AMAPCEO Equity Committee cited the Indigenous Cultural Competency Training, which is mandatory for all OPS employees, as a powerful example of equity-based training that strongly impacted them and raised their awareness of issues facing Indigenous persons in Canada.

### ***What is not working***

While these efforts are laudable, the OPS continues to struggle with creating and sustaining workplaces that are equitable, safe, and inclusive. From the perspective of the AMAPCEO Equity Committee, the OPS has not been able to translate the equity statements, policies and training into action and systemic change. There is wide-spread concern that existing policies have not been implemented stringently enough and are missing components that would enable the OPS to address the commitments contained within those policies. Concerns were raised in our discussions regarding the ways in which less visible forms of discrimination act as a barrier to mobility through the workforce ranks. Informal employee networks were cited as contributing to inequitable hiring practices, and eventually, discouragement and retention issues members of historically underrepresented communities. More specifically, members of AMAPCEO's Black caucus described the experience of Black employees in the OPS as being chronically subject to disproportionate managerial scrutiny and performance management. Again, this was described as negatively impacting employee morale, productivity, and career progression.

There is also serious concern that the OPS' efforts to create and sustain respectful workplaces are impeded by insufficient resourcing of these initiatives, and in particular, the WDHP program. Members noted a reluctance to make complaints under the program, citing a lack of trust in the overall scheme, and ongoing fear of reprisals against complainants. Unless the OPS provides employees with diversity and inclusion programs that are updated and appropriately funded, the policies will not be able to make the kinds of structural change necessary to address racism, discrimination, and exclusion in the public service, no matter how carefully they are written.

Another area of concern is the effectiveness of training, and ongoing adherence to training commitments. The *Respectful Workplaces Policy*, the *Policy on Preventing Barriers in Employment*, the *Anti-Racism Policy* and the *Disability Accommodation Policy* set out different types of mandatory training for different groups of employees. The AMAPCEO Equity Committee reported that despite mandatory training, some managers still do not appear to understand the principles and obligations contained in those policies. While the Equity Committee acknowledged the importance of ensuring managers understand the content of those policies, they also stated that managers required more

training on developing the core competencies of empathy, compassion, and self-awareness. Without these skills, managers will continue to struggle with applying inclusion and diversity policies in a meaningful and impactful way.

Below, we provide a set of recommendations for policy amendments aimed at addressing some of these concerns.

### **3. Recommendations**

#### ***i) Developing and Implementing an Intersectional Approach***

Intersectionality is a term that is used to describe how race, gender, ability, sexuality and other individual characteristics intersect with one another and overlap to create experiences of discrimination and privilege. For example:

- A Black and transgender OPS employee may experience both transphobia and anti-black racism when applying for management positions.
- An Indigenous OPS employee with disabilities may have specific cultural requirements as part of their accommodation needs for their medical disability.

The Equity Committee conveyed that in their experiences with the OPS' HR policies, including the PPBE, the *Respectful Workplaces Policy*, *Disability Accommodation Policy*, management and human resources staff did not adequately consider their experiences of intersectionality, or in some cases, they did not consider intersectionality at all. For example, when Black OPS employees seek accommodation for mental health disabilities under the *Disability Accommodation Policy*, management does not adequately consider the impact of racism on the employees' mental health and so does not also consider what changes may need to be implemented in the workplace in accordance with the *Anti-Racism Policy*. As a result, actions taken to address systemic discrimination and harassment are frequently limited to single facets of complex situations and so are incomplete and inadequate.

Notably, the PPBE, *Respectful Workplaces Policy* and the *Disability Accommodation Policy* are silent on intersectionality. However, the *Anti-Racism Policy* includes intersectionality as one of its principles:

7. 4 Intersectionality – Strategies and tactics to address systemic racism barriers in employment take into consideration that racism is experienced differently among various racialized groups, and within those groups, based on other dimensions of diversity including ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy), sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status, disability and language.

The intersections between the OPS human resources policies are themselves not always clear or adequately considered. There are many OPS human resources policies that all share the same goal of

fostering and sustaining a respectful workplace that is inclusive, diverse, equitable, accessible, and free from workplace harassment and discrimination. These policies include the *Respectful Workplaces Policy*, the PPBE, the Disability Accommodation Policy and the Anti-Racism Policy, which each address particular aspects of building respectful workplaces. While these policies share the same goal, their application to certain issues is not always clear, and where multiple policies may apply to the same situation, it is difficult to discern how those policies work together. For example:

- Section 6.5 of the *Anti-Racism Policy* states the policy does not apply to systemic employment barriers where race is not a factor and matters of individual racial discrimination and/or harassment.
- Section 7 of the *PPBE* states that managers must apply human resources management directives and policies in ways that prevent or mitigate systemic employment barriers.
- Section 8.1 of the *Respectful Workplaces Policy* provides workplace harassment includes the failure to offer effective or appropriate employment accommodation, short of undue hardship, in keeping with the *Code*, Disability Accommodation Policy, and other applicable legislation.

To maximize the impact of these policies, the OPS should provide additional training and resources to help management and employees understand how these policies intersect and how to apply multiple policies to issues, where warranted.

***Given the considerations above, AMAPCEO recommends:***

- Amend the *Respectful Workplaces Policy*, the *Policy on Preventing Barriers in Employment*, the *Anti-Racism Policy* and the *Disability Accommodation Policy* to include intersectionality as a principle modeled on section 7.4 of the *Anti-Racism Policy*.
- Ensure that training for employees, managers and WDHP advisors under the *Respectful Workplaces Policy*, the *Policy on Preventing Barriers in Employment*, the *Anti-Racism Policy* and the *Disability Accommodation Policy* include training on understanding and applying intersectionality.
- Ensure that training for employees, managers and WDHP advisors under the *Respectful Workplaces Policy*, the *Policy on Preventing Barriers in Employment*, the *Anti-Racism Policy* and the *Disability Accommodation Policy* include information on how the particular policy interacts with other HR policies.
- Create reference resources that provide guidance on how diversity and inclusion policies intersect and interact with one another, and how and when to apply multiple policies to issues.

- Ensure that reviews of individual diversity and inclusion policies includes an analysis of provisions of other policies that intersect or interact with the policy under review.

## **ii) Respectful Workplaces Policy Recommendations**

### ***Recommendations from the Independent External Review of Complex WDHP Cases***

On January 19, 2018 and March 26, 2018, the Secretary of the Cabinet publicly announced that as part of the Ontario Government's commitment to identifying, preventing and eliminating systemic racism for all employees, the Anti-Racism Directorate was engaging a third party to review the WDHP Program through an anti-racism lens. The resulting report, the *Independent External Review of Complex WDHP Cases* ("*Independent External Review*")<sup>1</sup>, was released in 2019.

The report presented 12 recommendations in respect of the WDHP process which may improve the manner in which race complaints are dealt with and seven recommendations intended to make may make the employee/management relationship more respectful, co-operative and cordial, thereby hopefully reducing the number of race-based WDHP complaints, both direct and systemic, being initiated.

Although the *Independent External Review* was restricted to an anti-racism review of the WDHP process, AMAPCEO believes that these recommendations will help to address systemic discrimination and harassment more broadly and have positive impacts for all equity-seeking groups in the OPS.

Since the release of the report, the OPS has taken some action on the *Independent External Review's* recommendations. However, although the *Independent External Review* makes a clear case for decisive action on the behalf of the Employer, some recommendations have not yet been implemented, while others have only been implemented in part. This incomplete implementation unnecessarily weakens the impact of the recommendations and arguably reflects the ongoing issue of systemic racism within the OPS.

### ***Given the considerations above, AMAPCEO recommends:***

- The Employer fully implement the recommendations for changes to the WDHP process set out in the *Independent External Review of Complex WDHP Cases*.

### ***Valuing Contributions to Inclusive and Diverse Workplaces as Work***

Pursuant to section 9.5 of the *Respectful Workplaces Policy*, every OPS employee must have as a performance commitment a requirement to contribute to a positive, professional, and respectful workplace, free from workplace harassment and discrimination. This means that part of each OPS

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<sup>1</sup> Huggins, Arleen (2019). *Independent External Review of Complex WDHP Cases*.  
<https://www.ontario.ca/page/independent-external-review-complex-wdhp-cases>

employee's job is to support and contribute to respectful workplaces. Many OPS employees have taken this commitment seriously and made substantial efforts to create and sustain inclusive and safe workplaces, including developing and delivering training to colleagues and participating in employee networks. Although supporting respectful workplaces is a performance commitment for all OPS employees, this type of work is frequently undervalued as an ancillary activity that employees are expected to perform in addition to their full workloads without additional time, resources or support from management.

Members of the Equity Committee relayed that they volunteer to take on this type of equity work because they want to be agents of change in their workplaces. Some reported that their managers expected or "voluntold" them to participate in equity work because they are members of equity-seeking groups. The Equity Committee also reported that they were expected to take on this additional labour without much, or in some cases, any, additional support, such as a reduction in other work expectations or overtime pay.

While the Equity Committee found value in creating and providing leadership opportunities for equity-seeking groups in inclusion and diversity initiatives, they also felt that these opportunities often came at great cost and resulted in equity fatigue and in some cases, impacted mental health. Some members of the Equity Committee relayed that in some instances, grassroots equity work would be used without proper attribution or acknowledgement of the employees' work.

Creating respectful, diverse, and inclusive workplaces within the OPS will take work from leaders and employees. Many employees clearly want to participate in equity work within the OPS, but they want management to value their efforts and acknowledge that it is in fact work that is part of their job that requires time during the work day and workplace resources.

***Given the considerations above, AMAPCEO recommends:***

- Include a statement in the *Respectful Workplaces Policy* clarifying the Employer's expectation that employee participation in workplace equity and inclusion initiatives will be performed as part of their job duties, and that managers are responsible to provide an appropriate offset of regular tasks and/or compensating leave (overtime) where applicable.

***Enhancing and Clarifying the Role of Management***

Managers and senior executives have a substantial number of responsibilities under the *Respectful Workplaces Policy* and other diversity and inclusion policies. In AMAPCEO's opinion, this is appropriate. As leaders, managers have a significant influence on workplace culture and the experiences of individual employees. Managers are key change leaders: if they are not actively engaged with respectful workplace initiatives, those initiatives will fail.

As discussed above, members of the Equity Committee reported they were involved in equity work within their respective workplaces. Some reported that their managers expected or voluntold them to participate in equity work because they are members of equity-seeking groups. This felt like

management was downloading responsibility and accountability for diversity, inclusion, and organizational change to employees. While employees want to engage, and in some instances, lead respectful workplace initiatives, they want management to understand that their participation does not mean management can abdicate their responsibilities or accountabilities. Without the support and participation of management, employee-led efforts to create respectful workplaces will not succeed. Ultimately, management remains accountable and responsible for guiding organizational change and tackling systemic discrimination and harassment.

Section 7.1 of the *Respectful Workplaces Policy* states, “Every employee has a role to play in creating and sustaining an inclusive and accessible workplace.” While this is true, AMAPCEO believes that the *Respectful Workplaces Policy* should acknowledge that management has more significant obligations and roles in creating and sustaining respectful workplaces.

Managers in the OPS are expected to take on more and more job duties and deliverables, including human resources responsibilities and obligations such as those under the *Respectful Workplaces Policy*, without being provided additional time and resources. The Equity Committee observed that many managers coped with these extraordinary work expectations by focusing on tangible deliverables and disengaging from their responsibilities under the *Respectful Workplaces Policies* and other inclusion and diversity policies. This results in weak responses to workplace discrimination and harassment and prevents the success of organizational diversity and inclusion initiatives. As stated above, AMAPCEO believes that it is appropriate to assign enhanced responsibilities and accountabilities for respectful workplaces to managers in the OPS. However, the OPS employer must stop seeing these responsibilities as ancillary tasks and provide managers with sufficient time and resources to adequately fulfill their obligations. Otherwise, attempts to fully implement the *Respectful Workplaces Policy* and other diversity and inclusion policies will continue to fail and systemic change will not be possible.

The Equity Committee shared observations of instances where managers did not fulfill some, or all of their obligations under the *Respectful Workplaces Policy*. The Equity Committee expressed frustration that the mechanisms for ensuring management accountability under the Policy are too weak. It is not clear how an employee could provide direct or indirect feedback on a manager’s failure or success in fulfilling their obligations under the Policy. It is also not clear how a manager’s failure in fulfilling their obligations under the Policy affects their performance reviews, if at all. While the management accountabilities set out in the Policy are valuable and impactful, these accountabilities are weakened by a lack of consequences.

***Given the considerations above, AMAPCEO recommends:***

- Amending section 7.1 of the *Respectful Workplaces Policy* by adding a statement that acknowledges the enhanced roles and responsibilities of management and senior executives in creating and sustaining an inclusive and accessible workplace.

- Amending section 9.5 of the *Respectful Workplaces Policy* by adding: “Performance commitments for managers shall incorporate their obligations to complete training and to respond to alleged workplace harassment or discrimination under this Policy.”
- Adding a policy requirement that provides employees with an opportunity to engage in an annual anonymous review of their direct supervisor and, more specifically, any discrimination and harassment concerns that may be present in the workplace.
- Adding a policy requirement that employee reviews be considered during a manager’s annual performance evaluation.

### ***Redefining Harassment***

Pursuant to section 6.9, the *Respectful Workplaces Policy* applies to workplace harassment as defined in the *Ontario Human Rights Code*, the *Occupational Health and Safety Act*, and AMAPCEO’s Collective Agreement. However, this definition of harassment does not sufficiently capture some forms of harassing conduct. From AMAPCEO’s perspective, a more detailed definition of harassment is required to sufficiently capture the broad scope of harassing behaviours and actions.

In 2008, AMAPCEO and the Employer jointly recommended a working definition of psychological harassment to the Public Service Commission and ACERC (see Appendix A attached to this submission). This working definition used the existing definition, but also specified that “a single incidence of such behaviour that has a lasting harmful effect on an employee may also constitute a violation of this policy.”<sup>2</sup> The working definition also included a non-exhaustive list of examples illustrating conduct that does, and does not, constitute harassment. Several of these examples are now included in the program guide for employees and managers. Our experience has shown that the inclusion of all of these specific examples may be helpful in guiding those charged with the implementation of the policy to more appropriate assessments of what is deemed in and out of policy.

### ***Given the considerations above, AMAPCEO recommends:***

- Amending the definition of workplace harassment in section 6.9 to include the 2008 Joint Working Group definition of harassment, with the examples set out in that report incorporated as a new appendix to the policy.

### ***Improving Transparency and Timeliness***

The *Respectful Workplaces Policy* sets out maximum expected timeframes for each WDHP activity, subject to extenuating circumstances. From AMAPCEO’s perspective, adherence to these maximum expected timeframes continues to be an issue. under the *Respectful Workplaces Policy* in particular, our

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<sup>2</sup> (2008). *Joint Working Group Report on Employee Protection from Psychological Harassment in the Workplace to the Public Service Commission and ACERC.*

members have voiced concerns that the Employer's ability to extend timeframes in extenuating circumstances which are often perceived as unilateral and ambiguous. Timely resolution of alleged workplace discrimination and harassment complaints is essential to the integrity of the *Respectful Workplaces Policy*. Unnecessary delays may continue to expose employees to discrimination and harassment. In some instances, the delays themselves may be a form of discrimination and harassment. Therefore, "extenuating circumstances" must be construed as narrowly as possible, and extensions to mandatory timelines should be permitted only when absolutely necessary and with consent of the parties involved.

A related concern is the lack of clarity regarding the WDHP process. The status of complaints is frequently unclear because there is no way to track progress within the system. Parties communicate information and documents by email, which is an inefficient and insecure way to share and store private and sensitive records. It is also unclear who is responsible for ensuring a complete and accurate record of an entire WDHP complaint is properly stored, and how a party to a complaint may access that record. Members of the Equity Committee raised the example of the IT help desk process: employees make a request using an online portal which they can also use to track the status and outcome of their request. Once their issue is resolved, the IT help desk automatically sends an email to the employee to request feedback. A similar case management resource for WDHP complaints (and other HR processes, such as disability accommodation requests) would provide transparency, facilitate secure information sharing, and also help improve timeliness.

Such a system would also enable more robust data collection practices, including the number of complaints filed at the preliminary assessment stage, the number of investigations and the number of substantiated complaints. From AMAPCEO's perspective, these particular data points are critical for assessing the efficacy of the WDHP complaint process, the impact of diversity and inclusion strategies, and identifying areas that require further intervention and/or support.

***Given the considerations above, AMAPCEO recommends:***

- Amending section 9.10 to include: "Timelines under the program will be strictly enforced. Those responsible for administering the policy who fail to meet timelines without a reasonable explanation will be subject to discipline."
- Amending section 9.10 to include: "In any event, no timelines will be extended without notification to the complainant and respondent of the circumstances requiring an extension, or without an attempt to achieve their mutual consent to the extension is made."
- Amending section 8.1 to include the following as an example of a policy violation: "Failure to comply with the timeframe requirements for addressing and resolving workplace harassment or discrimination issues or complaints without a reasonable and bona fide reason for the delay."

- Developing a case management system for WDHP complaints and other HR processes similar to the IT Help Desk that would enable parties to share information and records securely, track the status of issues, and support timely resolution of complaints.
- Amending section 9.27 of the *Respectful Workplaces Policy* to state: “Workplace harassment and discrimination prevention policy and program metrics, **including the number of complaints filed at the preliminary assessment stage, the number of investigations, and the number of substantiated complaints**, must be established and collected by TBS and MGCS. Program metrics must be reviewed by TBS and MGCS, and results reported to the Public Service Commission (PSC) every year.”

### ***Improving Early Intervention and Prevention Strategies***

Although the *Respectful Workplaces Policy* states that the prevention of workplace harassment and discrimination is an integral part of all workplace activities and is a shared responsibility, the *Policy* is primarily reactive in that it sets out strong requirements for addressing allegations of workplace discrimination and harassment, but provides limited guidance regarding how those issues might be prevented from happening in the first place.

One aspect of the *Respectful Workplaces Policy* that contributes to a more reactive approach is the use of preliminary assessments which determine whether an issue falls within the scope of the policy. A primary concern which the Equity Committee raised is that many complaints are found to be “out of scope” without any substantial explanation for the determination, or any indication of other steps that could or would be taken to resolve the issues raised in the complaint. The Equity Committee reported that “out of scope” determinations are frequently interpreted as definitive conclusions that no problems or issues exist within the workplace and no further action is required.

In AMAPCEO’s experience, employees file a complaint under the *Respectful Workplaces Policy* when there is a serious issue in the workplace that is negatively impacting their work and wellbeing. Understandably, not every issue will fall within the scope of the *Respectful Workplaces Policy*. However, that does not mean that those issues do not exist and are not damaging the workplace and employees. While the definition of discrimination and harassment in the *Respectful Workplaces Policy* is broad, it does not always adequately capture problematic behaviours such as microaggressions that are no less damaging than other forms of discrimination and harassment. Management should take the fact that an employee feels the need to file a complaint as an indication that there are issues of respect and inclusion in the workplace and employees are struggling, and take action to understand and address those issues.

### ***Given the above considerations, AMAPCEO recommends:***

- Implementing the recommendations for early resolution initiatives (systemic recommendation 4) in the Huggins Report.

- Amending section 7.3 of the *Respectful Workplaces Policy* to state: “Managers, with the assistance of human resource advisors, take timely action to resolve situations contrary to respectful workplaces such as behaviours negatively impacting the workplace (e.g., conflict, poor communication), even where such behaviours are not workplace harassment or discrimination **or are found to be out of scope of the Policy.**”
- Amending section 9.3 of the *Respectful Workplaces Policy* to require specialized managerial training, including training in detecting discrimination and harassment and appropriate and effective workplace restoration strategies. This training should be conducted in person by professionals with experience implementing the WDHP Program, in addition to any online training modules that are made available.

### ***Holistic Responses to Workplace Discrimination and Harassment***

Complaint resolution and workplace restoration are, in general, seen as weak links in the program. While AMAPCEO is cognizant that the trauma experienced by victims of discrimination and harassment can be difficult to remedy, there are steps the Employer could take to move towards what should be the ultimate goal of the policy: resolutions which would “make whole” any affected parties. This is an area of the policy that would seem to require a creative approach that is sensitive to local workplace realities.

A related issue is the typical “menu” of restoration options available to managers to implement. These measures are not limited to, but in practice are often confined to, actions such as the issuance of communiqués, various conflict resolution/team-building exercises, and workplace reviews. In many cases, these approaches simply are not sufficient to restore workplaces where discrimination or harassment has occurred. AMAPCEO believes that the Employer needs to embrace a more holistic approach to workplace restoration. This should include – but not be limited to – the provision of monetary compensation for employees affected by discrimination or harassment.

#### ***Given the above considerations, AMAPCEO recommends:***

- Amending section 9.22 of the *Respectful Workplaces Policy* to include a new concept indicating that responses to discrimination and harassment: “will be holistic in approach and will, to the greatest extent possible, make whole any employees affected by discrimination or harassment.”
- Amending section 9.22 of the *Respectful Workplaces Policy* to include the following as an example of appropriate actions a manager must consider: “Providing forms of restitution to employees, including monetary payments and the provision of leaves from the workplace with pay.”
- Adding a provision under the section *Management Response to Alleged Workplace Harassment or Discrimination* that indicates in situations where it is determined that

employees can no longer co-exist in a workplace together due to an individual's violations of the policy, the complainant will be provided with the option of choosing to stay in their workplace and home position or accepting a transfer. If complainants opt to stay in the workplace, management would be responsible for initiating a transfer of the employee found to be in violation of the policy.

### ***iii) Policy on Preventing Barriers in Employment Recommendations***

The Equity Committee highlighted the importance of increasing diversity in leadership as a strategy for reducing systemic discrimination and harassment across the OPS. Diversity in leadership demonstrates to equity-seeking groups that there are opportunities for growth and advancement within the OPS, and therefore can lead to better retention of employees in equity-seeking groups. Diverse leaders can also provide mentorship and sponsorship to employees. They can also help to build multi-cultural competencies and support the creation of inclusive workplaces in which employees feel they can bring their full identities. Reducing barriers to leadership for employees from equity-seeking groups is not only beneficial for individual employees, but also helps to create inclusive and diverse workplaces that benefit all employees.

From AMAPCEO's perspective, the OPS continues to struggle to meaningfully reduce barriers in employment for equity-seeking groups. Many AMAPCEO members reported barriers to advancing their careers (e.g., moving into management) and diminish their ability to fully participate within their chosen career stream (e.g., lack of access to development opportunities).

Members of AMAPCEO's Equity Committee identified several key areas of concern:

- A lack of diversity in senior positions, management, and executive leadership;
- The ongoing influence of unconscious bias in recruitment and hiring. For example, the prevalence of demographic and cultural matching in hiring (i.e., employers hiring persons who are demographically and culturally similar to themselves);
- The effect of informal and social networks on many aspects of workplace culture, including learning, development, and advancement opportunities;
- Work expectations that limit the participation of employees with personal or cultural barriers (e.g., family caregiving responsibilities, medical accommodations, religious practices, etc.);
- Imbalanced access to professional development opportunities, such as temporary positions communicated by word-of-mouth; and
- The perception of diversity quotas for leadership roles as caps instead of minimum standards (e.g., one Indigenous person in management is "good enough").

## ***Analyzing and Addressing Structural Barriers to Leadership***

In addition to the systemic barriers identified above, there are also structural barriers that block the path to leadership. One such barrier is the current freeze on management salaries, which has discouraged talented and diverse employees with strong leadership skills from pursuing careers in management, thereby significantly reducing the hiring pool for OPS management roles and lowering employee retention rates. Another structural barrier is the current government's policies of fiscal restraint. There is substantially less funding for learning and development opportunities that would help employees prepare themselves for leadership roles. This is compounded by the hiring freeze which means existing vacancies are not filled and departing employees are not replaced. Remaining OPS employees must take on more and more work to achieve the same deliverables and have less time for learning and development and career progression.

When these structural barriers intersect with systemic barriers, they disproportionately impact employees from equity-seeking groups. Therefore, if the OPS employer is truly committed to diversity and inclusion, they must also evaluate how seemingly neutral policies prevent employees from achieving full participation in the workplace.

### ***Given the considerations above, AMAPCEO recommends:***

- The OPS employer conducts a review of structural policies using an equity and intersectional lens to assess their impacts on pathways to leadership for employees from equity-seeking groups and develop mitigation strategies.

## ***Strengthening Principles***

AMAPCEO recommends that the Principles section of the PPBE be amended to closely align with the Principles section in the ARP<sup>3</sup>. Specifically, the Principles section of the PPBE should include policy commitments to a proactive and systemic approach; evidence-based measures; transparency and accountability; intersectionality, engagement; sustainability; and targeted universalism.

AMAPCEO also recommends the deletion of two sections of the PPBE which appear irrelevant. Section 5.2 of the PPBE states: "Removal or mitigation of systemic employment barriers will be assessed against the undue hardship, if any, that would result from removal or mitigation." Under the *Ontario Human Rights Code*, the employer has a duty to accommodate to the point of undue hardship. However,

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<sup>3</sup> Anti-Racism Directorate, Cabinet Office (2018). *Anti-Racism Policy*.  
[https://intra.ontario.ca/wordpress/uploads/2019/08/A13-Anti-Racism\\_Policy.pdf](https://intra.ontario.ca/wordpress/uploads/2019/08/A13-Anti-Racism_Policy.pdf)

AMAPCEO does not believe it is necessary to include this legal limitation as a guiding principle for a policy that should be oriented towards prompting significant remedial action in the workplace.

Section 5.4 of the PPBE states, “Every employee has a role to play in creating and sustaining an inclusive and accessible workplace.” While this is true, AMAPCEO believes that the PPBE should acknowledge that some employees have more significant obligations and roles in identifying and eliminating employment barriers – specifically management and senior executives who are responsible for hiring and recruitment and supporting the career advancement of their direct reports. The PPBE should explicitly acknowledge the enhanced roles and responsibilities of management and senior executives as a guiding principle.

***Given the considerations above, AMAPCEO recommends:***

- Amend the PPBE to include a principles section modelled after section 7 (Principles) of the ARP;
- Remove section 5.2; and
- Replace the existing section 5.4 with a statement that acknowledges the enhanced roles and responsibilities of management and senior executives in creating and sustaining an inclusive and accessible workplace.

***Developing Specific Barrier Removal Strategy***

AMAPCEO recommends that the mandatory requirements of the PPBE be revised to support a more specific barrier removal strategy. The Human Rights Commission of Ontario’s *Guide to Developing Human Rights Policies and Procedures* recommends that barrier removal plans include the following<sup>4</sup>:

- Set specific, measurable goals for removing identified barriers;
- Allocate adequate resources to meet these goals;
- Create clear timelines for achieving these goals; and
- Include a mechanism for regularly reviewing and evaluating progress towards the identified goals.

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<sup>4</sup> Ontario Human Rights Commission (2013). *A policy primer: Guide to developing human rights policies and procedures*.  
[http://www3.ohrc.on.ca/sites/default/files/A%20policy%20primer\\_Guide%20to%20developing%20human%20rights%20policies%20and%20procedures\\_2013.pdf](http://www3.ohrc.on.ca/sites/default/files/A%20policy%20primer_Guide%20to%20developing%20human%20rights%20policies%20and%20procedures_2013.pdf)

Currently, the mandatory requirements of the PPBE do not conform with these suggested practices. AMAPCEO endorses the factors above and recommends they be incorporated into the next iteration of the PPBE.

### ***Gathering Data to Set Specific and Measurable Goals***

We recognize the Employer's data collection has been improved with respect to tracking some of the data required to identify systemic data collection. Currently, however, the PPBE does not delegate specific accountabilities that would enable the OPS to, following the collection of appropriate data, identify areas where employment barriers exist, set strategies and goals for remediating those barriers, and subsequently assess the efficacy of those strategies.

AMAPCEO recommends that the PPBE be amended to make mandatory the quarterly collection and publication of workforce data, and direct an entity within the OPS to undertake employment barrier identification and removal. Workforce information collected should be sufficient such that the Employer will be able to track the recruitment and participation of employees within ministries and Commission Public Bodies and enable analysis of the OPS employee group against broader workforce participation information.

### ***Allocating Adequate Resources for Remedial Action and Accountability***

Data collection under the PPBE should be matched with a specific commitment and accountability within the OPS to an office sufficiently resourced to recommend a broad range of remedial actions, based on the evidence presented by the data collection. While we are not recommending the inclusion of mandatory requirements prompting specific remedial actions, we would note that our members had many suggestions to mitigate employment barriers. These included the increased use of "blind" recruitment practices; increases in formal mentorship programs for employees; unconscious bias training for managers; and 360-degree reviews of managers by their employees. Any new policy should retain the flexibility and extend sufficient authority to a body to implement these types of actions on both an enterprise-wide and ministry-or Commission Public Body- specific basis.

### ***Timelines for Achieving Barrier Reduction Goals***

Currently, the PPBE's mandatory requirements task the Public Service Commission with setting intervals for barrier evaluation. We recommend instead that a cycle of review be explicitly incorporated into the policy, as opposed to an interval set by the Public Service Commission. We would specifically recommend the establishment of an annual cycle of data collection, analysis, remedial action, and employee reporting/ consultation.

### ***Consultation and Reporting on Barrier Reduction Goals***

The PPBE currently has no commitments to external consultation or reporting on the outcomes of data collection or remedial actions. We would recommend that the policy include commitments to report not only to the Public Service Commission, as is now required, but also to employees, their bargaining agents and other stakeholders external to the OPS. Bargaining agents have a unique role in helping

address issues of discrimination in the OPS and a history of productive engagement on these issues fighting. We would therefore specifically recommend that PPBE reporting and evaluation be made an annual item on the Multi Bargaining Agent meeting agenda.

***Given the considerations above, AMAPCEO recommends:***

- Amending the PPBE to task an entity within the OPS with new forms of data collection that allow better identification of employment barriers;
- Giving that entity the authority and accountability to direct where remedial action is necessary;
- The explicit incorporation of an annual cycle of collection, reporting and implementation of remedial steps; and
- Inclusion of regular reporting and evaluation processes, including consultation with employees, bargaining agents, and other relevant third-party stakeholders.

***Conclusion***

AMAPCEO extends its appreciation for its inclusion in this review process. We are confident that, in the spirit of the parties' past collaborations on these issues, our proposals will be considered seriously and with an open mind. Our comments intend to ensure that all employees in the OPS are guaranteed the ability to make public contributions in workplaces that are free from discrimination and harassment. We will continue to make ourselves available to the Employer for any further consultation, as well as for any clarification with respect to the comments and recommendations outlined above.

## ***Appendix A***

Source: The Joint Working Group Report on Employee Protection from Psychological Harassment in the Workplace to the Public Service Commission and ACERC

### ***Psychological Harassment***

Every employee has the right to a work environment free from psychological harassment.

#### ***Definition***

A course of vexatious comment or conduct, that is known or ought reasonably to be known, to be unwelcome. A single incidence of such behaviour that has a lasting harmful effect on an employee(s) may also constitute a violation of this policy.

The following lists are not intended to be exhaustive; they are merely illustrations.

#### ***What It Is:***

- Exercising authority in an abusive manner, which negatively disrupts or prevents the performance of workplace duties.
- Arbitrarily denying applications for training leave or promotion, or repeated threats to withdraw advancement opportunities for reasons unrelated to performance, operational or budgetary needs.
- Any objectionable or offensive behaviour, remark, joke or gesture, that is known or ought reasonably to be known to be unwelcome.
- Repeated rude, degrading, or offensive remarks, such as teasing about a person's physical characteristics or appearance, putdowns or insults.
- Bullying, threats, intimidation or retaliation against an employee, including, but not limited to one who has expressed concerns about perceived unethical workplace behaviours.
- Discrediting a person, spreading damaging gossip or rumours.
- Objectionable conduct, comment or display that: belittles, demeans, patronizes, causes personal humiliation or embarrassment.
- Inappropriately withholding information, undermining work performance.
- Ostracizing or isolating a person, or excluding a person for no valid business purpose, no longer speaking to the person, preventing the person from expressing themselves, depriving

the person of a means of communication.

- Intruding on a person's privacy, or tampering with a person's personal belongings or work equipment.

***What It Is Not:***

- Normal exercise of management rights, including the day-to-day assignment of tasks and general work allocation, performance and attendance management, or discipline for just cause, does not constitute psychological harassment, provided that the employer does not exercise these rights in an abusive manner.
- A conflict does not, in itself, constitute psychological harassment. Conflicts at work, if they are managed wisely, may lead to the clarification of responsibilities and the evolution of relations among staff. Conversely, if conflicts are managed poorly or left unresolved, they can give rise to psychological harassment.
- Work-related stress may have other origins than psychological harassment.
- Professional constraints and organizational change, that affect personnel in a non-arbitrary manner, when justified from an economic, operational or technological standpoint, do not constitute psychological harassment.
- Exclusion of individuals for a particular job based on specific occupational requirements necessary to accomplish the safe and efficient performance of the job.