

## OPS FACT SHEET

# Personal Harassment and Grounds-Based Discrimination

This Fact Sheet provides you with practical advice for addressing complaints of personal harassment and/or grounds-based discrimination.

### What is Grounds-Based Discrimination?

Grounds-based discrimination means imposing disadvantages or withholding benefits, whether intentional or not, because of a personal characteristic that is protected under the Ontario *Human Rights Code*.

### What are the Protected Grounds?

Protected grounds under the Ontario *Human Rights Code* include but are not limited to:

- Age
- Ancestry
- Citizenship
- Colour
- Creed
- Disability
- Ethnic Origin
- Family Status
- Marital Status
- Record of Offences
- Sex
- Gender Identity
- Gender Expression
- Race
- Place of Origin
- Sexual Orientation

### What is Personal Harassment?

Personal harassment means engaging in a course of vexatious comment or conduct against an employee in the workplace that is known or ought reasonably to be known to be unwelcome (Article 2 Collective Agreement).

Harassment may include words, gestures and actions which harm, abuse, torment, persecute and embarrass another person.

Harassment may involve hostility, intimidation or bullying that causes a person distress and is damaging to a safe and positive work environment.

Typically, harassment involves persistent conduct or a course of activities. However, in some instances, a single, significant act which has a harmful effect may also constitute harassment.

## **What is a Poisoned Work Environment?**

The creation of a poisoned work environment is a form of discrimination contrary to the Ontario *Human Rights Code*.

A poisoned work environment can be defined as a negative, hostile or unpleasant workplace due to comments or conduct that tend to be harassing or demeaning to a group protected under the Ontario *Human Rights Code*. The conduct does not have to be directed at a specific individual.

A finding that there is a poisoned work environment usually consists of a course of conduct, but in extreme cases, a poisoned work environment can be established on the basis of one event.

## **Resolving Harassment and Discrimination**

As an AMAPCEO represented employee, you have several process options to consider for dispute resolution. These options are:

- Filing a complaint under the Employer's Respectful Workplace Policy
- Filing a Formal Dispute under the AMAPCEO collective agreement
- Filing a complaint with the Ontario Human Rights Tribunal

Each process can result in a fair, just and reasonable outcome. Before making a decision, it is important to be informed about the different roles for members and the union in each option.

Keep in mind that, despite these formal options for potential resolution, informal dispute resolution can result in productive communication and may help preserve the employment relationship.

## **OPS Respectful Workplace Policy**

Engaging in workplace harassment or discrimination is a violation of the OPS Respectful Workplace Policy. If you have experienced workplace harassment or discrimination, you may advance a complaint under the Respectful Workplace Policy.

Filing a complaint under the Respectful Workplace Policy does not prevent you from filing a dispute under Article 2 of the Collective Agreement. However, at times, an Article 2 dispute may be held in abeyance pending the outcome of a Workplace Discrimination and Harassment Prevention (WDHP) investigation.

You have the right to a support person during the WDHP process and your support person may be a Workplace Representative.

The process is outlined in the OPS WDHP Complaint Handling and Resolution Guide.

## **AMAPCEO Dispute Resolution Process**

Complaints of discrimination, harassment or sexual harassment may be advanced under Article 2 of the Collective Agreement.

Before you initiate the process, we encourage you to work with a Workplace Representative and develop a plan to address the comments and/or conduct:

- Review the requirements of collective agreement and/or employer policies;
- Summarize the details of your complaint which identify *who, what, where, when and how*;
- Gather supporting information, such as emails;
- Identify potential witnesses; and
- What is the remedy you are seeking?

The AMAPCEO dispute resolution process has been designed to encourage informal resolution. Where appropriate, you have the option of working with your manager or other Employer representative to resolve this issue informally. During this process, you have the right to representation by an AMAPCEO Workplace Representative. For more information, please refer to the AMAPCEO Right to Representation Fact Sheet.

## **Ontario Human Rights Tribunal**

You may ask the Ontario Human Rights Tribunal to resolve a complaint of discrimination/harassment based on a protected ground under the *Human Rights Code*.

This process is NOT available for complaints of personal harassment

If you file an application with the Ontario Human Rights Tribunal, AMAPCEO cannot assist you because there is a dispute process to address these issues under the Collective Agreement.

If you file an application with the Ontario Human Rights Tribunal this is done at your own expense. AMAPCEO does not provide you with legal counsel or funding for legal counsel.

## **Questions and Assistance**

For more information please contact an AMAPCEO Workplace Representative. A complete list of Workplace Representatives can be found on the AMAPCEO website at [amapceo.on.ca](http://amapceo.on.ca). Keep in mind that you are not restricted to seeking assistance a Workplace Representative in your particular ministry.