

## **Workplace Anti-Violence, Harassment & Sexual Harassment Policy**

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### **HIV/AIDS RESOURCES AND COMMUNITY HEALTH WORKPLACE ANTI-VIOLENCE, HARASSMENT & SEXUAL HARASSMENT POLICY (BILLS 168 AND 132) – ONTARIO**

Please Note: This policy has been written to comply with the changes to the Occupational Health and Safety Act introduced by Ontario Bill 132: Sexual Violence and Harassment Action Plan Act. These legislative changes will come into force on September 8, 2016.

#### **Intent**

HIV/AIDS Resources & Community Health [ARCH] supports a work environment that respects and protects the rights of employees, clients, members, service users, and volunteers as guaranteed by the Occupational Health & Safety Act, the Canadian Charter of Rights and Freedoms, the Human Rights Code, the Criminal Code and other applicable legislation that protects the rights of all individuals.

ARCH recognizes that violence and aggression can be committed by any person including staff, clients, members, service users, volunteers or the public. Every individual is entitled to protection from abuse, violence and aggression, and, if subjected to abuse, violence or aggression in the workplace, each person has the right to immediate protection and support.

ARCH is committed to building and preserving for its employees a safe, productive, and healthy working environment based on mutual respect. In pursuit of this goal, ARCH does not condone and will not tolerate acts of violence, harassment, or bullying against or by any ARCH member.

ARCH recognizes that the ethno-cultural and racial diversity among residents of Wellington County has brought cultural, social, and economic enrichment to the community. It also recognizes that the members of diverse ethno-cultural and racial groups often encounter barriers to their full participation in society.

ARCH is committed to racial equality and the elimination of racism in the community. It strives to reflect the entire community in its structure (for staff and volunteers) and to promote equal access to its programs and services (for clients and residents).

ARCH is committed to providing a work environment that is free from harassment and discrimination based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability.

Our Workplace Anti-violence, Harassment, and Sexual Harassment Policy is not meant to stop free speech or to interfere with everyday interactions. However, what one person finds inoffensive, others may not. Usually, harassment can be easily distinguished from normal, mutually acceptable

socializing. It is important to remember that it is the perception of the receiver that determines whether the potentially offensive message is acceptable or not, be it spoken, gestural, pictorial, or some other form of communication which may be deemed objectionable or unwelcome.

## **Policy Overview**

ARCH is committed to be proactive in preventing, recognizing and addressing violence and aggression in the workplace. ARCH recognizes that violence and aggression can be committed by employees, clients, members, service users, volunteers or the public. For purposes of this policy, the term “worker” refers to employees, volunteers and students who are working with ARCH.

### **The purpose of this policy is:**

1. To recognize and define workplace violence as means of control and/or abuse of power.
2. To ensure the dignity, respect and safety of each individual through prevention of violence and aggression.
3. To provide a process for recognizing and reporting all abusive, violent and aggressive actions encountered in the workplace or any place ARCH provides services.
4. To provide a procedure for reporting abuse, violence and aggression to the appropriate external agencies and authorities as required.

## **Definitions**

**Workplace violence or bullying:** workplace violence or bullying is the exercise, statement, or behaviour of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker, such as:

- Physical acts (e.g., hitting, shoving, pushing, kicking, sexual assault, throwing an object at a worker, kicking an object the worker is standing on such as a ladder, or trying to run down a worker using a vehicle;
- 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; or
- Disruptive behaviour that is not appropriate to the work environment (e.g., yelling or swearing).

**Violence** is defined as any actual, attempted or threatened conduct of a person that causes or is likely to cause physical and/or psychological harm/ injury/illness or that gives a person reason to believe that s/he or another person is at risk of physical or psychological harm/ injury/illness, including, but not limited to, any actual or attempted assault (including sexual assault, physical attacks); threats; verbal, psychological or sexual abuse and harassment or acts of aggression. For the purpose of this policy; the terms aggressive behaviors, assault and violence can be used interchangeably.

**Assault:** any intent to inflict injury on another, coupled with an apparent ability to do so; any intentional display of force that causes the victim to fear immediate bodily harm.

**Harassment:** engaging in any vexatious comment or conduct, such as bullying that is known or ought reasonably to be known to be unwelcome, and causes the person to believe their health and safety are at risk.

**Near Miss:** an act of striking out, but missing the target.

**Physical attack:** an act of aggression resulting in a physical assault or abuse with or without the use of a weapon. Examples include hitting, shoving, pushing, punching, biting, spitting, groping, pinching, or kicking the victim, unwelcome displays of affections or inciting a dog to attack.

**Psychological abuse:** an act that provokes fear and diminishes an individual's dignity or self worth or that intentionally inflicts psychological trauma on another.

**Sexual abuse:** any unwelcome verbal or physical advance or sexually explicit statement, pinching, brushing against, touching, patting or leering that causes the person to believe their health and safety is at risk.

**Sexual assault:** the use of threat or violence to force an individual to touch, kiss, fondle or have sexual intercourse with another.

**Threat:** a communicated intent (verbal or written) to inflict physical or other harm on any person or to property by some unlawful act. A direct threat is a clear and explicit communication distinctly indicating that the potential offender intends to harm, for example, "I am going to make you pay for what you did to me." A conditional threat involves a condition, for example, "If you don't leave me alone you will regret it." Veiled threats usually involve body language or behaviours that leave little doubt in the mind of the victim that the perpetrator intends to harm.

**Verbal abuse:** the use of vexatious comments that are known or that ought to be known, to be unwelcome, embarrassing, offensive, threatening or degrading to another person (including swearing, insults or condescending language) which causes the person to believe their health and safety is at risk.

**Workplace:** defined as any place where ARCH employees deliver services.

**Domestic violence:** 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—may physically harm, or attempt or threaten to physically harm, that worker at work. In these situations, domestic violence is considered workplace violence.

**Personal harassment:** any unsolicited, unwelcome, disrespectful, or offensive behaviour that has an underlying sexual, bigoted, ethnic, or racial connotation and can be typified as:

- Behaviour that is hostile in nature, or intends to degrade an individual based on personal attributes, including age, race, nationality, disability, family status, religion, gender, sexual orientation, gender identity, gender expression, or any other protected ground under human rights legislation.
- Sexual solicitation or advance made by a person in a position to confer, grant, or deny a benefit or advancement to the person, where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome;
- Reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant, or deny a benefit or advancement to the person.

- Unwelcome remarks, jokes, innuendos, propositions, or taunting about a person's body, attire, sex or sexual orientation, or religion;
- Suggestive or offensive remarks;
- Bragging about sexual prowess;
- Offensive jokes or comments of a sexual nature about an employee;
- Unwelcome language related to gender;
- Displaying of pornographic or sexist pictures or materials;
- Leering (suggestive persistent staring);
- Physical contact such as touching, patting, or pinching, with an underlying sexual connotation;
- Sexual assault:
- For the most part, victims of sexual harassment are female; however, conduct directed by female employees towards males or between persons of the same sex can also be held to constitute sexual harassment;
- Any actions that create a hostile, intimidating, or offensive workplace, which may include physical, verbal, written, graphic, or electronic means; and
- Any threats of physical violence that endanger the health and safety of the employee.

**Racial/ethnic harassment:** any conduct or comment which causes humiliation to an employee because of their racial or ethnic background, their colour, place of birth, citizenship, or ancestry. Examples of conduct which may be racial or ethnic harassment include:

- Unwelcome remarks, jokes, or innuendos about a person's racial or ethnic origin;
- Colour, place of birth, citizenship, or ancestry;
- Displaying racist or derogatory pictures or other offensive material;
- Insulting gestures or practical jokes based on racial or ethnic grounds which create awkwardness or embarrassment; and
- Refusing to speak to or work with someone or treating someone differently because of their ethnic or racial background.

**ARCH is committed to:**

1. Achieving and maintaining a working environment that is free from racial harassment and discrimination and to notify all employees, clients, and volunteers that prejudice and discrimination will not be accepted in the workplace or programs.
2. Informing all employees, clients and volunteers that racial harassment and discrimination are against the law.
3. Making employees aware that racial harassment complaints will be taken seriously, including informing employees about the complaint and dispute resolution procedures.
4. Ensuring that hiring and promotion practices are reviewed, and if necessary revised, in order to eliminate overt or systemic barriers to employment and full participation in the workplace.
5. Affirming the agency's commitment to provide training to staff and volunteers to enable them to become aware of and sensitive to racism and multicultural issues.
6. Enhancing service provisions so that it is clearly inclusive of all ethno-cultural and racial groups.

7. Actively promoting the policy both internally and externally.

The following definitions are taken from the [Occupational Health and Safety Act](#):

**Workplace Harassment** –

- (a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome; or
- (b) workplace sexual harassment.

**Workplace Sexual Harassment** –

- (a) 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
- (b) making a sexual solicitation or advance where the person making the solicitation or advance 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 that the solicitation or advance is unwelcome.

**Guidelines**

ARCH is committed to providing a safe and healthy work environment, free from violence, threats of violence, discrimination, harassment, sexual harassment, intimidation, and any other misconduct. Similarly, weapons are strictly prohibited from the company's premises; violators will be subject to disciplinary action, and the incident will be reported to the police.

It is also a violation of the Workplace Anti-violence, Harassment, and Sexual Harassment Policy of ARCH for anyone to knowingly make a false complaint of violence or harassment or to provide false information about a complaint. Individuals who violate this policy are subject to disciplinary and corrective action, up to and including termination of employment.

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

ARCH will ensure that all employees are trained and educated on violence and harassment and that they are clear about their roles and responsibilities, as well as this policy, the corresponding program, and all workplace procedures. In addition, a copy of this policy will be made available to all employees.

ARCH will, in consultation with the (Joint Health and Safety Committee OR Health and Safety Representative) develop a written program to implement this policy.

**Application of this Policy**

This policy applies to all individuals working for the organization, including front-line employees, temporary employees, contract service providers, contractors, all supervisory personnel, managers,

officers, and directors. The organization will not tolerate violence or harassment, whether engaged in by fellow employees, managers, officers, directors, or contract service providers of the organization. ARCH will not tolerate any form of harassment or discrimination against job candidates and employees on any grounds listed in the definitions for violence and harassment, whether during the hiring process or during employment. This commitment applies to such areas as training, performance assessment, promotions, transfers, layoffs, remuneration, and all other employment practices and working conditions.

All ARCH employees are personally accountable and responsible for enforcing this policy and must make every effort to prevent discrimination or harassing behaviour and to intervene immediately if they observe a problem or if a problem is reported to them. All employees have a duty to report in writing all behaviour of an allegedly discriminatory or harassing nature. Reports must be made immediately, or as soon as possible, after the alleged incident or behaviour.

### **Harassment or Discrimination by a Client**

If the employee did not directly observe the allegedly discriminatory or harassing behaviour, before reporting the incident in writing he or she shall briefly determine the circumstances, nature and seriousness of the behaviour.

The employee against whom the allegedly discriminatory or harassing behaviour was directed, the person who observed the behaviour, or who is aware of the behaviour, has an obligation to report the behaviour as follows:

- Orally to his or her supervisor as soon as possible after the incident;
- All incidents shall be recorded in writing in the client's Charting Notes before the end of the employee's shift;
- Serious incidents shall also be written up as Incident Reports before the end of the employee's shift. The existing Policy, Standards and Guidelines regarding Incident Reports should be followed.

A client who harasses or discriminates against an employee, volunteer, client may be refused services.

For the purposes of this policy, harassment and bullying can occur:

- At the workplace;
- At employment-related social functions;
- In the course of work assignments outside the workplace;
- During work-related travel;
- Over the telephone, if the conversation is work-related; or
- Elsewhere, if the person is there as a result of work-related responsibilities or a work-related relationship.

### **Violence Risk Assessment**

ARCH will conduct a risk assessment of the work environment to identify any issues related to potential violence that may affect the operation, and will institute measures to control any identified risks to employee safety. This information will be provided to the joint health and safety committee or safety representative.

The risk assessment may include review of records and reports: e.g. employee incident reports, staff perception surveys, health and safety inspection reports, first aid records, or other related records. Specific areas that may contribute to risk of violence may include, but are not limited to, contact with the public, exchange of money, outreach, and working alone or at night. Research may also include a review of similar workplaces with respect to their history of violence.

ARCH will communicate information relating to a person with a history of violence where:

- Workers may reasonably be expected to come into contact with the person in the performance of their job duties; and
- There is a potential risk of workplace violence as a result of interactions with the person with a history of violence.

The company will only disclose personal information that is deemed reasonably necessary to protect the worker from physical harm.

### **Reporting Violence or Bullying**

If you are either directly affected by or witness to any violence in the workplace, it is imperative for the safety of all ARCH employees that the incident be reported without delay. Reporting any violence or potentially violent situations should be done immediately to management.

### **Investigating Reports of Violence or Bullying**

The company shall:

- Investigate all reported acts and incidents of violence, and consult with other parties (e.g., legal counsel, health and safety consultants, JHSCs, employee assistance provider, human rights office, local police services).
- Take all reasonable measures to eliminate or mitigate risks identified by the incident.
- Document the incident, its investigation, and corrective action taken.
- Submit a report of the incident to the Ministry of Labour where an employee incurs a lost time injury as a result of violence in the workplace.
- Review this policy and hazard assessment annually, or as changes to job responsibilities or environments occur, and revise the assessment as needed.
- Review annually, in conjunction with review of the hazard assessment, the effectiveness of actions taken to minimize or eliminate workplace violence and make improvements to procedures, as required.

The joint health and safety committees/safety representative will:

- Review the Workplace Violence Hazard Assessment results and provide recommendations to management to reduce or eliminate the risk of violence.
- Review all reports forwarded to the JHSC regarding workplace violence and other incident reports as appropriate pertaining to incidents of workplace violence that result in personal injury or threat of personal injury, property damage, or police involvement.
- Participate in the investigation of critical injuries (e.g., incidents that place life in jeopardy or result in substantial blood loss or fracture of leg or arm.)
- Recommend corrective measures for the improvement of the health and safety of workers.

- Respond to employee concerns related to workplace violence and communicate these to management.

In addition, JHSCs may participate in the investigation of reported incidents that result in personal injury or have the potential to result in injury.

## **Reporting Discrimination or Harassment**

### Informal Procedure

If you believe you have been personally harassed you may:

- Confront the harasser personally or in writing pointing out the unwelcome behaviour and requesting that it stop; or
- Discuss the situation with the harasser's supervisor, your supervisor or any other supervisor other than your own.

Any employee who feels discriminated against or harassed can and should, in all confidence and without fear of reprisal, personally report the facts directly to your supervisor or manager, or to another member of management if the complaint relates to your supervisor or manager.

### Formal Procedure

If you believe you have been personally harassed, you may make a written complaint. The written complaint must be delivered to the Executive Director. Where the person who is alleged to have engaged in the behaviour is the Executive Director, complaints may be sent to the President of the Board of Directors.

Your complaint should include:

- The approximate date and time of each incident you wish to report;
- The name of the person or persons involved in each incident;
- The name of any person or persons who witnessed each incident; and
- A full description of what occurred in each incident.

## **Investigating Reports of Discrimination or Harassment**

Once a written complaint has been received, ARCH will complete a thorough investigation within 48 hours. Harassment should not be ignored, as silence can and often is interpreted as acceptance. Employees will not be demoted, dismissed, disciplined, or denied a promotion, advancement, or employment opportunities because they rejected sexual advances or because they lodged a complaint when they honestly believed they were being harassed or discriminated against. ARCH will ensure that all information obtained during the course of an investigation will not be disclosed, unless the disclosure is necessary for the purposes of investigating or taking corrective action, or is otherwise required by law.

For the purposes of this section the following definitions apply:

**Complainant** – The person who has made a complaint about another individual whom they believe committed an act of violence, discrimination, or harassment against them.

**Respondent** – The person whom another individual has accused of committing an act of violence, discrimination, or harassment.

The investigation will include:

- Informing the respondent of the complaint;
- Interviewing the complainant, any person involved in the incident, and any identified witnesses; and
- Interviewing any other person who may have knowledge of the incidents related to the complaint or any other similar incidents.

A copy of the complaint, detailing the complainant's allegations, is then provided to the respondent. The respondent is invited to reply in writing to the complainant's allegations, and the reply will be made known to the complainant before the investigation proceeds further.

- The company will protect from unnecessary disclosure the details of the incident being investigated and the identities of the complainant and the respondent.
- During the investigation, the complainant and the respondent will be interviewed, as will any possible witnesses. Statements from all parties involved will be taken and documented, and a decision will be made.
- If necessary, the company may employ outside assistance or request the use of legal counsel.
- Employees will not be demoted, dismissed, disciplined, or denied a promotion, advancement, or employment opportunities because they rejected sexual advances of another employee or because they lodged a harassment complaint when they honestly believed they were being harassed.
- Upon completion of the investigation, ARCH will inform both the complainant and respondent in writing of the findings of the investigation and any corrective action that has been or will be taken as a result of the investigation.

If the complainant decides not to lay a formal complaint, senior management may decide that a formal complaint is required (based on the investigation of the incident) and will file such documents with the person against whom the complaint is laid (the respondent).

If it is determined that harassment in any form has occurred, appropriate disciplinary measures will be taken as soon as possible.

### **Seeking Immediate Assistance**

Canada's *Criminal Code* addresses violent acts, threats, and behaviours, such as stalking. The police should be contacted immediately when an act of violence has occurred in the workplace or when someone in the workplace is threatened with violence. If an employee feels threatened by a co-worker, volunteer, contractor, student, vendor, visitor, client, or customer, an immediate call to "911" is required.

### **The Right to Refuse Unsafe Work**

- The right to refuse unsafe work is a legal right of every worker provided by the *Occupational Health and Safety Act*. ARCH is committed to ensuring a safe workplace.
- If you wish to pursue this right, please refer to the Work Refusal Policy.

## **Special Circumstances**

Should an employee have a legal court order (e.g., a restraining order, or “no-contact” order) against another individual, the employee is encouraged to notify his or her supervisor, and to supply a copy of that order to the Human Resources department. This will be required in instances where the employee strongly feels that the aggressor may attempt to contact that employee at ARCH, in direct violation of the court order, so that ARCH may take all reasonable actions to protect the employee. Such information shall be kept confidential and protected in accordance with all applicable legislation.

If any visitor to the ARCH workplace is seen with a weapon (or is known to possess one), or makes a verbal threat or assault against an employee or another individual, employee witnesses are required to immediately contact the police, emergency response services, their immediate supervisor, and the Human Resources department.

All records of harassment and subsequent investigations are considered confidential and will not be disclosed to anyone except to the extent required by law.

In cases where criminal proceedings are forthcoming, ARCH will assist police agencies, lawyers, insurance companies, and courts to the fullest extent.

## **Fraudulent or Malicious Complaints**

This Anti-violence, Harassment, and Sexual Harassment Policy must never be used to bring fraudulent or malicious complaints against employees. It is important to realize that unfounded or frivolous allegations of personal harassment may cause both the accused person and the company significant damage. If it is determined by the company that any employee has knowingly made false statements regarding an allegation of personal harassment, immediate disciplinary action will be taken.

## **Disciplinary Measures**

1. The Executive Director or designate will suspend an employee or volunteer who is alleged to have committed violence or abuse, pending the outcome of an internal investigation. If a client is involved the Executive Director or designate will arrange for alternative service provision and/or assistance to the client to access community supports to deal with the alleged abuse.
2. Disclosure of any details of the situation to anyone not appropriately directly involved, either during or after the investigation, will result in disciplinary action up to and including termination.
3. An employee or volunteer who falsely alleges abuse/violence/aggression will be subject to disciplinary action up to and including termination of employment or volunteer position.
4. A client who falsely alleges abuse/violence/aggression will be subject to a review of their service agreement and appropriate action taken which may include a written warning up to and including termination of the service agreement.

## **Domestic Violence:**

1. ARCH will endeavour to deal with disclosures by workers that they are victims of domestic violence with as much confidentiality as is possible. However, attempts to preserve

confidentiality will not be allowed to supercede ARCH's responsibility to warn employees of the risk of violence when, providing such warning is warranted.

2. Employees and Volunteers are required to report to the Executive Director, any concerns they have about domestic violence involving themselves or a co-worker, which has the potential to affect the workplace.
3. ARCH will take all reasonable steps necessary to keep employees and volunteers safe from domestic violence when they are on duty (when ARCH becomes aware that an employee or volunteer is at risk of domestic violence).

### **Confidentiality**

ARCH will do everything it can to protect the privacy of the individuals involved and to ensure that complainants and respondents are treated fairly and respectfully. ARCH will protect this privacy so long as doing so remains consistent with the enforcement of this policy and adherence to the law. Neither the name of the person reporting the facts nor the circumstances surrounding them will be disclosed to anyone whatsoever, unless such disclosure is necessary for an investigation or disciplinary action. Any disciplinary action will be determined by the company and will be proportional to the seriousness of the behaviour concerned.

ARCH will also provide appropriate assistance to any employee who is the victim of violence, discrimination, or harassment.

### **Managing and Coaching**

Counselling, performance appraisal, work assignment, and the implementation of disciplinary actions are not forms of harassment, and this policy does not restrict a manager's or supervisor's responsibilities in these areas.

### **Policy Review**

As required by the *Occupational Health and Safety Act*, ARCH will review this policy annually and will post the policy in a conspicuous place in the workplace.

### **Acknowledgment and Agreement**

I, \_\_\_\_\_ acknowledge that I have read and understand the Workplace Anti-violence, Harassment, and Sexual Harassment Policy of ARCH. I agree to adhere to this policy and will ensure that employees working under my direction adhere to this policy. I understand that if I violate the rules set forth by this policy, I may face disciplinary action up to and including termination of employment.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_